



RESTRICTION ON CASH TRANSACTIONS UNDER INCOME TAX ACT

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Slowly and gradually, the Indian economy is getting digitized and ultimately moving towards a cashless economy. Electronic transactions ensure a clear money trail and make it very difficult for tax evaders. Many of provisions that existed and introduced from time to time in Income tax act, putting restrictions on cash transactions. The new provisions introduced are the result of the proposal submitted by Supreme Court's constituted Special Investigation Team in July, 2011. The objective of imposing restrictions on cash transactions is to curb the flow of domestic black money which is not only adversely affecting the revenues of the Government but is also affecting the investment for productive purposes, because most of the black money is transacted in cash, it remains unaccounted and quite a sizable amount remains unproductive and is stored in the form of cash or remains invested in low priority investments such as gold, jewellery etc. The restrictions are intended to move towards a less cash economy and to reduce generation and circulation of black money.

In a bid to curb black money as well as to limit the number and amount of cash transactions, the government has come out with some new provisions and related rules and prohibited some types of cash payments in the Finance Acts. The effects of restrictions under provisions of income tax act are as follows.

- Restrict cash transactions which results disallowances of expenses or deduction under chapter VIA of income tax act in computation of taxable income and allowing deduction to incentivise better compliance.
- Penalising cash transactions above threshold limits to create effective deterrence.

Few of the provisions under income tax act and relevant income tax rules are given below:

Sl. No.	Transactions/ relevant sections under income tax act	Provisions at a glance	Consequences in violation of Provisions related to for cash transaction/ Penalty
1	Exemption of Income in the hands of political Parties - Section 13A	Political parties which is registered with the Election Commissioner of India, are exempt from paying income tax. To avail exemption political parties are required to submit a report with Election Commissioner of India and furnish details of contribution received in excess of ₹ 20,000 from any person. As amended in Finance Act 2017, to discourage cash transaction and to bring transparency in the source of funding to political parties, the amendments have been made.	The income to the extent will not be exempted. If return of income as required u/s 139(4B) is not submitted or if return is submitted belatedly that is after the due date, exemption u/s 13A will not be available.

		<p>(i) No donation of ₹ 2,000 or more is received otherwise than by an account payee cheque/draft/use of electronic clearing system through a bank account or through electoral bonds .</p> <p>(ii) Political parties keeps and maintains such books of accounts to satisfy the Assessing Officer and such accounts to be audited by an Accountant as prescribed under income tax act.</p> <p>(iii) Income tax return to be filed under section 139(4B) & within time limit prescribed under section 139(1).</p>	
02	Disallowances of Capital Expenditures, depreciation and investment allowances on cash payments – Section 35AD / Section 43(1).	<p>Section 35AD was introduced with effect from the assessment year 2010-11 to provide for investment linked tax incentives. Under the provisions if certain conditions are satisfied, the business assessee engaged in the specified business are eligible for deduction @ 100% (few cases weighted deduction @ 150%) of the capital expenditure incurred wholly and exclusively for the purpose of such specified business carried on in the previous year.</p> <p>Prior to Finance Act 2017, there was no restriction on deduction of capital expenditure as stated above in case acquisition of any capital asset in any mode of payment. To discourage cash payment for purchase of capital assets, section 35AD and section 43(1) have been amended with effect from the assessment year 2018-19 as follows:</p> <p>(i) No deduction under section 35AD shall be allowed in respect of payment or aggregate payment per day made to a person against such expenditure otherwise, than an account payee cheque/draft/use of electronic clearing system through a bank account exceeds ₹ 10,000.</p> <p>(ii) Section 43(1) is amended to provide that where an assessee incurs any expenditure for acquisition of any asset in respect of which a payment or aggregate payment made to a person in a day, otherwise than by cheque or bank draft or electronic clearing system exceeds ₹ 10,000/-, such payment shall be ignored to determine the actual cost of such asset</p>	<p><i>(i) Deduction u/s 35AD shall not be available.</i></p> <p><i>(i) Will not form part of “actual cost” u/s 43(1) and consequently depreciation u/s 32 and investment allowance u/s 32AD pertaining to such payment cannot be claimed.</i></p>
3	Payments exceeding certain sum made otherwise than by account payee cheques or bank drafts etc - Section 40A(3) and 40A(3A).	<p>Prior to amendment of Finance Act 2017, expenditure incurred (which is otherwise deductible under the other provisions of the act for computation of income from business and profession) and payment made to a person in a day exceeds ₹ 20,000 (₹ 35,000 in the case of payment for plying, hiring or leasing of goods carriage) otherwise than by an account payee cheque or account payee demand draft, such expenses are not allowable as deduction under Section 40A(3) in computation of income from business and profession. However few exceptions are provided by Rule 6DD of income tax rules. This resulted increase in taxable income from</p>	<p><i>No deduction is allowable in computation of income from business or profession in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by a crossed account payee cheque or an account payee bank draft /use of electronic clearing system through a bank</i></p>

		<p>business or profession.</p> <p>In order to disincentives cash transactions, section 40A (3) has been amended and limit of cash payment per day to a person has been reduced from ₹ 20,000 to ₹ 10,000 from assessment year 2018-19. However no changes to the monetary limit of ₹ 35,000 has been made in the case of payment for plying, hiring or leasing of goods carriage which was effective from October 2009. The disallowances to be applicable if the payment made in a day to a person otherwise than an account payee cheque/draft/use of electronic clearing system through a bank account.</p> <p>As per section 40A(3A), the restriction is also applicable</p> <ul style="list-style-type: none"> • If the tax payer had claimed a deduction in respect of any expenditure relation to any previous year. • Payment to such expenditure is made during the current year. <p>If during the current year payment made in a day otherwise than by an account payee cheque or account payee demand draft/use of electronic clearing system through a bank account exceeds ₹ 10,000. This monetary limit has also been reduced from ₹ 20,000 to ₹ 10,000 from the assessment year 2018-19.</p>	<p>account exceeding ₹ 10,000/-.</p> <p>This results increase in taxable income, in computation of profits and gains from business or profession.</p>
4	Deduction in respect of Health Insurance Premium – Section 80D	<p>Deduction is allowable from Gross Total Income of a tax payer who is an Individual (may be resident/non-resident)/Indian citizen or foreign citizen) or a HUF (may be resident/non-resident) if</p> <p>(i) Payment made out of income chargeable to tax (ii) Payment should be made any mode other than cash (exception is payment for preventive health check-up)</p> <p>Regarding maximum limit of deduction please refer to the provision.</p>	<p>No deduction shall be allowed from gross total income, if health insurance premium made by the tax payer in mode of cash.</p>
5	Donation – Section 80G	<p>Under the existing provisions of section 80G, deduction under Chapter VIA of income tax act is not allowed in respect of donation made of any sum exceeding ₹ 10,000/-, if the same is not paid by any mode other than cash. Section 80G contains details of Donee, maximum limit and deduction as a % of net qualifying amount for deduction from Gross Total Income (GTI) to arrive at Taxable Income.</p> <p>In order to provide cash less economy and transparency, section 80G has been amended by Finance Act 2017, so as to provide that no deduction shall be allowed under the section 80G in respect of donation of any sum exceeding ₹2,000/- unless such sum is paid by any mode other than cash.</p>	<p>No deduction is allowed under Chapter VIA of income tax act from Gross Total Income if Donation paid in cash exceeding ₹2,000.</p>

6	Donations for scientific research or rural development - Section 80GGA	An Assessee (other than an assessee whose Gross Total Income includes income chargeable under the head "profits and gains of business or profession") is entitled to deduction in respect of certain donations for scientific, social or statistical research or rural development programme or for carrying out an eligible project or National Urban Poverty Eradication Fund shall be allowed (Subject to certain conditions). Such donation can be given in cash, or by cheque or draft. However no deduction is allowed in respect of cash transaction/contribution exceeding ₹10,000 from the assessment year 2013-14	100% of donations or contributions made other than cash only is allowable as deduction. No deduction shall be allowed if contribution is paid in cash in excess of Rs.10,000.
7	Donations by companies / any person to political parties. - Section 80GGB / Section 80GGC	Any sum contributed by an Indian company to any political party or an electoral trust is deductible while computing taxable income. From the assessment year 2014-15, no deduction shall be allowed in respect of any sum contributed by way of cash.	No cash payment allowed as deduction in computation of taxable income. Non deduction results increase in tax payable.
8	Prohibition on acceptance of cash loans, deposits, etc. - Section 269 SS	<p>As per provisions section 269SS, a person shall not accept any loan or deposit or "specified sum" from any other person otherwise than by an account payee cheque or account payee bank draft (or use of electronic clearing system through a bank account) if,</p> <p>(a) the amount of such loan or deposit or the aggregate amount of such loan and deposit ; or</p> <p>(b) on the date of taking or accepting such loan or deposit, any loan or deposit taken or accepted earlier by such person from the depositor is remaining unpaid and the amount or the aggregate amount remaining unpaid ; or</p> <p>(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),</p> <p>is ₹ .20,000 or more:</p> <p>The limit of ₹ 20,000 will also apply to a case even if on the date of taking or accepting such loan or deposit, any loan or deposit taken or accepted earlier by such person from such depositor is remaining unpaid and such unpaid amount along with the loan or deposit to be accepted, exceeds the aforesaid limit.</p> <p>"Specified Sum" means any sum of money receivable whether as advance or otherwise, in relation to transfer of an immovable property, whether or not transfer takes place.</p>	<p>Section 271D of Income Tax Act 1961 provides that if a loan or deposit is accepted in contravention of the provisions of section 269SS, then a penalty equivalent to the amount of such loan or deposit, so taken or accepted, may be levied by the Joint commissioner.</p> <p>However by virtue of section 273, the above penalty is not leviable if the assessee proves that there was a reasonable cause for the failure in compliance of the provisions</p>
9	Prohibition on repayment of loans or deposits in cash - Section 269T	It provides that any branch of a banking company or a cooperative society, firm or other person shall not repay any loan or deposit made with it or any specified advance (any sum in nature of advance , by whatever name called in relation to transfer of an immovable property, whether or not such transfer takes place) received by it otherwise than by an account payee cheque or account payee bank draft drawn in the name of	Section 271E of Income Tax Act 1961 provides that if a loan or deposit is repaid in contravention of the provisions of section 269T then a penalty equivalent to the amount of such loan or deposit repaid may be levied by

		<p>the person (or use of electronic clearing system through a bank account), who has made the loan or deposit, if</p> <p>(a) The amount of the loan or deposit together with interest is ₹ 20,000 or more, or</p> <p>(b) The aggregate amount of loans or deposits held by such person, either in his own name or jointly with other person on the date of such repayment together with interest, is ₹20,000 or more.</p>	<p>the Joint commissioner.</p> <p>However by virtue of section 273, the above penalty is not leviable if the assessee proves that there was a reasonable cause for the failure in compliance of the provisions</p>
<p>The Finance Act, 2015 amended Section 269SS and Section 269T to include transactions in immovable property in order to curb black money circulation.</p> <p>As per proviso of section 269SS and section 269T, section is not applicable on any loan or deposit taken or accepted from:-</p> <p>(a) Government (b) any banking company, post office savings bank or co-operative bank (c) any corporation established by a Central, State or Provincial Act. (d) any Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) (e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.</p>			
10	Restriction on Cash Transactions – Section 269ST	<p>With a view to promote digital economy and create a disincentive against cash economy, a new section 269ST has been inserted in the Income-tax Act, 1961(the Act) vide Finance Act, 2017. The said section inter-alia prohibits receipt of an amount of two lakh rupees or more by a person, in the circumstances specified therein, through modes other than by way of an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account. It is applicable whether the recipient person is a seller of goods or provider of service transferor of capital assets or any other person.</p> <p>It prohibits receipt of an amount of ₹ 2 lakh or more by a person,</p> <p>(i) In aggregate from a person in a day (Example: if a person receives ₹ 2.25 lakhs in cash against two different invoices raised for the service provided/goods supplied amounting to ₹ 1 lakhs and ₹ 1.25 lakhs). or</p> <p>(ii) In respect of a single transaction. (Example: If there is a single invoice for service provided/goods supplied amounting to ₹ 2.90 lakhs against which cash has been received on different days for ₹ 1.6 lakhs and ₹ 1.30 lakhs) or</p> <p>(iii) In respect of transactions relating to one event or occasion from a person. (Example: If birth day celebration is one occasion and a person receives amount of ₹ 2.50lakhs)</p> <p>(iv) Otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account.</p>	<p>If any person receives any amount contravention of the provision of section 269ST, shall be liable to pay penalty of a sum equal to the amount of such receipt.</p> <p>However, penalty is not leviable by the Joint Commissioner if it is proved by such person that there is a good and sufficient reason for such contravention.</p>

		<p>Provisions of this section shall not apply to any receipt by</p> <p>(i) Government/any banking company, post office savings bank or co-operative bank;</p> <p>(ii) Transactions of the nature referred to in section 269SS – i.e. acceptance of Loan, deposits etc,</p> <p>(iii) Such other persons or class of persons or receipts etc.that may be notified by the Central Government.</p> <p>(iv) Persons from whom the loan or deposit is taken or accepted and if the person by whom the loan or deposit is taken or accepted are both having Agricultural Income and neither of them has any Income chargeable to Tax.</p> <p>(v) Any corporation established by a Central, State or Provincial Act</p> <p>It is further clarified that the receipt of one installment of loan repayment in respect of a loan shall constitute a ‘SINGLE TRANSACTION’ as specified in clause (b) of section 269ST of the Act and all the installments paid for a loan shall not be aggregated for the purposes of determining applicability of the provisions section 269ST.</p>	
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It may be noted that the specified mode of payment namely, ***crossed account payee cheque or draft as stated in the relevant sections above*** has been expanded by Finance Act 2017 to include **any payment through the use of electronic clearing system through a bank account**. Such a clearing system may include Real Time Gross Settlement (RTGS), credit card or debit card payments and even payments through the Aadhaar Card System.

Promotion of digital payment to an eligible assessee covered in section 44AD:

The existing provisions of section 44AD of income tax act, *inter-alia*, provides for a presumptive income scheme in case of eligible assessee (individuals, HUFs and firms excepting LLPs) carrying out eligible businesses. As per provisions under above scheme, in case of an eligible assessee engaged in eligible business having total turnover or gross receipts not exceeding two crore rupees in a previous year, a sum equal to eight per cent of the total turnover or gross receipts deemed to be his business income chargeable to tax under the head "profits and gains of business or profession". Amendment provisions in Finance Act provides for **lower presumptive profit rate of 6% on turnover realized in account payee cheque or DD or electronic clearing system through a bank account on or before due date for filing Income Tax Return.**

The amendment is made in Finance 2017 (effective from assessment year 2017-18) in order to promote

digital transactions and to encourage small unorganized business to accept digital payments by reducing the existing rate of deemed total income of 8% to 6% in respect of the amount of such total turnover or gross receipts received by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year. However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act, shall continue to apply in respect of total turnover or gross receipts received in any other mode. Assessee availing presumptive scheme under section 44AD must keep in view the provisions of section 269ST (as stated above) as also provisions of section 206C(TCS) while accepting cash payments/advances from customers.

While concluding, it may be noted that, by making few provisions under income tax act are not only measures to eliminate black money. No doubt a tax payer is required to adhere to all the provisions of income tax for tax compliances and to get tax benefits. But at the same time, more innovations will be required to route transactions through the banking system. As more transactions go through banking channels, reporting of income and tax compliance will improve leading to higher tax revenues. Higher tax revenues would, ideally, lead to lower tax rates, which will benefit all tax payers.