Preface

The Income-tax Act, 1961 served India faithfully for over six decades, but its patchwork of amendments had made it complex and unwieldy for professionals. The new Income-tax Act, 2025, effective from 1st April 2026, marks a historic reset, reducing over 800 sections to 536, eliminating redundant provisos, and replacing verbose language with clear tables and logical sequencing.

This comparative handbook is designed for Chartered Accountants and tax professionals navigating the transition. It maps key provisions side-by-side, highlights structural shifts, and incorporates amendments introduced by the Finance Act, 2026. Whether dealing with the unified "tax year" concept, consolidated TDS rules, revised exemptions, or transitional issues under section 536, the focus remains practical—helping you advise clients accurately and comply seamlessly.

Following Content are covered in this booklet:

1. ***Section wise comparison of all 298 sections of Income Tax Act 1961 vs 536 sections of Income Tax Act 2025.***
2. ***Finance Act 2026 amendments.***
3. ***Comparative table of all Old Rule Numbers vis a vis New Rule Numbers.***
4. ***Analysis of changes in important Rules.***
5. ***Comparative table of all Old Form Number vis a vis New Form Number.***
6. ***New Tax Audit Form***

May this book serve as a trusted companion in mastering India's modernised direct tax regime.

CA Aarish Khan

SECTION 1 (1961 ACT) VS. SECTION 1 (2025 ACT)

1. Comparison of Sections
Income Tax Act 1961

- Section 1: Short title, extent and commencement

Income Tax Act 2025

- Section 1: Short title, extent and commencement

2. Key Changes:
There are no key changes in the provisions of the 2025 Act compared to the 1961 Act.

SECTION 2 (1961 ACT) VS. SECTION 2 (2025 ACT)

1. Comparison of Sections
Income Tax Act 1961

- Section 2: Definitions

Income Tax Act 2025

- Section 2: Definitions

2. Key Changes
A. Meaning of Assessment expanded [Section 2(8) (1961 ACT) v. Section 2(13) (2025 ACT)]

Provision of the IT Act 1961

Section 2(8) of the Income-tax Act, 1961 defines "assessment" to include "reassessment". However, the **provision is silent on whether "recomputation" falls** within the meaning of "assessment".

In its wider and practical sense, the term "assessment" refers to the complete process of determining the correct income and the tax payable thereon. **This process naturally includes recomputation of income or tax.**

Therefore, even though **"recomputation" is not expressly mentioned** in Section 2(8), it can still be considered an integral part of the term "assessment".

Details of Changes

Section 2(13) of the IT Act 2025 provides a statutory definition of the **"assessment" that includes reassessment *and recomputation.*** The definition in the new Act gives clarity by explicitly covering the term 'recomputation' within the expression "assessment".

B. "Assistant Director" shall also mean 'Deputy Director' [Section 2(9B) (1961 ACT) v. Section 2(15) (2025 ACT)]

Section 2(9B) of the Income-tax Act, 1961 defined **"Assistant Director" without including** a person appointed as Deputy Director of Income-tax.

In contrast, the definition of **"Assistant Commissioner"** under Section 2(9A) of the 1961 Act, as well as under Section 2(14) of the Income-tax Act, 2025, **expressly includes** a person appointed to be a **Deputy Commissioner** of Income-tax.

To bring **consistency** between the two definitions, the new Income-tax Act, 2025 has modified the definition of ***"Assistant Director" in Section 2(15) to also include a person appointed to be a Deputy Director of Income-tax.***

C. Books of account to cover records maintained on cloud-based storage [Section 2(12A) (1961 ACT) v. Section 2(19) (2025 ACT)]

Provision of the 1961 ACT

The 1961 Act provides a comprehensive but inclusive definition of "books or books of account" under Section 2(12A). It explicitly provides that these books, whether ledgers, day-books, cash books, account-books, or other books, can be kept in written, electronic or digital form. It also covers the print-outs of data stored in such electronic or digital form.

Details of Changes

The 2025 Act has explicitly provided that ***keeping of books or books of account on any cloud-based storage will also come within the purview of the definition of "books of account".***

D. Definition of 'Charitable Purpose' [Section 2(15) (1961 ACT) v. Section 2(23)/Section 346/Section 355 (2025 ACT)]

Provision of 1961 ACT

The definition of "charitable purpose" provided in Section 2(15) of the 1961 Act provides as follows:
'Charitable Purpose' includes:

(a) relief of the poor;

(b) education;

(c) yoga;

(d) medical relief;

(e) preservation of the environment (including watersheds, forests and wildlife);

(f) preservation of monuments or places or objects of artistic or historic interest;

(g) the advancement of any other object of general public utility.

Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless-

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year.

The proviso in Section 2(15) of the 1961 Act restricts the NPOs engaged in the advancement of any other object of general public utility (GPU) from engaging in trade, commerce, or business activities. It provided that the advancement of any other object of a general public utility shall not be a charitable purpose if it involves the carrying any activity in the nature of trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity. It may be noted that if the receipts from such activity do not exceed 20% of the total receipts in that year, then the institution would not lose its 'charitable' status even if its main object is 'advancement of any other object of general public utility' if such activity is undertaken in the course of actual carrying of such advancement of any other object of general public utility.

Analysis of change in 1961 ACT Act vis-à-vis 2025 ACT

The new definition under Section 2(23) omits this restrictive proviso. Instead, Section 346 of the 2025 Act incorporates a similar restriction on commercial activities by registered NPOs engaged in GPU. The revised definition clarifies the concept of a charitable purpose without imposing any limitations. The restrictions on commercial activities remain unchanged but are addressed under Section 346, ***effectively distinguishing the definition of a charitable purpose from eligibility for tax exemption. NPOs engaged in GPU activities must now comply with Section 346 to adhere to the restrictions on commercial operations while maintaining their charitable status.***

The other notable change in the provision is ***changing the reference from "trust" to "non-profit organisation"*** for the voluntary contributions (including anonymous donations) received by such trusts. The 2025 Act introduces a comprehensive new taxation framework for non-profit organisations (NPOs), replacing the existing provisions applicable to trusts. The new regime adopts the term "Non-Profit Organisation (NPO)" instead of "trust," which was previously used.

E. Co-operative societies registered under the Union Territories laws are also covered [Section 2(19) (1961 ACT) v. Section 2(32) (2025 ACT)]

Under the 1961 Act, only a co-operative society registered under any law in force in any Indian State for its registration was explicitly mentioned for being treated as a "co-operative society". However, since there are 8 Union Territories of India, besides 28 States, ***the 2025 Act explicitly included the words "or Union territory" after the words "under any other law in force in any State".***

Amendment made by Finance Act 2026

Further it also included societies registered under Multistate Cooperative Societies Act 2002. [Earlier only societies registered under Cooperative Societies Act, 1912 were covered]

AMENDMENT MADE BY FINANCE ACT 2026

F. Original Provision: Rationalisation of certain terms for treasury centres in IFSC [Sec. 2(40)])

Section 2(40) provides the definition of **deemed dividend**. It gives an inclusive meaning of "dividend" along with a negative list.

The negative list provides that **dividends do not include** any advance or loan between two group entities, if the following conditions are satisfied:

1. One of the group entities is a "**finance company**" or a "**finance unit**".

2. The parent entity or principal entity of such group is listed on a stock exchange in a country or territory outside India, other than the country or territory outside India, as may be notified.

Amendment (Effective from April 1, 2026)

The above provisions have been amended with effect from **April 1, 2026**.

The amended provisions provide that the **dividend will not include** any advance or loan between two group entities, if the following **three conditions** are satisfied:

1. One of the group entities is a "**finance company**" or a "**finance unit**".

2. The other group entity to the transaction is located in a country or territory outside India.

3. The parent entity or the principal entity of such group is listed on a stock exchange in a country or territory outside India.

For the purpose of **Conditions 2 and 3**, the country or territory outside India shall be **specified by the Central Government by notification**.

Revised Definitions (for the purposes of the aforementioned provisions)

"Group entities" means an arrangement involving two or more entities related to each other through any of the following relationships:

- subsidiary - parent (as defined in Ind-AS 110 / Accounting Standard 21);
- joint venture (as defined in Ind-AS 28 / Accounting Standard 27);
- associate (as defined in Ind-AS 28 / Accounting Standard 23);
- common brand name; or
- investment in equity shares of **20 per cent and above**.

"Parent entity" or **"principal entity"** in relation to one or more other group entities shall be an entity of which other group entities are subsidiary and such entity:

- exercises or controls **more than one-half** of the total voting power either at its own or together with one or more of its subsidiaries; or
- controls the composition of the Board of Directors.

G. Definition of 'Income' to include all import and export incentives Section 2(24) (1961 ITA) v. Section 2(49) (2025 ITA)]

Provision of 1961 ACT

The concept of 'income' is fundamental to the taxability under the Income-tax Act, as it is the basis upon which tax is levied. **Section 2(24) of the 1961 Act provides an inclusive definition of income**, meaning it lists various specific receipts and benefits that are considered income, but it does not restrict the scope only to these items. **Some of the receipts which are explicitly included** within the meaning of 'income' include the following:

(a) Profits on the **sale of licenses** granted under the Import (Control) Order 1955 as referred to in Section 28(iiia).

(b) **Cash assistance** received or receivable against exports under any Government of India scheme as referred to in Section 28(iiib).

(c) Any **customs or excise duty repaid or repayable** as a drawback against exports as referred to in Section 28(iiic).

The other similar receipts arising under the duty remission schemes, as referred to in Section 28(iiid) and Section 28(iiie), are not explicitly covered within the meaning of income under Section 2(24). However, the courts have held that such receipts will be taxable as they are revenue receipts and covered within the meaning of income.

The Supreme Court gave a basic and important explanation of the term **'income'** under the Income Tax Act.
The Court observed that **"the expression 'income' as defined in the statute is inclusive and not exclusive."**
It emphasised that **"anything which can properly be described as income is taxable under the Act unless it is expressly exempted."**
This means the definition of income is very wide. Even if a particular receipt is **not specifically mentioned** in the various sub-clauses of **Section 2(24)**, it can still be treated as taxable income if it has the nature or character of income.
The reason for giving an **inclusive definition** in Section 2(24) is **not to restrict** the meaning of income, but **to broaden its scope** and cover more items.

Key Changes

Unlike, giving a reference to each clause of Section 28 [clauses (iiia), (iiib) and (iiic) of Section 28] in Section 2(24), its corresponding clause (i)(B) of Section 2(49) of the 2025 Act ***provides that any sum chargeable to income-tax under Section 26(2)(e) shall be covered within the scope of the 'income'.***
Section 26(2)(e) of the 2025 Act brings all kinds of import-export incentives within the ambit of the charging provision for taxability under the head of business income. The new provision refrained from specifying the name of the scheme under which the incentives or benefits are received for taxability. Instead, it provides that **"the amount of any profit on sale of import licence, cash assistance against export, duty drawback or duty remission or any other export incentive, received or receivable"** shall be covered within the scope of business or profession income. Thus, all export benefit schemes, whether in the form of remission, refund, incentive, or profit on the sale of a license, shall be considered income and taxable as business income.

H. Relative of an individual to cover both Maternal and Paternal Lineal Ascendants [Section 2(41) (1961 ACT) v. Section 2(94) (2025 ACT)]

Provision of 1961 ACT

"Relative" under Section 2(41) of the Income Tax Act, 1961, in relation to an individual, means the husband, wife, brother or sister or any **lineal ascendant or descendant** of that individual.

For the purpose of **Section 56(2)(x)**, the definition of "relative" is wider and includes:
(a) Spouse of the individual; (b) Brother or sister of the individual; (c) Brother or sister of the spouse; (d) Brother or sister of either parent; (e) Any lineal ascendant or descendant of the individual; (f) Any lineal ascendant or descendant of the spouse; (g) Spouse of the persons referred to in (b) to (f).

Both Section 2(41) and Section 56(2)(x) are silent on whether "lineal ascendant or descendant" refers to the paternal side, maternal side, or both.

Section 2(41) serves as the **default definition** of "relative" for provisions that do not provide their own definition (e.g., Section 2(24)(iv), Section 40A(2)(b), and Section 92A). Where a specific section provides its own definition (such as Section 56(2)(x), Section 80E, or Section 13), that specific definition applies.

The Rajasthan High Court in **CIT v. Dhannalal Devilal [1956] 29 ITR 165 (Raj)** held that the term "lineal descendant" means descent in a **straight, unbroken line** without deviation. It includes descent from both father to son as well as mother to daughter. Thus, a son is a lineal descendant of his mother and grandmother as well. The Court clarified that the term should be given its natural meaning and is **not restricted** to the paternal line under Hindu law notions of succession.

This interpretation has been consistently followed. Therefore, for both Section 2(41) and Section 56(2)(x), "lineal ascendant or descendant" includes direct line relatives from **both paternal and maternal sides**. For example, mother, grandmother, and great-grandmother are lineal ascendants, while daughter, granddaughter, and great-granddaughter are lineal descendants. **An adopted child is also treated as a lineal descendant.**

Key Changes in the 2025 Act: Section 2(94) now explicitly clarifies that "relative" includes any **lineal ascendant (maternal as well as paternal)** or descendant of the individual. A similar clarification has been made in Section 92(5) [corresponding to old Section 56(2)(x)] for lineal ascendants of the individual and spouse.

SECTION 3 (1961 ACT) VS. SECTION 3 (2025 ACT)

"Previous year" defined

1. Comparison of Sections

Income Tax Act 1961
- Section 3: "Previous year" defined

Income Tax Act 2025
- Section 3: Definition of "tax year"

2. Key Changes

2.1 A concept of 'Tax Year' is introduced in place of 'Previous Year' and 'Assessment Year'

Under the **1961 Act**, the income of an assessee was taxed on the basis of three concepts: (a) **Previous Year**, (b) **Assessment Year**, and (c) **Financial Year**.

Under the **2025 Act**, the concepts of "Previous Year" and "Assessment Year" have been **abolished** and replaced with a single new concept called **"Tax Year"**. This change has been made to eliminate confusion among taxpayers in distinguishing between the two similar terms.

The **"Tax Year"** means the 12-month period from **1st April** to **31st March** of the succeeding year. For example, Tax Year 2026-27 will run from 1st April 2026 to 31st March 2027.

The concept of **"Financial Year"** has been **retained** for certain specific purposes (such as compliance timelines, computational provisions, and other procedural matters). However, in many other provisions, "Financial Year" has been replaced with "Tax Year".

FAQs issued by the Income-tax Department on "Tax Year"

Q1. How have 'previous year' and 'assessment year' been dealt with in the new Bill? Ans: The new concept of **'Tax Year'** has been introduced, replacing both 'previous year' and 'assessment year'. All timelines and computations in the Bill are now linked to the financial year for which income is taxed. The term 'Tax Year' is expected to make the law easier to understand. Many countries use a single term for the taxation period. **Broad Principles Adopted:** i. **'Tax Year'** – Unit period of taxation for all transactions and income. ii. **'Financial Year'** – Used only for compliance timelines and procedural issues.

Q2. What is a 'Tax Year'? What does it replace? Why was it introduced? Why not use 'Financial Year'? Ans: A 'Tax Year' is a period of twelve months within a financial year. It replaces the term 'previous year' and also takes over the role of 'assessment year' (including tax rates and assessments).

The old terms created confusion because they referred to two different financial years. This confusion is no longer justified. 'Tax Year' is a commonly used term in many countries.

'Financial Year' was not used in place of 'Tax Year' because a tax year can sometimes be shorter than a full financial year (e.g., new business). However, 'Financial Year' is still needed separately for procedural actions like filing returns, rectifications, etc.

Q3. Is 'Financial Year' defined in the new Bill? Why is it still used? Ans: The term 'Financial Year' is **not defined** in the new Bill (nor in the 1961 Act). It is defined under Section 3(21) of the General Clauses Act, 1897 as the year starting from 1st April.

It continues to be used in specific situations where it is more relevant than 'Tax Year' (e.g., Section 21(5) relating to completion certificate for building held as stock-in-trade).

Q4. Can a 'Tax Year' be shorter than a 'Financial Year'? Ans: Yes. This happens when a new business is set up or a new source of income comes into existence during the financial year. In such cases, the Tax Year starts from the date of commencement and ends on 31st March of that financial year.

Q5. Will the 'Tax Year' conflict with the old 'Assessment Year'? (e.g., transition in 2026) Ans: No. There will be no conflict.

- Assessment Year 2026-27 (under 1961 Act) relates to income of Previous Year 2025-26.
- Tax Year 2026-27 (under new Act) relates to income of Financial Year 2026-27.

Assessments for 2025-26 will be done under the old Act, and assessments for 2026-27 will be done under the new Act.

SECTION 4 (1961 ACT) V. SECTION 4 (2025 ACT)

Charge of income-tax

1. Comparison of Sections

Income Tax Act 1961

- Section 4: Charge of income-tax

Income Tax Act 2025

- Section 4: Charge of income-tax

Key Changes

Tax payable on total income shall be paid by TDS, TCS or Advance Tax

Provision of 1961 ACT

Section 4 of the 1961 Act is the charging section of the Act, which empowers the government to impose income tax. Sub-section (2) of Section 4 outlines the mechanism for collecting the tax. It states that in respect of the income that is chargeable to tax, the **tax shall be either** deducted at the source ***(TDS)*** or ***paid in advance***, where it is so deductible or payable under any other provision of the Act. ***However, there is no mention of TCS.***

Key changes

Under the 2025 Act, tax collected at source (TCS) has explicitly been included within the scope and ambit of the provision. This patent error has been corrected now by its explicit inclusion under the 2025 Act.

SECTION 5 (1961 ACT) V. SECTION 5 (2025 ACT)

Scope of total income

1. Comparison of Sections

Income Tax Act 1961

- Section 5: Scope of total income

Income Tax Act 2025

- Section 5: Scope of total income

2. KEY CHANGES:

There are no key changes in the provisions of the 2025 Act compared to the 1961 Act.

SECTION 5A (1961 ACT) V. SECTION 10 (2025 ACT)

Apportionment of income between spouses governed by Portuguese Civil Code

1. Comparison of Sections

Income Tax Act 1961

- Section 5A: Apportionment of income between spouses governed by Portuguese Civil Code

Income Tax Act 2025

- Section 10: Apportionment of income between spouses governed by Portuguese Civil Code

2. KEY CHANGES:

There are no key changes in the provisions of the 2025 Act compared to the 1961 Act.

SECTION 6 (1961 ACT) V. SECTION 6 (2025 ACT)

Residence in India

1. Comparison of Sections

Income Tax Act 1961

- Section 6: Residence in India

Income Tax Act 2025

- Section 6: Residence in India

2. KEY CHANGES

'Conduct of business of an entity as a whole' vs. 'Conduct of business of the company as a whole'

Provision of 1961 ACT

As per Section 6(3) of the 1961 Act, an Indian Company is always considered a resident in India. However, a foreign company is deemed as resident in India only if its Place of Effective Management ('POEM') during the relevant previous year is in India. As per Explanation to Section 6(3) of the 1961 Act, the Place of Effective Management means a place where key management and commercial decisions that are necessary for the **conduct of business of an entity as a whole are**, in substance made.

KEY CHANGES

Section 6(10)(b) of the 2025 Act defines "Place of Effective Management" (POEM) as the place where key management and commercial decisions necessary for the **conduct of the business of the company as a whole** are, in substance, made.

Under the **1961 Act**, the phrase used was "conduct of business of **an entity** as a whole". The 2025 Act has replaced "an entity" with "**the company**".

This change is merely a **textual simplification** for better clarity and coherence. A company becomes an Indian resident if its Place of Effective Management is in India. The earlier use of the word "entity" was interchangeable with "company" in this context.

Conclusion: Replacing "an entity" with "the company" does **not** change the interpretation or meaning of the provision.

SECTION 7 (1961 ACT) V. SECTION 7 (2025 ACT)

Income deemed to be received

1. Comparison of Sections

Income Tax Act 1961

- <u>Section 7</u>: Income deemed to be received

Income Tax Act 2025

- <u>Section 7</u>: Income deemed to be received and dividend deemed to be income in a tax year

2. KEY CHANGES:

There are no key changes in the provisions of the 2025 Act compared to the 1961 Act.

SECTION 8 (1961 ACT) V. SECTION 7 (2025 ACT)

Dividend Income

1. Comparison of Sections

Income Tax Act 1961

- <u>Section 8</u>: Dividend Income

Income Tax Act 2025

- <u>Section 7</u>: Income deemed to be received and dividend deemed to be income in a tax year

CHANGES

'Buy Back' of shares shall be deemed to be the income of the previous year in which it is so declared, distributed or paid

Provision of 1961 ACT

Section 8 of the Income-tax Act, 1961 provides that any dividend declared, distributed, or paid by a company under **clauses (a) to (e)** of Section 2(22) shall be deemed to be the income of the previous year in which it is declared, distributed, or paid.

Section 2(22) defines 'dividend' to include the following: **(a)** Distribution entailing release of the company's assets; **(b)** Distribution of debentures, deposit certificates, or bonus shares to preference shareholders; **(c)** Distribution on liquidation; **(d)** Distribution on reduction of capital; and **(e)** Loan or advance to shareholders.

Sub-clause **(f)** was inserted in Section 2(22) by the Finance (No. 2) Act, 2024 (w.e.f. 01-10-2024), which treats payment made by a company for **buy-back of its own shares** as dividend. **However, Section 8 did not refer to this sub-clause (f).**

Key Changes in the 2025 Act: Under the 1961 Act, dividend on buy-back of shares [Section 2(22)(f)] was **not covered** under Section 8. **This omission has now been corrected.** The corresponding provision [now Section 2(40)(f)] has been explicitly included within the scope of **Section 7(2)(a)** of the 2025 Act.
The absence of reference to Section 2(22)(f) in the old Section 8 was an **inadvertent omission**, which has been addressed in the new Act.

Finance Act 2026 Amendment:

However, Finance Act 2026 has deleted reference to sub clause (f) once again as amount received on buy back of shares is no more deemed dividend.

SECTION 9 (1961 ACT) V. SECTION 9 (2025 ACT)

Income deemed to accrue or arise in India

1. Comparison of Sections

Income Tax Act 1961
- Section 9: Income deemed to accrue or arise in India

Income Tax Act 2025
- Section 9: Income deemed to accrue or arise in India

2. Key Changes in Section 9 (Deemed Accrual of Income in India)

Indian taxation follows the principles of **residence** and **source**. Residents are taxed on worldwide income, while non-residents are taxed only on India-sourced income. Section 9 provides deeming provisions under which certain income is deemed to accrue or arise in India even if it arises outside India. These provisions are subject to Double Taxation Avoidance Agreements (DTAAs).
Section 9 lists various categories of deemed income under clauses (i) to (viii).

2.1-1 Transfer of a Capital Asset Situated in India [Section 9(1)(i) of 1961 Act / Section 9(2)(d) of 2025 Act]

Under the 1961 Act, the words **"through or from"** applied to business connection, property, and asset/source of income, but not to the transfer of a capital asset situated in India. Only income arising **"through"** such transfer was covered.
In the **2025 Act**, the phrase **"through or from"** has been made applicable to the transfer of a capital asset situated in India as well.
The word **"from"** means origin or source, while **"through"** has a wider meaning (by means of, in consequence of, or by reason of) as per Section 9(13) of the 2025 Act. This change brings uniformity and broadens the scope of taxation for capital asset transfers.

2.1-2 Income Reasonably Attributable to Significant Economic Presence (SEP) [Third Proviso to Explanation 2A of 1961 Act / Section 9(9)(f)(ii) of 2025 Act]

Under the 1961 Act:
- Income from ordinary business connection was taxable only to the extent **"reasonably attributable"** to operations in India.
- However, income attributable to SEP transactions did **not** use the word "reasonably" — it simply said "attributable".

The **2025 Act** has merged both provisions into **Section 9(9)(f)** and uses the words **"reasonably attributable"** for **both** ordinary business connection and SEP transactions.
This change brings uniformity and ensures a more balanced, proportionate, and principle-based attribution (considering functions, assets, and risks) instead of mechanical attribution in SEP cases.

2.1-3 Purchase of Goods in India for Export [Explanation 1(b) of 1961 Act / Section 9(8)(c)(ii)(A) of 2025 Act]

Under the 1961 Act, no income was deemed to accrue in India from operations confined to **purchase of goods in India for export**.

The 2025 Act adds the words **"for the purposes of export out of India"**. This clarifies that the exemption applies only when goods physically leave the Indian customs territory (removing any ambiguity regarding SEZ or deemed exports within India).

2.1-4 'Transfer of all or any rights' vs 'Transfer or Grant of all or any rights' [Explanations 2 & 4 to Section 9(1)(vi) / Section 9(6)(b) & 9(6)(c) of 2025 Act]

In the 1961 Act, the phrase used was **"transfer of all or any rights"** (including granting of a licence).

The **2025 Act** replaces it with "transfer ***or grant*** of all or any rights" (including granting of a licence) in the definitions of royalty and computer software.

This change seeks to expand the scope of "royalty" to cover mere permission to use (grant/licence) intellectual property, even without full transfer of ownership. It appears to be a legislative response to the Supreme Court judgment in *Engineering Analysis Centre of Excellence (P.) Ltd. v. CIT* (2021). However, for non-residents, the beneficial provisions of applicable DTAAs will continue to prevail if they provide a narrower definition of royalty.

SECTION 9A (1961 ACT) V. SECTION 9 (2025 ACT)

Certain activities not to constitute business connection in India

1. Comparison of Sections

Income Tax Act 1961

- Section 9A: Certain activities not to constitute business connection in India

Income Tax Act 2025

- Section 9: Income deemed to accrue or arise in India
- Schedule I: Conditions for certain activities not to constitute business connection in India

2. Key Changes

Section 9A – Special Regime for Offshore Funds

Section 9A of the Income-tax Act, 1961 provides a special exemption for offshore funds. If an **eligible investment fund** is managed by an **eligible fund manager** located in India, then:

- The fund management activities do **not** constitute a business connection in India for the fund, and
- The fund is **not** treated as resident in India merely because its fund manager is located in India.
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Eligibility Conditions: The fund must be an **eligible investment fund** i.e., a fund set up or registered outside India that collects money from its members for investment purposes and satisfies the prescribed conditions.

One key condition under the 1961 Act was that the fund's investment in any single entity should not exceed **20%** of its corpus, and it should not invest in its associate entities.

Key Change in 2025 Act: The maximum investment limit in any one entity has been increased from **20% to 25%** of the corpus. All other conditions remain unchanged.

SECTION 9B (1961 ACT) V. SECTION 8 (2025 ACT)

Income on receipt of capital asset or stock in trade by specified person from specified entity

1. Comparison of Sections

Income Tax Act 1961

- Section 9B: Income on receipt of capital asset or stock in trade by specified person from specified entity

Income Tax Act 2025

- Section 8: Income on receipt of capital asset or stock-in-trade by specified person from specified entity

2. Key Changes

The provision giving guidelines issued by the CBDT, the binding impact has been removed

Section 9B – Taxability on Transfer of Capital Asset / Stock-in-Trade on Dissolution or Reconstitution

Section 9B of the 1961 Act provides for taxation of income arising to a specified entity on transfer of any capital asset or stock-in-trade to a specified person in connection with the dissolution or reconstitution of the specified entity.

Section 9B(5) empowered the CBDT to issue guidelines (with prior approval of the Central Government) for **removing difficulties** in implementing the section. These guidelines were required **to be laid before both Houses** of Parliament and were **binding** on the Income-tax authorities as well as the assessee.