

**CIRCULAR F. NO. 91/58/66-ITJ(19)**

**18/05/1967**

**Interpretation of provision of s. 40(a)(ii) of IT Act, 1961—  
Clarification regarding**

**BUSINESS EXPENDITURE  
SECTIONS 40(a)(ii),**

Recently a case has come to the notice of the Board where the ITO has disallowed the 'cess' paid by the assessee on the ground that there has been no material change in the provisions of s. 10(4) of the old Act and s. 40(a)(ii) of the new Act.

**2.** The view of the ITO is not correct. Clause 40(a)(ii) of the IT Bill, 1961 as introduced in the Parliament stood as under:

"(ii) any sum paid on account of any cess, rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits or gains".

When the matter came up before the Select Committee, it was decided to omit the word 'cess' from the clause. The effect of the omission of the word 'cess' is that only taxes paid are to be disallowed in the assessments for the years 1962-63 and onwards.

**3.** The Board desire that the changed position may please be brought to the notice of all the ITOs so that further litigation on this account may be avoided.