

**Repeal and
Savings
under ITA
2025 (As
amended by
FA 2026)**

**Organized by Naraina Inderpuri CPE Study Circle
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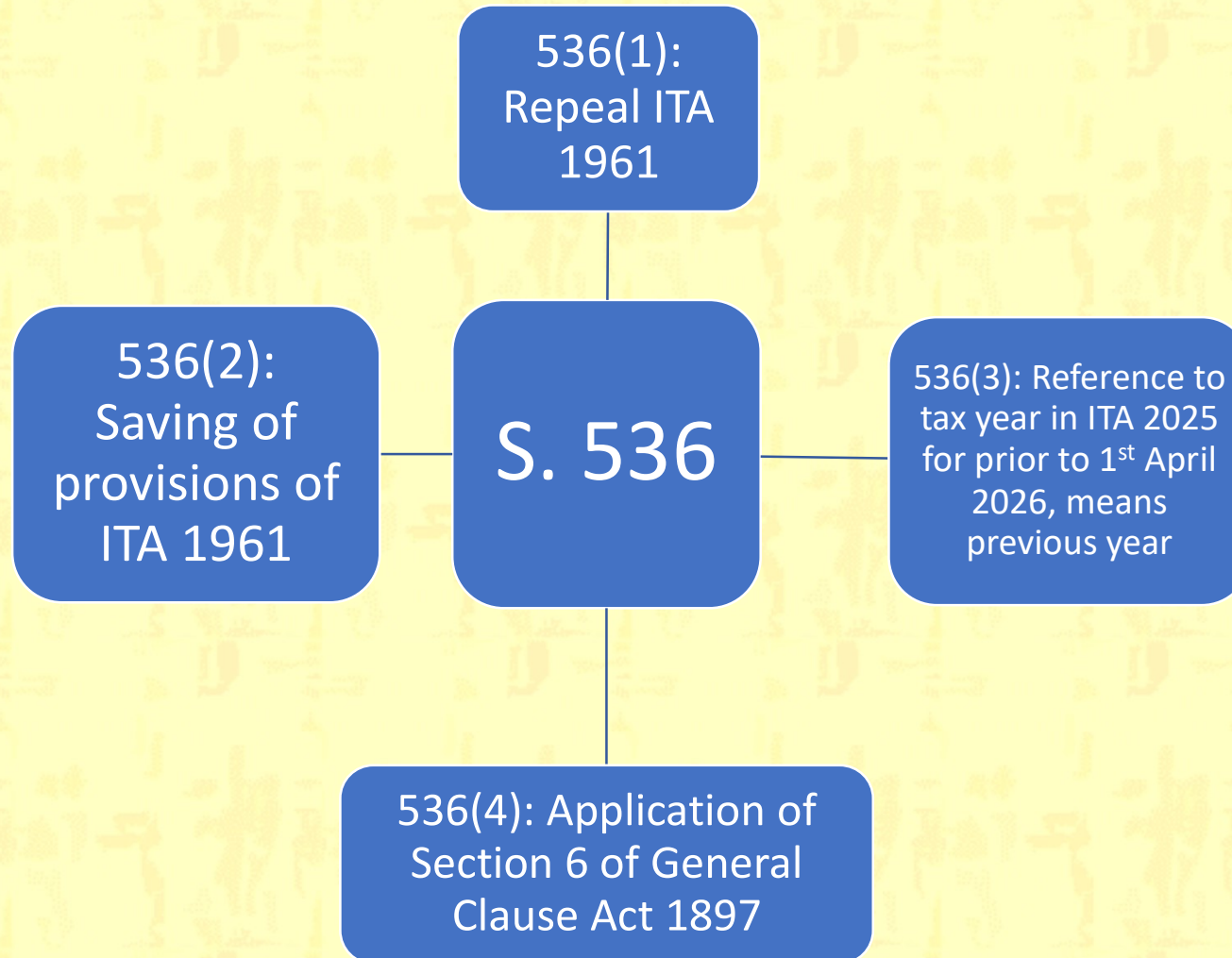


- Post-qualification experience of around 25 years in the field of direct & indirect tax particularly income tax, GST, service tax and VAT ,sales tax .
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Repeal & Saving Provisions S. 536 of ITA, 2025



Section 6 of General Clause Act

Effect of repeal: Where this Act, or any [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall **not**-

- (a) **revive** anything not **in force or existing at the time at which the repeal takes effect**; or
- (b) **affect the previous operation** of any enactment so repealed or anything duly done or suffered thereunder; or
- (c) **affect any right, privilege, obligation or liability acquired, accrued or incurred** under any enactment so repealed; or
- (d) **affect any penalty, forfeiture or punishment** incurred in respect of any offence committed against any enactment so repealed; or
- (e) **affect any investigation, legal proceeding** or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be **instituted, continued or enforced**, and **any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.**

Repeal and Savings u/s 536 of ITA 2025

- ((2) Irrespective of the repeal of the Income-tax Act, 1961 (43 of 1961) (herein referred to as the repealed Income-tax Act), and subject to sub-section (3)—
- (a) nothing shall affect the previous operation of the repealed Income-tax Act and orders or anything duly done or suffered thereunder; or
 - (b) nothing shall affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Income-tax Act or orders under such repealed Act;
 - (c) the provisions of the repealed Income-tax Act shall continue to apply to any proceeding pending on the date of commencement of this Act and to any proceedings initiated on or after the 1st April, 2026 (including notices, assessment, reassessment, re computation, rectification, penalty, reference, revision and appeals) in respect of any tax year beginning before the 1st April, 2026 and such proceedings shall be carried out as per the procedure specified in the repealed Income-tax Act;
 - (d) any proceeding for the imposition of a penalty in respect of any tax year beginning before the 1st April, 2026, may be initiated and any such penalty may be imposed under the repealed Income-tax Act, as if this Act had not been enacted;
 - (e) any proceeding pending on the commencement of this Act before any income-tax authority or any other authority constituted under the repealed Income-tax Act, Appellate Tribunal, or any court, by way of application, appeal, reference or revision or by any other means, shall be continued and disposed of as if this Act had not been enacted;

Note: (a) to (e) are same as mentioned in section 6 of General Clause Act with clarity in wordings & also protected by General Clause Act (Section 6).

Savings of provisions of ITA 1961

- Preservation of previous operation [536(2)(a)]
“nothing shall affect the previous operation of the repealed Income-tax Act and orders or anything duly done or suffered thereunder”.
- In other words both tax payer & authorities can rely on all the actions already taken such as assessments, notices issued, judgements, etc. & nothing of new ITA 2025 will unwind or invalidate the prior operation under ITA 1961.

Protection of vested rights & confirmation of liabilities of ITA 1961

- Protection of vested rights & confirmation of liabilities [S.536(2)(b)]
“nothing shall affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Income-tax Act or orders under such repealed Act”.
- In other words provisions of ITA 2025 shall not affect rights & privileges accrued or accrued under old ITA 1961 such as carry forward of credit, claim of refund, benefit of tax holidays, deduction to start up, etc.
- Provisions of ITA 2025 shall not affect any obligation or liability incurred under ITA 1961 such as confirm demand of tax, interest, penalty, fee, etc., obligation to make compliances or fulfil conditions on the basis of which deduction, exemption or rebate claimed such as conditions of claiming deduction u/s 54 of ITA 1961.

Continuation of proceedings of ITA 1961

- Provision of ITA 1961 shall apply for proceedings of any tax year prior to 01.04.2026 whether for fresh proceedings or continuation of proceedings of ITA 1961 [S.536(2)(c)]
“the provisions of the repealed Income-tax Act shall continue to apply to any proceeding pending on the date of commencement of this Act and to any proceedings initiated on or after the 1st April, 2026 (including notices, assessment, reassessment, re computation, rectification, penalty, reference, revision and appeals) in respect of any tax year beginning before the 1st April, 2026 and such proceedings shall be carried out as per the procedure specified in the repealed Income-tax Act”.
- In other words, for the tax payer & department pending or continuation of the notices, assessment, reassessment, re computation, rectification, penalty, reference, revision and appeals shall be as per the ITA 1961. i.e., principle that repeal neither extinguish pending rights nor eliminate existing liability.

Continuation of penalty proceedings of ITA 1961

- Provision of ITA 1961 shall apply for penalty proceedings of any tax year prior to 01.04.2026 whether for fresh penalty proceedings or continuation of penalty proceedings of ITA 1961 [S.536(2)(d)]

“any proceeding for the imposition of a penalty in respect of any tax year beginning before the 1st April, 2026, may be initiated and any such penalty may be imposed under the repealed Income-tax Act, as if this Act had not been enacted”.
- In other words, penalty provisions such 270A, 270AA, 270AAC, 271B, 271AAC, etc., shall be as per the ITA 1961. & can be levied using provisions of old tax for AY up to 2026-27.

Continuation of pending appeal proceedings, etc. of ITA 1961

- Provision of ITA 1961 shall apply for appeal, application, reference, revision proceedings of any tax year prior to 01.04.2026 whether for fresh appellate proceedings or continuation of appellate proceedings of ITA 1961 [S.536(2)(e)]

“any proceeding pending on the commencement of this Act before any income-tax authority or any other authority constituted under the repealed Income-tax Act, Appellate Tribunal, or any court, by way of **application, appeal, reference or revision** or by any other means, shall be continued and disposed of as if this Act had not been enacted”.

Election, declaration, options exercised of ITA 1961 shall continue ITA 2025

- Election, declaration, options exercised of ITA 1961 shall continue for ITA 2025 & no fresh Election, declaration, options exercised required under ITA 2025 [S.536(2)(f)]

“any election or declaration made, or option exercised, by an assessee under any provision of the repealed Income-tax Act and in force immediately before the commencement of this Act shall be deemed to have been an election or declaration made, or option exercised, under the corresponding provision of this Act”.

Computation of Interest on demand or refund

- ITA 2025 [S.536(2)(g)] “where in respect of any proceeding relating to any tax year beginning before the 1st April, 2026,—
 - (i) a refund falls due after commencement of this Act; or
 - (ii) default is made after such commencement in the payment of any sum due under such proceeding,

the provisions of this Act 2025, relating to interest payable by the Central Government on refunds and interest payable by the assessee for default, shall apply for the period after the commencement of this Act”.
- In other words interest up to 31.03.2026 as per provisions of ITA 1961 & from 01.04.2026 interest as per ITA 2026.

In the case of default of any conditions of ITA 1961

- ITA 2025 [S.536(2)(h)] “where any deduction has been allowed or any amount has not been included in the total income of any person, subject to fulfilment of certain conditions for any tax year beginning before the 1st April, 2026, and in case of violation of such conditions in any tax year beginning on or after 1st April, 2026, any sum (on account of deduction earlier allowed or amount not included) was required to be included in the total income of such subsequent tax year under the repealed Income-tax Act if it had not been so repealed, then such sum shall be—
 - (i) **deemed to be the income of the tax year in which the violation takes place;** and
 - (ii) **included in the total income** of the **said person** under the **same head of income** as it would have been included under the repealed Income-tax Act”.
- For example, if assessee claimed exemption u/s 54 or 54F for any of the previous year up to march, 2026 & default of any of the conditions such as transfer within 3 years, it will be taxed in the year in which new property transfer & since exemption claimed in capital gain therefore it will be taxed under head capital gain under ITA 2025.

Recovery of outstanding liability of ITA 1961 under new ITA 2025

- ITA 2025 [S.536(2)(i)] “any sum payable under the repealed Income-tax Act may be recovered under this Act without prejudice to any action already taken for the recovery of such sum under repealed Income-tax Act”.
- For example, demand of ITA 1961 could be adjusted against refund claimed of tax year 2026-27 onwards or bank account could be attached for recovery of old demand of ITA 1961, etc.

Old notification, circular, approvals of ITA 1961 shall continue under ITA 2025 unless conflict with new act

- ITA 2025 [S.536(2)(j)] “any agreement entered into, appointment made, approval given, recognition granted, circular, direction, instruction, notification, order or rule or any scheme framed therein issued under any provision of the repealed Income-tax Act shall, so far as it is not inconsistent with the corresponding provisions of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision of this Act and shall continue in force accordingly”.
- For example, approval u/s 12AB, 80G approval of ITA 1961 shall continue under ITA 2025 also.

No fresh Limitation period under ITA 2025 if limitation of ITA 1961 expired

- ITA 2025 [S.536(2)(k)] “where the period provided for any application, appeal, reference or revision under the repealed Income-tax Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal, reference or revision to be made under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority”.

Carry forward MAT/AMT of ITA 1961

- ITA 2025 [S.536(2)(l)] “any amount of credit, in respect of tax paid, allowable to be carried forward in the case of an assessee, under the provisions of section 115JAA or 115JD of the repealed Income-tax Act for the tax year beginning before the 1st April, 2026, had the Income-tax Act, 1961 (43 of 1961) not been repealed,—
 - (i) shall be deemed to be the amount eligible for credit under corresponding provision of this Act in the case of said assessee; and
 - (ii) credit for the tax paid under the repealed Income-tax Act shall be allowed under this Act for the period for which it would have been allowed under the repealed Income-tax Act if the assessee otherwise continues to satisfy the conditions as specified in the corresponding provisions of this Act in such tax years”.
- Note: Also refer amendment by Finance Act, 2026 in ITA 2025 in section 206 where under change in carry forward of MAT credit only if domestic company opted for new tax regime from 01.04.2026 & the permissible allowed to be set off to the extent of 25% of tax payable & remaining to be c/f for adjustment in remaining period reduced from 15 years.

C/F of loss

- ITA 2025 [S.536(2)(m)]: “any amount of loss under the source or head of income specified in column B of the Table given below and referred to in the section of the repealed Income-tax Act specified in column C of the said Table, brought forward for the tax year beginning before the 1st April, 2026 had the Income-tax Act, 1961 not been repealed, shall be set off and carried forward against the income computed under this Act, in the manner provided in the respective section of the repealed Income-tax Act specified in column C of the said table, for the tax years beginning on or after the 1st April, 2026”

S. No.	Source or head of income under the repealed Income-tax Act	Section of the repealed Income-tax Act
A	B	C
1.	Income from house property.	71B
2.	Profits and gains of business or profession.	72
3.	Speculation business.	73
4.	Specified Business.	73A
5.	Activity of owning and maintaining race horses.	74A

C/F of Capital loss

- ITA 2025 [S.536(2)(n)]: “any amount of loss under the head capital gains, whether related to a long-term capital asset or a short term capital asset, referred to in section 74 of the repealed Income-tax Act, brought forward from the tax year beginning before the 1st April, 2026 had the Income-tax Act, 1961 not been repealed, shall be carried forward and set off, in accordance with the manner provided in the repealed Income-tax Act, against the income under the head “Capital gains” computed under this Act for any tax year beginning on or after the 1st April, 2026 up to eight financial years immediately succeeding the financial year in which such loss was first computed under the repealed Income-tax Act.”

Deemed income in the hands of successor Company if conditions of amalgamation defaulted on or after 01.04.2026 but benefit of loss or unabsorbed depreciation availed under ITA 1961

- ITA 2025 [S.536(2)(o)]: “any set off of loss or allowance for depreciation made in any tax year beginning before the 1st April, 2026 in the hands of the amalgamated company, successor company or the successor limited liability partnership, in accordance with the provisions of section 72A of the repealed Income-tax Act, shall be deemed to be the income of the amalgamated company, successor company or the successor limited liability partnership, as the case may be, chargeable to tax under this Act for the year in which any of the conditions specified in that section are not complied with.”

Deemed income in the hands of successor Co-operative bank if conditions of amalgamation defaulted on or after 01.04.2026 but benefit of loss or unabsorbed depreciation availed under ITA 1961

- ITA 2025 [S.536(2)(p)]: “any set off of accumulated loss or unabsorbed depreciation allowed in any tax year beginning before the 1st April, 2026 to the successor co-operative bank, in accordance with the provisions of section 72AB of the repealed Income-tax Act, shall be deemed to be the income of the successor co-operative bank chargeable to tax under this Act for the year in which any of the conditions specified in that section are not complied with.”

Transaction not treated as transfer u/s 47 & 47A subject to conditions under ITA 1961 but default under ITA 2025

- ITA 2025 [S.536(2)(q)]: “any amount of profits or gains arising out of transfer of capital asset not charged under the head “capital gains” by virtue of the provisions contained in section 47(iv), (v), (xiii), (xiiib) or (xiv) of the repealed Income-tax Act in any tax year beginning before the 1st April, 2026 shall be deemed to be the income chargeable under the head “Capital gains” under this Act, for the tax year—
 - (A) in which the transfer took place if any of the conditions laid down in section 47A(1)(i) or (ii) of the repealed Income-tax Act are satisfied; or
 - (B) in which any of the conditions laid down in section 47(xiii), (xiiib) or (xiv) of the repealed Income-tax Act are not complied with, as the case may be.”

Depreciation allowance under ITA 1961 to be treated as deemed income under ITA 2025

- ITA 2025 [S.536(2)(r)]: “where any allowance or part thereof, under section 32(2) or 35(4) of the repealed Income-tax Act, is to be carried forward to tax year beginning on the 1st April, 2026, had the Income-tax Act, 1961 (43 of 1961) not been repealed, then, the allowance or part thereof shall be added to the amount of capital allowances referred to corresponding provisions of this Act for the tax year beginning on the 1st April, 2026 and deemed to be part of that allowance, or if there is no such allowance for that tax year, be deemed to be allowance for that tax year.”

Deduction continued after 01.04.2026

- ITA 2025 [S.536(2)(s)]: “the deduction referred to in sections 35ABA, 35ABB, 35D, 35DD, 35DDA, 35E or the first proviso to section 36(1)(ix) of the repealed Income-tax Act, shall, on fulfilment of the conditions mentioned in the said provisions, continue to be allowed under this Act for tax year beginning on or after the 1st April, 2026 had the Income-tax Act, 1961 not been repealed and such deduction shall be added to the amount of deferred revenue expenditure allowance referred to corresponding provisions of this Act for the tax year beginning on or after the 1st April, 2026 and deemed to be part of that allowance, or if there is no such allowance for a tax year, be deemed to be that allowance for that tax year.”
- New section under ITA 2025 is S. 52 for 34AA, 35ABB, 35DDA & S. 44 for 35D & S. 51 for 35E.

Adjustment to Bad debt provisioning

- ITA 2025 [S.536(2)(t)]: “credit balance in the provision for bad and doubtful debts account made under section 36(1)(viia) of the repealed Income-tax Act standing on the last day of the tax year beginning on 1st April, 2025 shall be added to the amount credited to the provision for bad and doubtful debts accounts referred to in the corresponding provisions of this Act for the tax year beginning on the 1st April, 2026 and deemed to be part of amount credited to the provision for bad and doubtful debts accounts, or if there is no such amount credited for that tax year, be deemed to be amount credited for that tax year.”

Continuation of faceless scheme

- ITA 2025 [S.536(2)(u)]: “any scheme which has been notified under the provisions of the repealed Income-tax Act with a view to eliminating the interface with the assessee or any other person, the said scheme shall be deemed to have been made—
 - (i) under the corresponding provisions of this Act; or
 - (ii) under section 532 where there is no such corresponding provision, and shall continue in force accordingly; .”

Continuation of search & requisition proceedings

- ITA 2025 [S.536(2)(v)]: “where a search has been initiated under section 132 or requisition is made under section 132A prior to the commencement of this Act, the provisions of repealed Income-tax Act, shall continue to apply to any proceedings connected in respect of such search or requisition, as the case may be, as if this Act has not been enacted.”

Tax Year in the ITA 2025 for any year prior to 01.04.2026 means PY

S-536 (3) Where any reference is made in this Act to any tax year commencing on the 1st April, 2025 or to any earlier tax year, the same shall be construed as a reference to the corresponding previous year under the repealed Income-tax Act.



Thank You

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