AMENDMENTS MADE IN INCOME TAX ACT

1. Rates of Income Tax for assessment year 2014-15

(A) I. In the case of **every Individual [other than those covered in part (II) or (III) below] or Hindu Undivided Family or AOP/BOI (other than a co-operative society)** whether incorporated or not, or every artificial judicial person

Upto ₹2,00,000	Nil
₹2,00,001 to ₹5,00,000	10%
₹5,00,001 to ₹10,00,000	20%
Above ₹10,00,000	30%

II. In the case of every **individual,** being a **resident in India,** who **is of** the **age of 60 years or more but less than 80 years** at any time during the previous year.

Upto ₹2,50,000	Nil
₹2,50,001 to ₹5,00,000	10%
₹5,00,001 to ₹10,00,000	20%
Above ₹10,00,000	30%

III. In the case of every **individual,** being a **resident in India,** who is of the **age** of **80 years or more** at any time during the previous year.

Upto ₹5,00,000	Nil
₹5,00,001 to ₹10,00,000	20%
Above ₹10,00,000	30%

Surcharge: The amount of income-tax computed in accordance with the above rates and special rates specified in section 111A (relating to short term capital gain on shares sold through recognised stock exchange) and section 112 (relating to long-term capital gain) shall be increased by a surcharge at the rate of 10% of such income-tax in case of a person having a total income exceeding ₹1 crore.

Marginal relief: The total amount payable as income-tax and surcharge on total income exceeding ₹1 crore shall not exceed the total amount payable as income-tax on a total income of ₹1 crore by more than the amount of income that exceeds ₹1 crore.

Cess: 'Education Cess' @2%, and 'Secondary and Higher Education Cess (SHEC)' @1% on income tax (inclusive of surcharge, if applicable) shall be chargeable.

(B) In the case of every co-operative society

(1) where the total income does not exceed ₹10,000	10% of the total income;
(2) where the total income exceeds ₹ 10,000 but does not exceed ₹ 20,000	₹1,000 plus 20% of the amount by which the total income exceeds ₹10,000;
(3) where the total income exceeds ₹ 20,000	₹ 3,000 plus 30% of the amount by which the total income exceeds ₹ 20,000.

Surcharge: The amount of income-tax shall be increased by a surcharge at the rate of 10% of such income-tax in case of a co-operative society having a total income exceeding ₹1 crore.

Marginal relief: The total amount payable as income-tax and surcharge on total income exceeding ₹1 crore shall not exceed the total amount payable as income-tax on a total income of ₹1 crore by more than the amount of income that exceeds ₹1 crore.

Cess: 'Education Cess' @ 2% and SHEC @ 1% on income tax (inclusive of surcharge, if applicable) shall be chargeable.

(C) In case of any firm (including limited liability partnership) — 30%.

Surcharge: The amount of income-tax shall be increased by a surcharge at the rate of 10% of such income-tax in case of a firm having a total income exceeding ₹1 crore.

Marginal relief: The total amount payable as income-tax and surcharge on total income exceeding ₹1 crore shall not exceed the total amount payable as income-tax on a total income of ₹1 crore by more than the amount of income that exceeds ₹1 crore.

Cess: 'Education Cess' @ 2% and SHEC @ 1% on income tax (inclusive of surcharge, if applicable) shall be chargeable.

(D) In the case of a company

(i) For domestic companies: 30%

Surcharge: Where the total income of a domestic company exceeds ₹1 crore but does not exceed ₹10 crore, a surcharge of 5% of tax shall be levied.

Where the total income of the domestic company exceeds ₹10 crore, a surcharge at the rate of 10% of tax shall be levied.

Marginal relief: However, the total amount payable as income-tax and surcharge on total income exceeding ₹1 crore but not exceeding ₹10 crore, shall not exceed the total amount payable as income-tax on a total income of ₹1 crore, by more than the amount of income that exceeds ₹1 crore.

Further, the total amount payable as income-tax and surcharge on total income exceeding ₹10 crore, shall not exceed the total amount payable as income-tax and surcharge on a total income of ₹10 crore, by more than the amount of income that exceeds ₹10 crore.

Cess: 'Education Cess' @ 2%, and 'Secondary and Higher Education Cess' @1% on income tax (inclusive of surcharge if applicable) shall be chargeable.

(ii) For foreign company: 40%

Surcharge: Where the total income of a company other than a domestic company exceeds ₹1 crore but does not exceed ₹10 crore a surcharge of 2% of tax shall be levied.

Where the total income of such company exceeds ₹10 crore a surcharge at the rate of 5% of tax shall be levied.

Marginal relief: However, the total amount payable as income-tax and surcharge on total income exceeding ₹1 crore but not exceeding ₹10 crore, shall not exceed the total amount payable as income-tax on a total income of ₹1 crore, by more than the amount of income that exceeds ₹1 crore.

Further, the total amount payable as income-tax and surcharge on total income exceeding ₹10 crore, shall not exceed the total amount payable as income-tax and surcharge on a total income of ₹10 crore, by more than the amount of income that exceeds ₹10 crore.

Cess: 'Education Cess' @ 2%, and 'Secondary and Higher Education Cess' @1% on income tax (inclusive of surcharge if applicable) shall be chargeable.

AMENDMENTS RELATING TO DEFINITIONS

2. Amendment in the meaning of land in definition of agricultural income [Section 2 (1A)] [W.e.f. A.Y. 2014-15]

The provision contained in clause (1A) of the section 2 defines the term "agricultural income". Sub-clause (c) of the said clause (1A) includes any income derived from any building on, or in the immediate vicinity of the land, and is used as a dwelling house, store house or other out-building as required by the receiver of the rent or revenue or the cultivator, in connection with such land, within the definition of "agricultural income". Clause (ii) of proviso to sub-clause (c) provides that where the land is not assessed by land revenue or subject to a local rate, it should not be situated within the areas as specified in item (A) or item (B) of clause (ii) of the proviso, to qualify income derived from any such building as agricultural income.

The Act has amended item (B) of clause (ii) of the proviso to sub-clause (c) of clause (1A) of section 2 so as to provide that if the land is situated in any area within the distance, measured aerially,—

(i) not being more than 2 kilometres, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than 10,000 but not exceeding 1,00,000; or

(ii) not being more than 6 kilometres, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than 1,00,000 but not exceeding 10,00,000; or

(iii) not being more than 8 kilometres, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than 10,00,000,

the income derived from such building on, or in the immediate vicinity of such land will not be agricultural income.

For the purposes of clause (ii) of the proviso to sub-clause (c), "population" means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year. [Explanation 4 to section 2(1A)].

3. Amendment in the definition of Capital Asset [Section 2(1A) and section 2(14)] [W.e.f. A.Y. 2014-15]

The existing provisions contained section 2(14) of the Income-tax Act define the term "capital asset" as property of any kind held by an assessee, whether or not connected with his business or profession. Certain categories of properties including agricultural land have been excluded from this definition. Section 2(14)(iii) provides that—

(a) agricultural land situated in any area within the jurisdiction of a municipality or cantonment board having population of not less than ten thousand according to the last preceding census of which relevant figures have been published before the 1st day of the previous year, or

(b) agricultural land situated in any area within such distance not exceeding eight kilometres from the local limits of any municipality or cantonment board, as notified by the Central Government having regard to the extent and scope of urbanization and other relevant factors,

forms part of capital asset.

The Act has amended the above item (a) as under:

The words "according to the last preceding census of which relevant figures have been published before the 1st day of the previous year" shall be omitted. Instead of this, the expression "population" has been defined by inserting an Explanation to this clause.

The Act has also amended the above item (b) of section 2(14)(iii) so as to provide that the following land situated in any area within the distance, measured aerially (shortest aerial distance) shall form part of capital asset,—

(I) any land situated not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than 10,000 but not exceeding 1,00,000; or

(II) any land situated not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than 1,00,000 but not exceeding 10,00,000; or

(III) any land situated not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than 10,00,000.

Further, the Act has also defined the expression "population" both for items (a) and (b) above to mean population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.

Similar amendments have also been made in section 2(1A) of the Income-tax Act, 1961 relating to the definition of "agricultural income" and in respect of the definition of "urban land" in the Wealth-tax Act, 1957.

AMENDMENTS RELATING TO INCOME EXEMPT FROM TAX

4. Raising the limit of percentage of eligible premium for life insurance policies of persons with disability or specified disease [Section 10(10D)] [W.e.f. A.Y. 2014-15]

The Act has provided that any sum including the sum allocated by way of bonus received under an insurance policy issued on or after 01.04.2013 for the insurance on the life of any person who is—

(i) a person with disability or a person with severe disability as referred to in section 80U, or

(ii) suffering from disease or ailment as specified in the rules made under section 80DDB,

shall be exempt under section 10(10D) if the premium payable for any of the years during the term of the policy does not exceed 15% of the actual capital sum assured instead of 10% in case of others.

For policy issued on or after 1.4.2012 but before 1.4.2013 the exemption under section 10(10D) in the case of above persons referred to in 80DD or 80U shall like others, be allowed only when the sum payable as premium does not exceed 10% of actual capital sum assured.

5. Amendment relating to "Keyman Insurance Policy" [Section 10(10D)] [W.e.f. A.Y. 2014-15]

The existing provisions of section 10(10D), inter alia, exempt any sum received under a life insurance policy other than a keyman insurance policy.

Explanation 1 to the said section 10(10D) defines a keyman insurance policy to mean a life insurance policy taken by a person on the life of another person who is or was the employee of the first-mentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person.

It has been noticed that the policies taken as keyman insurance policy are being assigned to the keyman before its maturity. The keyman pays the remaining premium on the policy and claims the sum received under the policy as exempt on the ground that the policy is no longer a keyman insurance policy. Thus, the exemption under section 10(10D) is being claimed for policies which were originally keyman insurance policies but during the term these were assigned to some other person. The Courts have also noticed this loophole in law.

With a view to plug the loophole and check such practices to avoid payment of taxes, the Act has amended Explanation 1 to section 10(10D) to provide that a keyman insurance policy which has been assigned to any person during its term, with or without consideration, shall continue to be treated as a keyman insurance policy and hence maturity amount shall not be exempt under section 10(10D).

6. Exemption to income of a securitisation trust [Section 10(23DA)] [W.e.f. A.Y. 2014-15]

The Act has provided for exemption in respect of any income of a securitisation trust from the activity of securitisation.

Meaning of securitisation: "Securitisation" shall have the same meaning as assigned to it,—

(i) in regulation 2(1)(r) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 and the Securities Contracts (Regulation) Act, 1956; or

(ii) under the guidelines on securitisation of standard assets issued by the Reserve Bank of India.

Meaning of securitisation trust: "Securitisation Trust" shall have the meaning assigned to it in the Explanation below section 115TC.

As per Explanation to section 115TC, "Securitisation Trust" means a trust, being a—

(i) "Special purpose distinct entity" as defined in regulation 2(1)(u) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 and the Securities Contracts (Regulation) Act, 1956, and regulated under the said regulations; or

(ii) "Special Purpose Vehicle" as defined in and regulated by the guidelines on securitisation of standard assets issued by the Reserve Bank of India.

Which fulfils such conditions, as may be prescribed.

7. Exemption to income of Investor Protection Fund of depositories [Section 10(23ED)] [W.e.f. A.Y. 2014-15]

Under the provisions of SEBI (Depositories and Participants) Regulations, 1996, as amended in 2012, the depositories are mandatorily required to set up an Investor Protection Fund.

Under the existing provisions, section 10(23EA) provides that any income, by way of contributions from a recognised stock exchange & members thereof received by an Investor Protection Fund set up by the recognised stock exchange shall be exempt from taxation.

On similar lines, the Act has provided that any income, by way of contributions received from a depository, of such the Investor Protection Fund set up by the depository in accordance with the regulations prescribed by SEBI will not be included while computing the total income subject to same conditions as are applicable in respect of exemption to an Investor Protection Fund set up by recognised stock exchanges.

However, where any amount standing to the credit of the fund and not charged to income-tax during any previous year is shared wholly or partly with a depository, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared.

8. Pass through Status to certain Alternative Investment Funds [Section 10(23FB)] [W.r.e.f. A.Y. 2013-14]

Existing provisions of section 10(23FB) of the Income-tax Act provide that any income of a Venture Capital Company (VCC) or Venture Capital Fund (VCF) from investment in a Venture Capital Undertaking (VCU) shall be exempt from taxation. Section 115U of the Income-tax Act provides that income accruing or arising or received by a person out of investment made in a VCC or VCF shall be taxable in the same manner as if the person had made direct investment in the VCU.

These sections provide a tax pass through status (i.e. income is taxable in the hands of investors instead of VCF/VCC) only to the funds which satisfy the investment and other conditions as are provided in SEBI (Venture Capital Fund) Regulations, 1996. Further the pass through status is available only in respect of income which arises to the fund from investment in VCU, being a company which satisfies the conditions provided in SEBI (Venture Capital Fund) Regulations, 1996.

The SEBI (Alternative Investment Funds) Regulations, 2012 (AIF regulations) have replaced the SEBI (Venture Capital Fund) Regulations, 1996 (VCF regulations) from 21st May, 2012.

In order to provide benefit of pass through to similar venture capital funds as are registered under new regulations and subject to same conditions of investment restrictions in the context of investment in a venture capital undertaking, the Act has substituted the existing Explanation 1 to section 10(23F) by the following Explanation:

(a) "venture capital company" means a company which—

- (A) has been granted a certificate of registration, before 21.5.2012, as a Venture Capital Fund and is regulated under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 (hereinafter referred to as the Venture Capital Funds Regulations) made under the Securities and Exchange Board of India Act, 1992; or
- (B) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 (hereinafter referred to as the Alternative Investment Funds Regulations) made under the Securities and Exchange Board of India Act, 1992, and which fulfils the following conditions, namely:—
  - (i) it is not listed on a recognised stock exchange;
  - (ii) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking; and
  - (iii) it has not invested in any venture capital undertaking in which its director or a substantial shareholder (being a beneficial owner of equity shares exceeding ten per cent of its equity share capital) holds, either individually or collectively, equity shares in excess of fifteen per cent of the paid-up equity share capital of such venture capital undertaking;

(b) "venture capital fund" means a fund—

(A) operating under a trust deed registered under the provisions of the Registration Act, 1908, which—

(I) has been granted a certificate of registration, before 21.5.2012, as a Venture Capital Fund and is regulated under the Venture Capital Funds Regulations; or

(II) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund under the Alternative Investment Funds Regulations and which fulfils the following conditions, namely:—

(i) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking;

(ii) it has not invested in any venture capital undertaking in which its trustee or the settler holds, either individually or collectively, equity shares in excess of fifteen per cent of the paid-up equity share capital of such venture capital undertaking; and

(iii) the units, if any, issued by it are not listed in any recognised stock exchange; or

(B) operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963;

(c) "venture capital undertaking" means—

(i) a venture capital undertaking as defined in clause (n) of regulation 2 of the Venture Capital Funds Regulations; or

(ii) a venture capital undertaking as defined in clause (aa) of sub-regulation (1) of regulation 2 of the Alternative Investment Funds Regulations.

9. Exemption to the shareholder on account of buy back of shares [Section 10(34A)] [W.e.f. A.Y. 2014-15]

Income arising to a shareholder in respect of buy-back of unlisted shares by the company will be exempt from tax under section 10(34A) from the assessment year 2014-15. This exemption is available only in those cases where additional income-tax is payable on distributed income under section 115QA by the company opting for buy-back of unlisted shares.

10. Exemption of distributed income received from a Securitisation Trust by an investor [Section 10(35A)]

Any income received by an investor from a securitization trust will be exempt under section 10(35A0 from the assessment year 2014-15. The exemption is, however, available only in respect of distributed income referred to in section 115TA.

11. Exemption in respect of income received by certain foreign companies [Section 10(48)] [W.e.f. A.Y. 2014-15]

As per section 10(48), income of a notified foreign company from the sale of crude oil to any person in India in Indian currency is exempt if certain conditions are satisfied. Besides the sale of crude oil, the Finance Act, 2013 has extended the exemption to:

(a) any other goods; or

(b) rendering of services

as may be notified by the Central Government in this behalf.

12. Exemption to National Financial Holdings Company Limited [Section 10(49)] [W.e.f. A.Y. 2013-14]

Any income of the National Financial Holdings Company Limited, being a company set up by the Central Government, of any previous year relevant to any assessment year commencing on or before the 1st day of April, 2014.

AMENDMENTS RELATING TO INCOME FROM BUSINESS AND PROFESSION

13. Incentive for acquisition and installation of new plant or machinery by manufacturing company [Section 32AC] [W.e.f. A.Y. 2014-15]

(A) Manufacturing company eligible for deduction @ 15% of actual cost of new asset being eligible plant and machinery [Section 32AC(1)]

In order to encourage substantial investment in plant or machinery, the Act has inserted a new section 32AC in the Income-tax Act to provide that where an assessee, being a company,—

(a) is engaged in the business of manufacture of an article or thing; and

(b) acquires and installs new assets (eligible plant or machinery) during the period beginning from 1.4.2013 and ending on 31.3.2015 and the aggregate amount of actual cost of such new assets exceeds ₹100 crores, then, such company shall be allowed—

- (i) for the assessment year 2014-15, a deduction of 15% of aggregate amount of actual cost of new assets acquired and installed during the financial year 2013-14, if the aggregate amount of actual cost of such assets exceeds ₹100 crore;
- (ii) for the assessment year 2015-16, a deduction of 15% of aggregate amount of actual cost of new assets, acquired and installed during the period beginning on 1.4.2013 and ending on 31.3.2015, as reduced by the deduction allowed, if any, for assessment year 2014-15.

(B) Meaning of new asset [Section 35AC(4)]

New assets means any new plant or machinery (other than ship or aircraft) but does not include—

- (i) any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;
- (ii) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;
- (iii) any office appliances including computers or computer software;
- (iv) any vehicle;
- (v) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.

The above "new asset" acquired and installed should not to be sold or otherwise transferred within a period of 5 years from the date of its installation except in connection with amalgamation or demerger.

(C) Consequences if the new asset acquired and installed is transferred within a period of 5 years from the date of its installation [Section 32AC(2)]

If any new asset acquired and installed by the assessee is sold or otherwise transferred except in connection with the amalgamation or demerger, within a period of 5 years from the date of its installation, the consequence of the same shall be as under:

1. The amount of deduction allowed under section 32AC(1) in respect of such new asset shall be deemed to be income chargeable under the head profit and gains of business and profession of the previous year in which new asset is sold or otherwise transferred.
2. In addition to the above, if any capital gain arises under section 50 on account of transfer of such new asset, that too shall become taxable in that previous year.

(D) Consequences if amalgamated company or resulting company transfers such assets within 5 years from the date of installation by the amalgamating company or demerged company [Section 32AC(3)]

If after amalgamation or demerger, the amalgamated company or the resulting company, as the case may be, sells or transfers any such asset within 5 years from the date of its installation by the amalgamating company or the demerged company, then the amalgamated company or resulting company shall be taxed in the same manner as it would have been taxed in the hands of the amalgamating or demerged company, as the case may be.

14. Clarification for amount to be eligible for deduction as bad debts in case of banks [Section 36(1)(vii) & (viia)] [W.e.f. A.Y. 2014-15]

Provisions of section 36(1)(vii) of the Act provide for deduction for bad debt actually written off as irrecoverable in the books of account of the assessee. The proviso to this clause provides that for an assessee, to which section 36(1)(viia) of the Act applies, deduction under section 36(vii) shall be limited to the amount by which the bad debt written off exceeds the credit balance in the Provision for Bad and Doubtful Debts Account made under section 36(1)(viia) of the Act.

The provisions of section 36(1)(vii) of the Act are subject to the provisions of section 36(2) of the Act. Section 36(2)(v) of the Act provides that the assessee, to which section 36(1)(viia) of the Act applies, should debit the amount of bad debt written off to the Provision for Bad and Doubtful Debts Account made under section 36(1)(viia) of the Act.

Therefore, the banks or financial institutions are entitled to claim deduction for bad debt actually written off under section 36(1)(vii) of the Act only to the extent it is in excess of the credit balance in the Provision for Bad and Doubtful Debts Account made under section 36(1)(viia) of the Act. However, certain judicial pronouncements have created doubts about the scope and applicability of proviso to section 36(1)(vii) and held that the proviso to section 36(1)(vii) applies only to provision made for bad and doubtful debts relating to rural advances.

In order to clarify the scope and applicability of provision of clause (vii) and (viia) of sub-section (1) and sub-section (2) of section 36, the Act has inserted Explanation 2 in clause (vii) of section 36(1) stating that for the purposes of the proviso to section 36(1)(vii) and section 36(2)(v), only one account as referred to therein is made in respect of provision for bad and doubtful debts under section 36(1)(viia) and such account relates to all types of advances, including advances made by rural branches.

Therefore, for an assessee to which clause (viia) of section 36(1) applies, the amount of deduction in respect of the bad debts actually written off under section 36(1)(vii) shall be limited to the amount by which such bad debts exceeds the credit balance in the Provision for Bad and Doubtful Debts Account made under section 36(1)(viia) without any distinction between rural advances and other advances.

Note: The amendment has been made to overrule the judicial decision in the case of Catholic Syrian Bank Ltd. vs. CIT (2012) 206 Taxman 182 (SC) where it was held that proviso to section 36(1)(vii) is applicable only for rural branches of banks. In case of other branches of the bank, deduction of actual bad debt shall be allowed even if these branches have made a provision for bad and doubtful debts.

15. Commodities Transaction Tax to be allowed as a deduction [Section 36(xvi)] [W.e.f. A.Y. 2014-15]

The Act has inserted clause (xvi) in section 36 of the Income-tax Act to provide that an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year shall be allowable as deduction, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and Gains of Business or Profession".

It has also inserted an Explanation to provide that for the purposes of this clause, the expressions "commodities transaction tax" and "taxable commodities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013.

"Commodities Transaction Tax" means tax leviable on the taxable commodities transactions under the provisions of Chapter VII of the Finance Act, 2013.

"Taxable Commodities Transaction" means a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised associations.

16. Disallowance of certain fee, charge, etc. in the case of State Government Undertakings [Section 40(a)(iib)] [W.e.f. A.Y. 2014-15]

The existing provision of section 40 specifies the amounts which shall not be deducted in computing the income chargeable under the head "Profits and Gains of Business or Profession". The non-deductible expense under the said section also includes statutory dues like income-tax, wealth-tax, etc.

Disputes have arisen in respect of income-tax assessment of some State Government undertakings as to whether any sum paid by way of privilege fee, license fee, royalty, etc. levied or charged by the State Government exclusively on its undertakings are deductible or not for the purposes of computation of income of such undertakings. In some cases, orders have been issued to the effect that surplus arising to such undertakings shall vest with the State Government. As a result it has been claimed that such income by way of surplus is not subject to tax.

It is a settled law that State Government undertakings are separate legal entities than the State and are liable to income-tax.

The Act has amended section 40 of the Income-tax Act to provide that—

(a) any amount paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on, or

(b) any amount appropriated, directly or indirectly, from a State Government undertaking, by the State Government,

shall not be allowed as deduction for the purposes of computation of income of such undertakings under the head "Profits and Gains of Business or Profession".

The expression "State Government Undertaking" has also been defined for this purpose as under :-

A State Government undertaking includes—

(i) a corporation established by or under any Act of the State Government;

(ii) a company in which more than 50% of the paid-up equity share capital is held by the State Government;

(iii) a company in which more than 50% of the paid-up equity share capital is held by the entity referred to in clause (i) or clause (ii) (whether singly or taken together);

(iv) a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

(v) an authority, a board or an institution or a body established or constituted by or under any Act of the State Government or owned or controlled by the State Government.

17. Derivative trading in commodities also not to be treated as speculative transaction [Proviso to section 43(5)] [W.e.f. A.Y. 2014-15]

Like eligible transaction in respect of trading in derivatives of securities, an eligible transaction in respect of trading in commodity derivatives carried out in a recognised association shall also not be treated as speculative transaction. Hence, income/loss from such transactions shall be treated as non-speculative business income/loss.

Further, the following Explanation 2 has been inserted to provide for certain definitions relating to above transactions.

Meaning of "commodity derivative": "Commodity derivative" shall have the meaning as assigned to it in Chapter VII of the Finance Act, 2013;

Meaning of "eligible transaction": "Eligible transaction" means any transaction,—

(A) carried out electronically on screen-based systems through member or an intermediary, registered under the bye-laws, rules and regulations of the recognised association for trading in commodity derivative in accordance with the provisions of the Forward Contracts (Regulation) Act, 1952 and the rules, regulations or bye-laws made or directions issued under that Act on a recognised association; and

(B) which is supported by a time stamped contract note issued by such member or intermediary to every client indicating in the contract note, the unique client identity number allotted under the Act, rules, regulations or bye-laws referred to in sub-clause (A), Unique Trade Number and Permanent Account Number allotted under this Act.

Meaning of "recognised association": "Recognised association" means a recognised association as referred to in section 2(j) of the Forward Contracts (Regulation) Act, 1952 and which fulfils such conditions as may be prescribed and is notified by the Central Government for this purpose.

18. Special provision for full value of consideration for transfer of assets other than capital assets in certain cases [Section 43CA] [W.e.f. A.Y. 2014-15]

Currently, when a capital asset, being immovable property, is transferred for a consideration which is less than the value adopted, assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, then such value (stamp duty value) is taken as full value of consideration under section 50C of the Income-tax Act. These provisions do not apply to transfer of immovable property, held by the transferor as stock-in-trade.

(A) Stamp duty value to be deemed consideration in certain cases [Section 43CA(1)]: The Act has inserted a new section 43CA to provide that where the consideration for the transfer of an asset (other than capital asset), being land or building or both, is less than the stamp duty value, the value so adopted or assessed or assessable shall be deemed to be the full value of the consideration for the purposes of computing income under the head "Profits and Gains of Business of Profession".

(B) Provisions of section 50C(2) and (3) made applicable to section 43CA [Section 43CA(2)]: The provisions of sub-section (2) and sub-section (3) of section 50C shall, so far as may be, apply in relation to determination of the value adopted or assessed or assessable under section 43CA(1).

Where valuation can be referred to the Valuation Officer [Section 50C(2)]: If the following conditions are satisfied, the Assessing Officer may refer the valuation of the relevant asset to a Valuation Officer in accordance with section 55A of the Income-tax Act:

(i) where the assessee claims before the Assessing Officer that the value adopted or assessed or assessable by the stamp valuation authority exceeds the fair market value of the property as on the date of transfer; and

(ii) the value so adopted or assessed or assessable by stamp valuation authority has not been disputed, in any appeal or revision or reference before any authority or Court,

Consequences where the value is determined by the Valuation Officer: If the fair market value determined by the Valuation Officer is less than the value adopted (assessed or assessable) for stamp duty purposes, the Assessing Officer may take such fair market value to be the full value of consideration. However, as per section 50C(3), if the fair market value determined by the Valuation Officer is more than the value adopted or assessed or assessable for stamp duty purposes, the Assessing Officer shall not adopt such fair market value and will take the full value of consideration to be the value adopted or assessed or assessable for stamp duty purposes.

(C) Stamp duty value on the date of agreement to be deemed consideration [Section 43CA(3)] : The Act has also provided that where the date of an agreement fixing the value of consideration for the transfer of the asset and the date of registration of the transfer of the asset are not same, the stamp duty value may be taken as on the date of the agreement for transfer and not as on the date of registration for such transfer.

However, this exception shall apply only in those cases where amount of consideration or a part thereof for the transfer has been received by any mode other than cash on or before the date of the agreement. [Section 43CA(4)]

Note:- Section 43CA has been inserted to cover sale of immovable property held as stock-in-trade.

AMENDMENTS RELATING TO INCOME FROM OTHER SOURCES

19. Taxability of immovable property received for inadequate consideration [Section 56(2)(vii)(b)] [W.e.f. A.Y. 2014-15]

The existing provisions of sub-clause (b) of section 56(2)(vii) of the Income-tax Act, inter alia, provide that where any immovable property is received by an individual or HUF without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property would be charged to tax in the hands of the individual or HUF as income from other sources.

The existing provision does not cover a situation where the immovable property has been received by an individual or HUF for inadequate consideration.

The Act has amended the provisions of clause (vii) of section 56(2) so as to provide that where any immovable property is received for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration, shall be chargeable to tax in the hands of the individual or HUF as income from other sources.

Stamp duty value to be taken on the date of agreement [Proviso to section 56(2)(vii)(b)]: Where the date of the agreement fixing the amount of consideration for the transfer of the immovable property and the date of registration are not the same, the stamp duty value may be taken as on the date of the agreement, instead of that on the date of registration.

This exception shall, however, apply only in a case where the amount of consideration, or a part thereof, has been paid by any mode other than cash on or before the date of the agreement fixing the amount of consideration for the transfer of such immovable property.

AMENDMENTS RELATING TO DEDUCTIONS FROM GROSS TOTAL INCOME

20. Raising the limit of percentage of eligible premium for life insurance policies of persons with disability or disease [Section 80C] [W.e.f. A.Y. 2014-15]

The Act has amended section 80C(3A) so as to provide that the deduction under the said section on account of premium paid in respect of a policy issued on or after 01.04.2013 for insurance on the life of a person referred to in section 80DDB or 80U shall be allowed to the extent the premium paid does not exceed 15% of the actual capital sum assured instead of 10% in case of others.

21. Expanding the scope of deduction in respect of investment made under an equity saving scheme [Section 80CCG] [W.e.f. 2014-15]

With a view to liberalize the incentive available for investment in capital markets by the new retail investors, the Act has made the following changes in section 80CCG:

(i) besides equity shares, investment in listed units of an equity oriented fund shall also be eligible for deduction in accordance with the provisions of section 80CCG.

(ii) the deduction under this section shall be allowed for three consecutive assessment years, beginning with the assessment year relevant to the previous year in which the listed equity shares or listed units were first acquired by the new retail investor.

(iii) the gross total income for the relevant assessment year should not exceed ₹12,00,000 instead of ₹10,00,000 at present.

Meaning of "equity oriented fund": "Equity oriented fund" shall have the meaning assigned to it in section 10(38).

22. Deduction for contribution to Health Schemes similar to Central Government Health Scheme [Section 80D] [W.e.f. A.Y. 2014-15]

The existing provisions of section 80D, inter alia, provide that the whole of the amount paid in the previous year out of the income chargeable to tax of the assessee, being an individual, to effect or to keep in force an insurance on his health or the health of the family or any contribution made towards the Central Government Health Scheme (CGHS) or any payment made on account of preventive health check-up of the assessee or his family, as does not exceed in the aggregate ₹15,000, is allowed to be deducted in computing the total income of the assessee.

It has been noticed that there are other health schemes of the Central and State Governments, which are similar to the CGHS but no deduction for such schemes is available to the subscribers of such schemes. In order to bring such schemes at par with the CGHS, the Act has amended section 80D, so as to allow the benefit of deduction under this section within the said limit, in respect of any payment or contribution made by the assessee to such other health scheme as may be notified by the Central Government.

23. Deduction in respect of interest on loan sanctioned during financial year 2013-14 for acquiring residential house property [Section 80EE] [W.e.f. A.Y. 2014-15]

Under the existing provisions of section 24 of the Income-tax Act, income chargeable under the head 'Income from House Property' is computed after making the deductions specified therein. The deductions specified under the aforesaid section are as under:—

(i) A sum equal to 30% of the annual value;

(ii) Where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital.

It has also been provided that where the property consists of a house or part of a house which is in the occupation of the owner for the purposes of his own residence or cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, then the amount of deduction as mentioned above shall not exceed ₹1,50,000 subject to the conditions provided in the said section.

Keeping in view the need for affordable housing, the Act has provided an additional benefit for first-home buyers by inserting a new section 80EE in the Income-tax Act relating to deduction in respect of interest on loan taken for residential house property which is to be let out or self-occupied.

(A) To whom deduction is allowed: The deduction under this section shall be allowed to an individual only.

(B) Purpose for which deduction is allowed: Deduction shall be allowed on account of interest payable on loan taken by the individual from any Financial Institution for the purpose of acquisition of a residential house provided certain conditions are satisfied.

(C) Conditions to be satisfied:

(i) the loan is sanctioned by the financial institution during the period beginning on 1.4.2013 and ending on 31.3.2014;

(ii) the amount of loan sanctioned for acquisition of the residential house property does not exceed ₹25,00,000;

(iii) the value of the residential house property does not exceed ₹40,00,000;

(iv) the assessee does not own any residential house property on the date of sanction of the loan.

(D) Quantum of deduction: The deduction shall not exceed ₹1,00,000 in the previous year 2013-14 (i.e. assessment year 2014-15).

However, where the interest payable for the previous year relevant to the said assessment year is less than ₹1,00,000, the balance amount shall be allowed as deduction in the previous year 2014-15 (i.e. assessment year 2015-16).

(E) Deduction not to be allowed under any other section: Where a deduction under this section is allowed for any assessment year, in respect of interest referred to in section 80EE(1), deduction shall not be allowed in respect of such interest under any other provisions of the Income-tax Act for the same or any other assessment year.

Meaning of "financial institutions": Financial institution" means a banking company to which the Banking Regulation Act, 1949 applies including any bank or banking institution referred to in section 51 of that Act or a housing finance company.

Meaning of "housing finance company": "Housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

In case of let out house property, the deduction of interest is allowed for the entire amount under section 24(b).

24. 100% deduction for donation to National Children's Fund [Section 80G] [W.e.f. A. Y. 2014-15]

Deduction for donations to the National Children's Fund has been raised from 50% to 100%.

25. Contributions to political parties not to be in cash [Section 80GGB & 80GGC] [W.e.f. A.Y. 2014-15]

No deduction shall be allowed under section 80GGB and 80GGC in respect of any sum contributed by way of cash.

26. Extension of the sunset date under section 80IA for the power sector [Section 80IA(4)(iv)] [W.e.f. A.Y. 2014-15]

Under the existing provisions contained in the clause (iv) of subsection (4) of section 80IA, a deduction of profits and gains is allowed to an undertaking which,—

(a) is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on 1.4.1993 and ending on 31.3.2013;

(b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1.4.1999 and ending on 31.3.2013;

(c) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on 1.4.2004 and ending on 31.3.2013.

With a view to provide further time to the undertakings to commence the eligible activity to avail the tax incentive, the Act has amended the above provisions so as to extend the terminal date by a further period of one year i.e. up to 31.3.2014.

27. Deduction for additional wages in certain cases [Section 80JJAA] [W.e.f. A.Y. 2014-15]

The existing provisions contained in section 80JJAA of the Income-tax Act provide for a deduction of an amount equal to thirty per cent of additional wages paid to the new regular workmen employed in any previous year by an Indian company in its industrial undertaking engaged in manufacture or production of article or thing. The deduction is available for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

No deduction under this section is allowed if the industrial undertaking is formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking.

The tax incentive under section 80JJAA was intended for employment of blue collared employees in the manufacturing sector whereas in practice, it is being claimed for other employees in other sectors also. The Act has therefore amended the provisions of section 80JJAA so as to provide that the deduction shall be available to an Indian Company deriving profits from manufacture of goods in its factory. The deduction shall be of an amount equal to thirty per cent of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

Further, the deduction under this section shall not be available if the factory is hived off or transferred from another existing entity or acquired by the assessee company as a result of amalgamation with another company.

AMENDMENTS RELATING TO REBATE AND RELIEF

28. Amendment of Section 87 [W.e.f. A.Y. 2014-15]

In section 87 of the Income-tax Act, with effect from the 1st day of April, 2014,-

(i) in sub-section (1), for the word and figure "section 88", the word, figures and letter ''sections 87A, 88" shall be substituted;

(ii) in sub section (2), for the word and figures "section 88", the words, figures and letter "section 87A or section 88" shall be substituted.

29. Rebate of maximum ₹2,000 for resident individuals having total income up to ₹5 lakh [Section 87A] [W.e.f. A.Y. 2014-15]

With a view to provide tax relief to the individual tax payers who are in lower income bracket, the Act has provided rebate from the tax payable by an assessee, if the following conditions are satisfied:

(1) The assessee is an individual

(2) He is resident in India,

(3) His total income does not exceed ₹5,00,000.

Quantum of rebate: The rebate shall be equal to:

(1) the amount of income-tax payable on the total income for any assessment year or

(2) ₹2,000,

whichever is less.

AMENDMENTS RELATING TO AVOIDANCE OF DOUBLE TAXATION

30. Tax Residency Certificate [Section 90 & 90A] [W.r.e.f. A.Y. 2013-14]

Sub-section (4) of sections 90 and 90A of the Income-tax Act inserted by Finance Act, 2012 made submission of a certificate, containing such particulars as may be prescribed, of his being resident, as a condition for availing benefits of the agreements referred to in these sections.

W.e.f. A.Y. 2013-14, the Act has deleted the words "certificate, containing such particulars as may be prescribed, of his being resident" in sub-section (4) of section 90 and section 90A and substituted the same with the words "a certificate of his being resident".

In other words, a simple certificate of being resident of that country is required. The particulars of the certificate shall not be prescribed by the Board.

Further, sub-section (5) has been inserted in both sections 90 and 90A to provide as under:

"The assessee referred to in sub-section (4) shall also provide such other documents and information, as may be prescribed."

AMENDMENTS RELATING TO SPECIAL RATES OF TAX

31. Taxation of Income by way of interest, royalty or fees for technical services [Section 115A] [W.e.f. A.Y. 2014-15]

The Act has made the following amendments in section 115A:

(1) Special rate of tax on interest from investments referred to in section 194LD [Section 115A(1)(a)(iiab)]

The rate of tax on interest from the following investments referred to in section 194LD shall be 5%:

(i) a rupee denominated bond of an Indian company;

(ii) a Government security.

(2) Special rate of tax in case of royalty or fees for technical services

Section 115A of the Income-tax Act provides for determination of tax in case of a non-resident taxpayer where the total income includes any income by way of Royalty and Fees for Technical Services (FTS) received under an agreement entered after 31.03.1976 and which are not effectively connected with permanent establishment, if any, of the non--resident in India. The tax is payable on the gross amount of income at the rate of—

(i) 30% if income by way of royalty or FTS is received in pursuance of an agreement entered on or before 31.05.1997;

(ii) 20% if income by way of royalty or FTS is received in pursuance of an agreement entered after 31.05.1997 but before 01.06.2005; and

(iii) 10% if income by way of royalty or FTS is received in pursuance of an agreement entered on or after 01.06.2005.

India has tax treaties with 84 countries, majority of tax treaties allow India to levy tax on gross amount of royalty at rates ranging from 10% to 25%, whereas the tax rate as per section 115A is 10%. In some cases, this has resulted in taxation at a lower rate of 10% even if the treaty allows the income to be taxed at a higher rate.

In order to correct this anomaly, the tax rate in case of non-resident taxpayer, in respect of income by way of royalty and fees for technical services as provided under section 115A, has been increased from 10% to 25%.

This rate of 25% shall be applicable to any income by way of royalty and fees for technical services received by a non-resident, under an agreement entered after 31.03.1976, which is taxable under section 115A.

32. Special rate of income tax in case of Foreign Institutional Investor in respect of interest referred to in section 194LD [Proviso to section 115AD] [W.e.f. A.Y. 2014-15]

The Act has inserted the following proviso to section 115AD(1)(i):

"Provided that the amount of income-tax calculated on the income by way of interest referred to in section 194LD shall be at the rate of 5%.

33. Lower rate of tax on dividends received from foreign companies [Section115BBD] [W.e.f. A.Y. 2014-15]

Section 115BBD of Income-tax Act provides for taxation of gross dividends received by an Indian company from a specified foreign company (in which it has shareholding of 26% or more) at the rate of 15% if such dividend is included in the total income for the Financial Years 2011-12 and 2012-13 i.e. Assessment Years 2012-13 and 2013-14.

The above provision was introduced as an incentive for attracting repatriation of income earned by residents from investments made abroad subject to certain conditions.

In order to continue the tax incentive for one more year, section 115BBD has been amended to extend the applicability of this section in respect of income by way of dividends received from a specified foreign company in Financial Year 2013-14 also, subject to the same conditions.

AMENDMENTS RELATING TO DIVIDEND DISTRIBUTION TAX

34. Removal of the cascading effect of Dividend Distribution Tax (DDT) [Section 115-0(1A)] [W.e.f. 1.6.2013]

The Finance Act, 2013 has amended section 115-O(1A) to provide as under:

For the purpose of computation of tax on distributed profits, the amount of dividend distributed by the domestic company during the financial year shall be reduced by the following:

(i) the amount of dividend, if any, received by the domestic company during the financial year, if such dividend is received from its subsidiary and,—

(a) where such subsidiary is a domestic company, the subsidiary has paid the tax which is payable under this section on such dividend; or

(b) where such subsidiary is a foreign company, the tax is payable by the domestic company under section 115BBD on such dividend.

However, the same amount of dividend shall not be taken into account for reduction more than once.

AMENDMENTS RELATING TO TAX ON DISTRIBUTED INCOME OF DOMESTIC COMPANY FOR BUY-BACK OF SHARES [CHAPTER XII-DA]

35. Additional Income-tax on distributed income by company for buy-back of unlisted shares [Section 115QA to 115QC] [W.e.f. 1.6.2013]

Section 115-O provides for levy of Dividend Distribution Tax (DDT) on the company at the time when company distributes, declares or pays any dividend to its shareholders.

Consequent to the levy of DDT: The amount of dividend received by the shareholders is not included in the total income of the shareholder.

The consideration received by a shareholder on buy-back of shares by the company is not treated as dividend but is taxable as capital gains under section 46A of the Act.

A company, having distributable reserves, has two options to distribute the same to its shareholders either by declaration and payment of dividends to the shareholders, or by way of purchase of its own shares (i.e. buy back of shares) at a consideration fixed by it. In the first case, the payment by company is subject to DDT and income in the hands of shareholders is exempt. In the second case the income is taxed in the hands of shareholder as capital gains.

Unlisted Companies, as part of tax avoidance scheme, are resorting to buy back of shares instead of payment of dividends in order to avoid payment of tax by way of DDT particularly where the capital gains arising to the shareholders are either not chargeable to tax or are taxable at a lower rate.

In order to curb such practice the Act has amended the Act, by insertion of new Chapter XII-DA, to provide as under:

(1) Tax on distributed income to shareholders (Section 115QA)

(A) Additional income tax on buy back of shares [Section 115QA(1)]

(i) In addition to the income tax payable by the company on its total income as per the provisions of the Act, the domestic company shall be liable to pay additional income tax @ 20% on any amount of distributed income paid by the company on buy back of shares.

(ii) Rate of additional income tax: 20% + 10% SC + 3% Cess i.e. 22.66%.

Meaning of buy back: "Buy-back" means purchase by a company of its own shares in accordance with the provisions of section 77A of the Companies Act, 1956.

Meaning of distributed income: "Distributed income" means the consideration paid by the company on buy-back of shares as reduced by the amount which was received by the company for issue of such shares.

(B) Additional income tax payable even if the total income of domestic company is exempt [Section 115QA(2)]

Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on the distributed income under section 115QA(1) shall be payable by such company.

(C) Time limit for deposit of additional income tax [Section 115QA(3)]

The principal officer of the domestic company and the company shall be liable to pay the tax to the credit of the Central Government within 14 days from the date of payment of any consideration to the shareholder on buy-back of shares referred to in section 115QA(1).

(D) Additional income tax to be treated as final payment [Section 115QA(4)]

The tax on the distributed income by the company shall be treated as the final payment of tax in respect of the said income and no further credit therefore shall be claimed by the company or by any other person in respect of the amount of tax so paid.

(E) Income charged to tax not allowed as deduction [Section 115QA(5)]

No deduction under any other provision of this Act shall be allowed to—

(i) the company; or

(ii) a shareholder

in respect of the income which has been charged to tax under section 115QA(1) or the tax thereon.

(2) Interest payable for delayed payment of tax [Section 115QB]

Where the principal officer of the domestic company and the company fails to pay the whole or any part of the tax on the distributed income referred to in section 115QA(1), within the time allowed under section 115QA(3) of that section, he or it shall be liable to pay simple interest @ 1% for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

(3) When company is deemed to be assessee in default [Section 115QC]

If any principal officer of a domestic company and the company does not pay tax on distributed income in accordance with the provisions of section 115QA, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

AMENDMENTS RELATING TO TAX ON DISTRIBUTED INCOME BY THE MUTUAL FUNDS

36. Rationalisation of tax on distributed income by the Mutual Funds [Section 115R] [W.e.f. 1.6.2013]

Under the existing provisions of section 115R any amount of income distributed by the specified company or a Mutual Fund to its unit holders is chargeable to additional income-tax. In case of any distribution made by a fund other than equity oriented fund to a person who is not an individual and HUF, the rate of tax is 30%, whereas in case of distribution to an individual or an HUF, it is 12.5% or 25% depending on the nature of the fund.

In order to provide uniform taxation for all types of funds, other than equity oriented fund, the Act has increased the rate of tax on distributed income from 12.5% to 25% in all cases where distribution is made to an individual or a HUF. Further, the surcharge shall be @ 10% + EC & SHEC @ 3%, totaling to 28.325%.

Further in case of an Infrastructure Debt Fund (IDF) set up as a Non-Banking Finance Company (NBFC) the interest payment made by the fund to a non-resident (not being a company) or a foreign company is taxable at a concessional rate of 5%. However in case of distribution of income by an IDF set up as a Mutual Fund, the distribution tax is levied at the rates described above in the case of a Mutual Fund.

In order to bring parity in taxation of income from investment made by a non-resident (not being a company) or a foreign company in an IDF whether set up as a IDF-NBFC or IDF-MF, the Act has amended section 115R to provide that tax @ 5% on income distributed shall be payable in respect of income distributed by a Mutual Fund under an IDF scheme to a non-resident Investor.

Meaning of infrastructure debt fund scheme: "Infrastructure debt fund scheme" shall have the same meaning as assigned to it in clause (1) of regulation 49L of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992.

"Money market mutual fund" means a money market mutual fund as defined in sub-clause (p) of clause 2 of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996.

"Liquid fund" means a scheme or plan of a mutual fund which is classified by the Securities and Exchange Board of India as a liquid fund in accordance with the guidelines issued by it in this behalf under the SEBI Act, 1992 or regulations made there under.

SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED INCOME BY SECURITISATION TRUSTS [CHAPTER XII-EA]

37. Taxation of Securitisation Trusts [Section 115TA to 115TC] [W.e.f. 1.6.2013]

Section 161 of the Income-tax Act provides that in case of a trust if its income consists of or includes profits and gains of business then income of such trust shall be taxed at the maximum marginal rate in the hands of trust.

The special purpose entities set up in the form of trust to undertake securitisation activities were facing problem due to lack of special dispensation in respect of taxation under the Income-tax Act. The taxation at the level of trust due to existing provisions was considered to be restrictive particularly where the investors in the trust are persons which are exempt from taxation under the provisions of the Income-tax Act like Mutual Funds.

In order to facilitate the securitisation process, the Act has provided a special taxation regime in respect of taxation of income of securitisation entities, set up as a trust, from the activity of securitisation. The Act has inserted a new Chapter XIIEA containing the following sections 115TA to 115TC:

1. Tax on income distributed by securitisation trust to its investors

(A) Liability to pay additional income tax [Section 115TA(1)]

Notwithstanding anything contained in any other provisions of the Act, any amount of income distributed by the securitisation trust to its investor shall be chargeable to additional income tax at the following rates:

Where income is distributed to

(a) any person being individual or HUF	25% + 10% SC + 3% EC + SHEC aggregating to 28.325%
(b) any other person	30% + 10% SC + 3% EC + SHEC aggregating to 33.99%

However, no additional tax shall be payable in respect of any income distributed by the securitisation trust to any person in whose case income, irrespective of its nature and source, is not chargeable to tax under the Act.

(B) Time limit for deposit of additional income tax [Section 115TA(2)]: The tax is to be paid to the credit of the Central Government within 14 days from the date of:

(a) distribution of income, or

(b) payment of income

whichever is earlier

(C) Furnishing of statement of income distributed, tax paid thereon, etc. [Section 115TA(3)] : The person responsible for making payment of the income distributed by the securitisation trust shall, on or before the 15th day of September in each year, furnish to the prescribed income-tax authority, a statement in the prescribed form and verified in the prescribed manner, giving the details of the amount of income distributed to investors during the previous year, the tax paid thereon and such other relevant details, as may be prescribed.

(D) No deduction allowed for such income distributed [Section 115TA(4)]: No deduction under any other provisions of this Act shall be allowed to the securitisation trust in respect of the income on which additional income-tax has been paid.

2 . Interest payable for non-payment of tax [Section 115TB]

Where the person responsible for making payment of the income distributed by the securitisation trust does not pay the aforesaid additional income-tax within the period of 14 days mentioned above, he or it shall be liable to pay simple interest @ 1% every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

3. Securitisation trust to be assessee in default [Section 115TC]

If any person responsible for making payment of the income distributed by the securitisation trust and the securitisation trust does not pay tax, as referred to in section 115TA(1), then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

Meaning of investor: "Investor" means a person who is holder of any securitised debt instrument or securities issued by the securitisation trust;

Meaning of securities: "Securities" means debt securities issued by a Special Purpose Vehicle as referred to in the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

Meaning of securitised debt instrument: "Securitised debt instrument" shall have the same meaning as assigned to it in regulation 2(1)(s) of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 and the Securities Contracts (Regulation) Act, 1956;

Meaning of securitisation trust: "Securitisation trust" means a trust, being a—

(i) "Special purpose distinct entity" as defined in clause (u) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 and the Securities Contracts (Regulation) Act, 1956, and regulated under the said regulations; or

(ii) "Special Purpose Vehicle" as defined in, and regulated by, the guidelines on securitisation of standard assets issued by the Reserve Bank of India,

which fulfils such conditions, as may be prescribed.

AMENDMENT RELATING TO SEARCH AND SEIZURE

38. Application of seized assets [Section 132B] [W.e.f. 1.6.2013]

The existing provisions contained in section 132B of the Income-tax Act, inter alia, provide that seized assets may be adjusted against any existing liability under the Income-tax Act, Wealth-tax Act, the Expenditure-tax Act, the Gift-tax Act and the Interest-tax Act and the amount of liability determined on completion of assessments pursuant to search, including penalty levied or interest payable and in respect of which such person is in default or deemed to be in default.

Various courts have taken a view that the term "existing liability" includes advance tax liability of the assessee, which is not in consonance with the intention of the legislature. The legislative intent behind this provision is to ensure the recovery of outstanding tax/interest/penalty and also to provide for recovery of taxes/interest/penalty, which may arise subsequent to the assessment pursuant to search.

Accordingly, the Act has inserted Explanation 2 to the aforesaid section so as to clarify that the existing liability does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII of the Act. Hence, seized asset shall not be adjusted against advance tax liability w.e.f. 1.6.2013.

39. Disclosure of information respecting assesses [section 138] [w.e.f. A.Y. 2013-14]

In section 138 of the Income-tax Act, in sub-section (1), in clause (a), in sub-clause (i), for the words, figures, brackets and letter "section 2(d) of the Foreign Exchange Regulation Act, 1947", the words, bracket, letter and figures "clause (n) of section 2 of the Foreign Exchange Management Act, 1999 shall be substituted.

After amendment

(i) Any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess, or to dealing in foreign exchange as defined in [clause (n) of section 2 of the Foreign Exchange Management Act, 1999]; or

AMENDMENTS RELATING TO FILING OF RETURNS AND ASSESSMENTS

40. Return of Income filed without payment of self-assessment tax to be treated as defective return [Section 139(9)] [W.e.f. 1.6.2013]

The existing provisions contained in section 139(9) provide that where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of fifteen days. If the defect is not rectified within the time allowed by the Assessing Officer, the return is treated as an invalid return. However, where the assessee rectifies the defect after the expiry of 15 days or further period allowed, but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return. The conditions, the non-fulfillment of which renders the return defective, have been provided in the Explanation to the aforesaid sub-section.

Section 140A provides that where any tax is payable on the basis of any return, after taking into account the prepaid taxes, the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, before furnishing the return.

It has been noticed that a large number of assessees are filing their returns of income without payment of self-assessment tax.

The Act, therefore, has inserted clause (aa) in the aforesaid Explanation w.e.f. 1.6.2013 so as to provide that the return of income shall be regarded as defective unless the tax together with interest, if any, payable in accordance with the provisions of section 140A has been paid on or before the date of furnishing the return.

Hence, if self-assessment tax (which also includes interest under section 234A, 234B and 234C) is not paid on or before the date of furnishing the return of income, the Assessing Officer will intimate the defect and require the assessee to pay self assessment tax within 15 days of the receipt of notice and the extended time, as the case may be, failing which the return shall be treated as invalid return and the provisions of Income-tax Act shall apply as if the assessee has failed to furnish the return.

41. Scope of special audit expanded [Section 142(2A)] [W.e.f. 1.6.2013]

The existing provisions contained in section 142(2A) of the Income-tax Act, inter alia, provide that if at any stage of the proceeding, the Assessing Officer having regard to the nature and complexity of the accounts of the assessee and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the approval of the Chief Commissioner or Commissioner, direct the assessee to get his accounts audited by an accountant and to furnish a report of such audit.

The expression "nature and complexity of the accounts" has been interpreted in a very restrictive manner by various courts.

The Act, therefore has amended the aforesaid sub-section so as to provide that if at any stage of the proceedings before him, the Assessing Officer, having regard to—

(a) the nature and complexity of the accounts, or

(b) volume of the accounts, or

(c) doubts about the correctness of the accounts, or

(d) multiplicity of transactions in the accounts, or

(e) specialized nature of business activity of the assessee, and

the interests of the revenue,

is of the opinion that it is necessary so to do, he may, with the previous approval of the Chief Commissioner or the Commissioner, direct the assessee to get his accounts audited by an accountant and to furnish a report of such audit.

42. Omission of section 144BA

Section 144BA of the Income tax Act [as inserted by section 62 of the Finance Act, 2012] shall be omitted with effect from the A.Y. 2014-15.

43. Reference to Commissioner in case of invocation of GAAR [Sec. 144BA] [w.e.f. A.Y. 2016-17]

The existing section 144BA has been replaced by a new section. New section 144BA will be applicable from the 1st day of April, 2016. Provisions of the new section are given below -

1. If the Assessing Officer considers it necessary to invoke GAAR provisions, he shall refer the matter to the Commissioner. This can be done by Assessing Officer at any stage of assessment or reassessment proceedings.

2. If the Commissioner, on receipt of a reference from the Assessing Officer, is of the opinion that GAAR provisions are required to be invoked, he shall issue notice to the assessee seeking objections within the time specified in notice not exceeding 60 days.

3. If the assessee does not object or respond to the notice, the Commissioner may issue such directions as he deems fit in respect of declaration of the arrangement as an impermissible avoidance arrangement.

4. If the assessee objects to invocation of GAAR provisions of Chapter X-A and the Commissioner, after hearing the assessee, is not satisfied with the reply of the assessee, he shall refer the matter to the Approving Panel.

5. If, after hearing the assessee, the Commissioner is satisfied that it is not a fit case for invoking GAAR provisions, he may by an order in writing communicate the same to the Assessing Officer and the assessee.

6. Approving Panel shall, on receipt of a reference from the Commissioner, issue such directions as it deems fit in respect of declaration of an arrangement as an impermissible avoidance arrangement including specifying the previous year or years to which such declaration shall apply.

7. A direction prejudicial either to the assessee or the revenue shall not be issued unless an opportunity of being heard has been granted to the assessee or the Assessing Officer, as the case may be.

8. Approving Panel, before issuing directions, can call for records or evidences and direct the Commissioner to carry out further inquiry and submit report.

9. In case of difference in opinion on an issue the direction shall be issued according to the majority opinion.

10. Every direction issued by the Approving Panel or the Commissioner shall be binding on the Assessing Officer. The Assessing Officer shall complete the proceedings in accordance with such directions.

11. If any direction issued by the Approving Panel is applicable to any previous year other than in respect of which reference was made, then, while completing the assessment or reassessment proceedings for such other previous years, the Assessing Officer shall be bound by the directions and provisions of Chapter X-A and fresh reference on the issue would not be required.

12. Assessment or reassessment order where GAAR provisions are invoked shall be passed by the Assessing Officer only with prior approval of the Commissioner.

13. The Approving Panel shall issue directions within a period of 6 months from the end of the month in which the reference is received by it.

14. The directions issued by the Approving Panel shall be binding on the assessee and the Commissioner and no appeal under the Act shall lie against such directions.

15. The Central Government shall constitute one or more Approving Panels as may be necessary and each Approving Panel shall consist of a Chairperson and two members.

16. The Chairperson of the Approving Panel shall be a person who is or has been a judge of a High Court and one member shall be a member of the Indian Revenue Service, not below the rank of Chief Commissioner of Income-tax and one member shall be an academic or scholar having special knowledge of matters such as direct taxes, business accounts and international trade practices.

17. The term of the Approving Panel shall ordinarily be for 1 year and may be extended up to a period of 3 years.

18. The Chairperson and members of the Approving Panel shall meet, as often as necessary, to consider the references made to the Approving Panel and shall be paid such remuneration as may be prescribed.

19. The Approving Panel shall have all the powers which are vested in the Authority for Advance Rulings under the Income-tax Act.

20. The Board shall provide to the Approving Panel such officials as may be necessary for the efficient exercise of powers and discharge of functions of the Approving Panel.

21. The Board may make rules for the purposes of the constitution and efficient functioning of the Approving Panel and expeditious disposal of the references received by it.

22. In computing the period of 6 months for issue of directions by the Approving Panel the period commencing from the date on which the first direction is issued by the Approving Panel to the Commissioner for getting the enquiries conducted through the authority competent under an agreement referred to in section 90 or section 90A and ending with date on which the information so requested is last received by the Approving Panel or one year, whichever is less shall be excluded. Similarly, the period during which the proceeding of the Approving Panel is stayed by an order or injunction of any court shall also be excluded. Further, where immediately after the exclusion of the aforesaid time or period, the period available to the Approving Panel for issue of directions is less than 60 days, such remaining period shall be extended to 60 days and the aforesaid period of 6 months shall be deemed to have been extended accordingly.

44. Amendment to section 144C [w.e.f. A.Y. 2016-17]

Sub-section (14A) has been replaced. New sub-section (14A) provides that the provisions of section 144C shall not apply to an assessment or reassessment order passed by the Assessing Officer with the approval of the Commissioner in accordance with section 144BA(12). The amended will be applicable from the assessment year 2016-17.

45. Time limit for completion of assessment/re-assessment when reference is made to TPO [Secs. 153 and 153B] [w.r.e.f. July 1, 2012]

Sections 153 and 153B, inter alia, provide the time-limit for completion of assessment and reassessment under different situations. Further, these time-limits get extended if a reference is made under section 92CA to the Transfer Pricing Officer (TPO) during the course of assessment/reassessment proceedings. These time-limits were extended by the Finance Act, 2012 by 3 months with effect from July 1, 2012.

A few supplementary amendments have been made in the scheme of sections 153 and 153B with retrospective effect from July 1, 2012.

• Legal position after amendment made by the Finance Act, 2012 - The legal position immediately after the amendment made by the Finance Act, 2012 is given in the table (infra) -

Different situations (immediately after amendment by the Finance Act, 2012)	**Time-limit for completion of assessment (after the amendment made by Finance Act, 2012, the time-limit was extended by 3 months and extended time-limit is given below)**
(1)	(2)
Situation 1 - For the assessment year 2009-10 (or any subsequent assessment year), a reference to TPO under section 92CA(1) is made before July 1,2012 but order under section 92CA(3) has not been made by the TPO before July 1, 2012 or reference is made on or after July 1, 2012	Within 3 years from the end of the assessment year
Situation 2 - Completion of assessment/ reassessment under section 147 where notice under section 148 is served on or after April 1, 2010 and in the reassessment proceedings, a reference is made to TPO under section 92CA(1) before July 1, 2012 but order under section 92CA(3) has not been made by the TPO before July 1, 2012 or reference is made on or after July 1,2012	Within 2 years from the end of the financial year in which notice under section 148 was served to the assessee
Situation 3 - Order under section 254 is received by the Commissioner or the order under section 263 or 264 is passed by the Commissioner on or after April 1, 2010 for setting aside or cancelling the assessment. During the proceeding for fresh assessment a reference is made to TPO under section 92CA(1) before July 1, 2012 but order under section 92CA(3) has not been made by the TPO before July 1, 2012 or such reference is made on or after July 1, 2012	Within 2 years from the end of the financial year in which order under section 254 is received by the Commissioner or the order under section 263/264 is passed by the Commissioner
Situation 4 - Last of authorizations for search under section 132 or for requisition under section 132A is executed on or after April 1, 2009 and during the course of the proceedings for the assessment or reassessment of total income, a reference is made to TPO before July 1, 2012 and the order is not passed by TPO before July 1,2012 or a reference is made on or after July 1, 2012	Within 3 years from the end of the financial year in which the last of authorizations for search under section 132 or for requisition under section 132A is executed
Situation 5 - Last of authorizations for search under section 132 or for requisition under section 132A is executed on or after April 1, 2009 and during the course of the proceedings for the assessment or reassessment of total income in the case of other person referred to in section 153C, a reference is made to TPO before July 1, 2012 and the order is not passed before July 1, 2012 or reference is made on or after July 1, 2012	Within 36 months from the end of the financial year in which the last of the authorizations for search under section 132 or for requisition under section 132A is executed or 24 months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later

• **New amendment -** The above provisions have been further amended by the Finance Act, 2013, with retrospective effect from July 1, 2012. After the amendment the time-limit given in Column 2 of the table (supra) will be applicable regardless of the fact whether -

a. a reference to TPO is made before, on or after July 1, 2012, or

b. the order of TPO is passed before, on or after July 1, 2012.

46. Exclusion of time in computing the period of limitation for completion of assessments and reassessments [Sees. 153 and 153B]

Explanation 1 to section 153 provides that certain periods specified therein are to be excluded while computing the period of limitation for the purposes of the said section. Explanation 1 has been modified as follows -

1. In case of special order under section 142(2A), the period commencing from the date on which the Assessing Officer has given the direction to the assessee to get his account audited and -

a. ending with the last date on which the assessee is required to furnish a report of such audit; or

b. where the direction of special audit is challenged before a court, ending with the date on which the order setting aside such direction is received by the Commissioner,

shall be excluded in computing the period of limitation for the purposes of section 153 (applicable from June 1,2013).

2. Under clause (viii) of the Explanation 1 the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information so requested is received by the Commissioner or a period of one year, whichever is less, is excluded in computing the period of limitation for the purposes of section 153.

At times more than one reference for exchange of information is made in one case and the replies from the foreign competent authorities are also received in parts. In such cases, there will always be a dispute for counting the period of exclusion, ie., whether it should be from the date of first reference for exchange of information made or from the date of last reference. Similar dispute may also arise with regard to the date on which the information so requested is received.

With a view to clarify the above situation, clause (viii) has been amended with effect from June 1, 2013. The amended version provides that the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Commissioner or a period of one year, whichever is less, shall be excluded in computing the period of limitation for the purposes of section 153.

3. The existing clause (ix) to the Explanation 1 has been replaced by a new clause (ix). It provides for exclusion of time period starting from receipt of reference by the Commissioner under section 144BA(1) and ending on date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of section 144BA is received by the Assessing Officer. New clause (ix) will be applicable from the assessment year 2016-17.

Similar amendments have been made to the Explanation to section 153B relating to time-limit tor completion of search assessment. Amendment to section 15 3D

47. Amendment to section 153D (w.e.f. A.Y. 2016-17]

Section 153D provides that no order of assessment/reassessment shall be passed by an Assessing Officer (below the rank of Joint Commissioner) in cases of search or requisition, except with the prior approval of the Joint Commissioner.

The above provisions have been amended with effect from April 1, 2016. The amended version provides that where the assessment/reassessment order is required to be passed by the Assessing Officer [with the prior approval of the Commissioner under section 144BA(12)], then prior approval under section 153B will not be required.

AMENDMENTS RELATING TO COLLECTION AND RECOVERY OF TAX

48. Clarification of the phrase "tax due" for the purposes of recovery in certain cases [Section 167C and 179] [W.e.f. 1.6.2013]

Section 179 of the Income-tax Act provides that where the tax due from a private company cannot be recovered from such company, then the director (who was the director of such company during the previous year to which non-recovery relates) shall be jointly and severally liable for payment of such tax unless he proves that the non-recovery of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part. This provision is intended to recover outstanding demand under the Act of a private company from the directors of such company in certain cases.

However, some courts have interpreted the phrase 'tax due' used in section 179 to hold that tax due does not include penalty, interest and other sum payable under the Act.

In view of the above, the Act has clarified that for the purposes of this section, the expression "tax due" includes penalty, interest or any other sum payable under the Act.

Amendments on the similar lines for clarifying the expression "tax due" have also been made to the provisions of section 167C relating to liability of partners of limited liability partnership in liquidation.

AMENDMENTS RELATING TO TDS

49. Tax Deduction at Source (TDS) on transfer of certain immovable properties (other than agricultural land) [Section 194-IA] [W.e.f. 1.6.2013]

There is a statutory requirement under section 139A of the Income-tax Act read with rule 114B of the Income-tax Rules, 1962 to quote Permanent Account Number (PAN) in documents pertaining to purchase or sale of immovable property for value of ₹5 lakh or more. However, the information furnished to the Department in Annual Information Returns by the Registrar or Sub-Registrar indicate that a majority of the purchasers or sellers of immovable properties, valued at ₹30 lakh or more, during the financial year 2011-12 did not quote or quoted invalid PAN in the documents relating to transfer of the property.

Under the existing provisions of the Income-tax Act, tax is required to be deducted at source on certain specified payments made to residents by way of salary, interest, commission, brokerage, professional services, etc. On transfer of immovable property by a non-resident, tax is required to be deducted at source by the transferee. However, there is no such requirement on transfer of immovable property by a resident except in the case of compulsory acquisition of certain immovable properties. In order to have a reporting mechanism of transactions in the real estate sector and also to collect tax at the earliest point of time, the Act has inserted a new section 194-IA which provides as under:

(A) Transferee to deduct tax at source: Any person, being a transferee, responsible for paying (other than the person referred to in section 194LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land), shall deduct an amount equal to 1% of such sum as income-tax thereon:

(a) at the time of credit of such sum to the account of the transferor, or

(b) at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode,

whichever is earlier,

However, no deduction of tax under this provision shall be made where the total amount of consideration for the transfer of an immovable property is less than ₹50,00,000.

(B) Deductor is not required to obtain Tax Deduction and Collection Account Number [Section 194-IA(3)]: The provisions of section 203A relating to obtaining Tax Deduction and Collection Account Number shall not apply to a person required to deduct tax in accordance with the provisions of this section.

Meaning of agricultural land: "Agricultural land" means agricultural land in India, not being a land situate in any area referred to in items (a) and (b) of section 2(14)(iii).

Meaning of immovable property: "Immovable property" means any land (other than agricultural land) or any building or part of a building.

In other words, TDS shall not be applicable in case of transfer of rural agricultural land.

50. Income by way of interest on certain bonds and Government securities [Section 194LD] [W.e.f. 1.6.2013]

(A) Person responsible for paying interest to deduct tax at source [Section 194LD(1)]: Any person who is responsible for paying to a person being a Foreign Institutional Investor or a Qualified Foreign Investor, any income by way of interest referred to in sub-section (2), shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon.

Rate of TDS: The rate shall be 5%

Notes:

1. Surcharge as applicable, education cess & SHEC shall be added to the above rates.
2. The rate of TDS will be 20% in all cases, if PAN is not quoted by the deductee.
3. As tax cannot be deducted at lower rate, section 197 shall not be applicable in this case.

(B) Income on which tax is to be deducted [Section 194LD(2)]: The income by way of interest referred to in sub-section (1) shall be the interest payable on or after 1.6.2013 but before 1.6.2015 in respect of investment made by the payee in—

(i) a rupee denominated bond of an Indian company;

(ii) a Government security.

However, the rate of interest in respect of bond referred to in clause (i) shall not exceed the rate as may be notified by the Central Government in this behalf.

Since, tax on such interest is deductible under section 194LD, corresponding amendments have been made in sections 195 and 196D to exclude such interest under those provisions.

Meaning of "Foreign Institutional Investor": "Foreign Institutional Investor" shall have the meaning assigned to it in clause (a) of the Explanation to section 115AD;

Meaning of "Government of Security": "Government security" shall have the meaning assigned to it in clause (b) of section 2 of the Securities Contracts (Regulation) Act, 1956;

Meaning of "Qualified Foreign Investor: "Qualified Foreign Investor" shall have the meaning assigned to it in the Circular, No. CIR/IMD/DF/14/2011, dated 9.8.2011, as amended from time to time, issued by the Securities and Exchange Board of India, under section 11 of the Securities and Exchange Board of India Act, 1992.

51. Meaning of "person responsible for paying" [Section 204(iia)] [W.e.f. A.Y. 2013-14]

As per existing clause (iia) of section 204, in the case of any sum payable to a non-resident Indian, being any sum representing consideration for the transfer by him of any foreign exchange asset, which is not a short-term capital asset, the authorised dealer responsible for remitting such sum to the non-resident Indian or crediting such sum to his Non-resident (External) Account maintained in accordance with the Foreign Exchange Regulation Act, 1973 and any rules made thereunder is the person responsible for paying.

The words “authorized dealer” mentioned above shall be substituted by the words “authorized person”.

“Authorized person” shall have the meaning assigned to it in section 2(c) of the Foreign Exchange Management Act, 1999.

52. Section 206AA not applicable in respect of payment of interest on long-term infrastructure bonds [Section 206AA(7)] [W.e.f. 1.6.2013]

As per section 206AA, the deductee shall furnish his Permanent Account Number to the person responsible for deducting the tax at source, failing which tax shall be deducted at the higher of the following rates, namely:—

(i) at the rate specified in the relevant provision of this Act; or

(ii) at the rate or rates in force; or

(iii) at the rate of twenty per cent.

The above provisions of section 206AA shall not apply in respect of payment of interest, on long-term infrastructure bonds, as referred to in section 194LC, to a non--resident not being a company, or to a foreign company.

53. TCS on sale of bullion or jewellery [Section 206C(1D)] [W.e.f. 1.6.2013]

As per the existing section, every person, being a seller, who receives any amount in cash as consideration for sale of bullion (excluding any coin or any other article weighing ten grams or less) or jewellery, shall, at the time of receipt of such amount in cash, collect from the buyer, a sum equal to one per cent, of sale consideration as income-tax, if such consideration,—

(i) for bullion, exceeds ₹2,00,000; or

(ii) for jewellery, exceeds ₹5,00,000.

The words “excluding any coin or any other article weighing ten grams or less” mentioned above have been omitted w.e.f. 1.6.2013 and hence, tax will be collected at source on sale of any coin or any other article weighing ten grams or less if payment in excess of ₹2,00,000 is received in cash.

AMENDMENT RELATING TO INCOME TAX APPELLATE TRIBUNAL

54. Amendment to section 245N

Section 245N has been amended (with effect from April 1,2015) to empower the Authority for Advance Rulings to determine whether an arrangement which is proposed to be undertaken by any person (whether resident or non-resident) is an impermissible avoidance arrangement as referred to in Chapter X-A or not. For this purpose, definition of "applicant" has been accordingly amended.

55. Amendment to section 245R

Section 245R has been amended (with effect from April 1, 2015) in order to enable the Authority for Advance Rulings to process the application relating to determination of whether an arrangement is an impermissible avoidance arrangement or not.

56. Amendment to section 246A

Section 246A has been amended (with effect from April 1,2016) to provide that an order of assessment or reassessment passed with the approval of Commissioner under section 144BA(12) or any order under section 154 or section 155 passed in relation to such an order shall not be appealable before Commissioner (Appeals).

57. Appointment of President of the Tribunal [Section 252(3)] [W.e.f. 1.6.2013]

As per the existing section, the Central Government shall appoint Senior Vice-President or one of the Vice-Presidents of the Tribunal to be the President of the Tribunal.

The Finance Act has amended sub-section (3) of section 252 to provide that the Central Government shall appoint:

(a) a person who is a sitting or retired Judge of a High Court and who has completed not less than seven years of service as a Judge in a High Court; or

(b) the Senior Vice-President or one of the Vice-Presidents of the Appellate Tribunal.

to be the President thereof.

58. Amendment to section 253

Section 253 has been amended (with effect from April 1, 2016) to provide that in respect of an order of assessment or reassessment passed with the approval of Commissioner under section 144BA(12) or any order under section 154 or section 155 passed in relation to such an order, shall be appealable before the Appellate Tribunal.

AMENDMENT RELATING TO PENALTY

59. Penalty for non-filing of Annual Information Return [Section 271FA] [W.e.f. A.Y. 2014-15]

Section 285BA mandates furnishing of annual information return by the specified persons in respect of specified transactions within the time prescribed under sub-section (2) thereof. Sub-section (5) of the section empowers the Assessing Officer to issue notice if the annual information return has not been furnished by the due date.

The existing provisions contained in section 271FA of the Income-tax Act provide that if a person who is required to furnish an annual information return, as required under section 285BA(1), fails to furnish such return within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such person shall pay, by way of penalty, a sum of ₹100 for every day during which the failure continues.

The Act has amended the aforesaid section so as to provide that if a person who is required to furnish an annual information return, as required under section 285BA(1), fails to furnish such return within the time prescribed under section 285BA(2) thereof, the Income Tax Authority, prescribed under sub-section (1) may direct that such person shall pay, by way of penalty, a sum of ₹100 for every day during which the failure continues.

It has further provided that where notice is issued by the prescribed Income Tax Authority under section 285BA(5) to furnish such return and such person fails to furnish the return within the period specified in the notice issued under section 285BA(5) (i.e. a period not exceeding 60 days from the date of service of such notice), he shall pay, by way of penalty, a sum of ₹500 for every day during which the failure continues, beginning from the day immediately following the day on which the time specified in such notice for furnishing the return expires.

60. Amendment relating to Power of the Board [Section 295]

Rule making powers are given to the Board under section 295. This section has been amended with effect from April 1, 2016 to provide that the rules may also be made to provide for remuneration of the Chairperson and members of the Approving Panel and procedure and manner for constitution of, functioning and disposal of references by the Approving Panel under section 144BA.

AMENDMENT RELATING TO APPROVAL OF PROVIDENT FUND

61. Extension of time for approval of provident fund [W.r.e.f. A. Y. 2013-14]

Rule 4 in Part A of the Fourth Schedule to the Income-tax Act provides for conditions which are required to be satisfied by a Provident Fund for receiving or retaining recognition under the Income-tax Act. One of the requirements of rule 4 as contained in clause (ea) is that the establishment has to be notified by the Central Provident Fund Commissioner under section 1(4) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 [EPF & MP Act] and has obtained exemption under section 17 of the said Act.

Rule 3 in Part-A of the Fourth Schedule provides that the Chief Commissioner or the Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions specified under the said rule 4 and the conditions which the Board may specify by rules.

The first proviso to sub-rule (1) of rule 3, inter alia, specifies that in a case where recognition under the Income-tax Act has been accorded to any provident fund on or before 31st March, 2006, but such provident fund does not satisfy the conditions set out in clause (ea) of rule 4 on or before 31st March 2013, the recognition to such fund shall be withdrawn.

It has been noticed that a number of applications are yet to be processed by the Employees' Provident Fund Organization (EPFO) for grant of exemption under section 17 of EPF & MP Act. With a view to provide further time to the EPFO to decide on the pending applications seeking exemption under section 17 of the EPF & MP Act, the first proviso has been amended, so as to extend the time limit from 31st March, 2013 to 31st March, 2014.

AMENDMENT MADE IN THE WEALTH TAX ACT

1. Change in the definition of urban land [Explanation 1 to section 2(ea)] [W.e.f. A.Y 2014-15]

The existing definition of urban land has been substituted by a new definition. The new definition provides as under:

"Urban land" means land situate—

- (i) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than 10,000; or
- (ii) in any area within the distance, measured aerially,—
  - (I) not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in sub-clause (i) and which has a population of more than 10,000 but not exceeding 1,00,000; or
  - (II) not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in sub-clause (i) and which has a population of more than 1,00,000 but not exceeding 10,00,000; or
  - (III) not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in sub-clause (i) and which has a population of more than 10,00,000,

but does not include

- (a) land classified as agricultural land in the records of the Government and used for agricultural purposes. **[w.r.e.f. A.Y. 1993-94]**; or
- (b) land on which construction of a building is not permissible under any law for the time being in force in the area in which such land is situated or
- (c) the land occupied by any building which has been constructed with the approval of the appropriate authority or
- (d) any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him or
- (e) any land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him.

For the purposes of clause (b) of Explanation 1, "population" means the population according to the last preceding census of which the relevant figures have been published before the date of valuation.

2. Enabling provisions for facilitating electronic filing of annexure-less return of net wealth [Section 14A of the Wealth Tax Act] [W.e.f. 1.6.2013]

Section 14 of the Wealth-tax Act provides for furnishing of return of net wealth as on the valuation date in the prescribed form and verified in the prescribed manner setting forth particulars of the net wealth and such other particulars as may be prescribed. Currently, certain documents, reports are required to be furnished along with the return of net wealth under the provisions of Wealth-tax Act read with the provisions of Wealth-tax Rules.

Sections 139C and 139D of the Income-tax Act contain provisions for facilitating filing of annexure-less return of income in electronic form by certain class of income-tax assessees.

In order to facilitate electronic filing of annexure-less return of net wealth, new section 14A has been inserted in the Wealth-tax Act to provide as under:

"The Board may make rules providing for a class or classes of persons who may not be required to furnish documents, statements, receipts, certificates, audit reports, reports of registered valuer or any other documents, which are otherwise under any other provisions of this Act, except section 14B, required to be furnished, along with the return but on demand to be produced before the Assessing Officer."

3. Board to make rules to provide for filing of wealth tax return in electronic form [Section 14B] [W.e.f. 1.6.2013]

The Finance Act, 2013 has inserted new section 14B to provide as under:

"The Board may make rules providing for—

(a) the class or classes of persons who shall be required to furnish the return in electronic form;

(b) the form and the manner in which the return in electronic form may be furnished;

(c) the documents, statements, receipts, certificates, audit reports, reports of registered valuer or any other documents which may not be furnished along with the return in electronic form but shall be produced before the Assessing Officer on demand;

(d) the computer resource or the electronic record to which the return in electronic form may be transmitted."

4. Power to make rules [Section 46] [W.e.f. 1.6.2013]

The Finance Act, 2013 has inserted clauses (ba) and (bb) in section 46(2) to enable the Board to make rules to provide for the following:

"(ba) the documents, statements, receipts, certificates, audit reports, reports of registered valuer or any other documents which may not be furnished along with the return but shall be produced before the Assessing Officer on demand under section 14A;

(bb) the class or classes of persons who shall be required to furnish the return in electronic form; the form and the manner in which the return in electronic form may be furnished; the documents, statements, receipts, certificates, audit reports, reports of registered valuer or any other documents which may not be furnished along with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under section 14B."

OTHER AMENDMENTS

1. Commodities Transaction Tax

A new tax called Commodities Transaction Tax (CTT) has been levied on taxable commodities transactions entered into in a recognised association.

Taxable 'commodities transaction' has been defined to mean a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised associations.

The tax has been levied at the rate, given in the Table below, on taxable commodities transactions undertaken by the seller as indicated hereunder:

Table

Taxable commodities transaction	**Rate**	**Payable by**
Sale of commodity derivative	0.01%	Seller

The provisions with regard to collection and recovery of CTT, furnishing of returns, assessment procedure, power of Assessing Officer, chargeability of interest, levy of penalty, institution of prosecution, filing of appeal, power to the Central Government, etc. have also been provided.

This tax shall be levied from the date on which Chapter VII of the Finance Act, 2013 comes into force by way of notification in the Official Gazette by the Central Government.

Further, section 36 of the Income-tax Act has been amended to provide that an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year shall be allowable as deduction, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

An Explanation has been inserted to provide that for the purposes of this clause, the expressions "commodities transaction tax" and "taxable commodities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013.

2. Securities Transaction Tax (STT) [W.e.f. 1.6.2013]

Securities Transaction Tax (STT), on transactions in specified securities, was introduced vide Finance (No. 2) Act, 2004.

Section 98 of the Finance (No. 2) Act, 2004 has been amended to reduce STT rates in the taxable securities transactions as indicated hereunder:

Table

Nature of taxable securities transaction	**Payable by**	**Existing Rates (in per cent)**	**New Rates (in per cent)**
Delivery based purchase of units of an equity oriented fund entered into in a recognised stock exchange	Purchaser	0.1	Nil
Delivery based sale of units of an equity oriented fund entered into in a recognised stock exchange	Seller	0.1	0.001
Sale of a futures in securities	Seller	0.017	0.01
Sale of a unit of an equity oriented fund to the mutual fund	Seller	0.25	0.001