



Liability in Special Cases

(1). Who may be regarded as an agent in relation to a non-resident [Section 163]

The person who may be regarded as an agent of non-resident in India may belong to one of the following five categories:

- (i)** one who is employed by or on behalf of the non-resident; or
- (ii)** one who has any business connection with the non-resident; or
- (iii)** one, from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or
- (iv)** one who is the trustee of the non-resident; or
- (v)** one, whether a resident or non-resident, who has acquired by means of a transfer, a capital asset in India.

In the first four cases, it is further necessary that the person sought to be assessed as an agent should be in India, whereas this condition is not necessary in the fifth case.

It is the Assessing Officer who has jurisdiction to decide the question whether a particular person should or should not be treated as an agent of the non-resident. Amongst these five categories of persons, the Assessing Officer should select the particular person who is connected with the particular income to be assessed as enumerated in section 9(1) and treat him as the agent of the non-resident for that particular income. The principle is that the person who helps the non-resident to make income in India should be saddled with the responsibility of payment of tax due by the non-resident in respect of that income. There is, of course, the added facility of easier assessment and collection of tax from the agent so treated, who is a person in India.

However, a broker in India who, in respect of any transactions, does not deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker shall not be deemed to be an agent under this section in respect of such transactions, if the following conditions are fulfilled, namely:—

- (i)** the transactions are carried on in the ordinary course of business through the first mentioned broker; and
- (ii)** the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal.

Sub-section (2) lays down that a person cannot be treated as the agent of a nonresident unless and until he has had an opportunity of being heard by the Assessing Officer as to his liability. Since an order under this section is appealable, a written order is essential.

Power of attorney does not answer the description of agent in relation to a non resident, as envisaged under section 163(3)(i), hence, the assessment order framed in the case of NRI in the name of power of attorney treating as an agent held to be illegal and void.



(2). Succession to business otherwise than on death [Section 170]

This section applies to cases of succession to a business profession or vocation and not cases of succession to any other income producing source.

- a. What constitutes succession:** Succession involves change of ownership; that is, the transferor goes out and the transferee comes in. It connotes that the whole business is transferred; it also implies that substantially the identity and the continuity of the business are preserved.

The expression "succession" has acquired a somewhat artificial meaning. In **CIT v Chambers (KH) [(1965) 55 ITR 674 (SC)]**, the Supreme Court held that the tests of change of ownership, integrity, identity and continuity of business have to be satisfied before it can be said that a person "succeeded" to the business of another.

Succession on death fails outside the ambit of section 170 because succession on death falls under specific provisions of sections 159 and 168.

- b. Succession and discontinuance:** Where a person is carrying on a business or profession, such business or profession may come to an end so far as he is concerned in one of the following ways:

- (i)** It may come to end by the business changing hands by way of sale, gift or any other kind of transfer so that the business, considered an integral whole, continues to be carried on, though by a different person. That situation is called "succession" dealt with by the present section.
- (ii)** It may come to end in the manner that there is no succession but the business or profession as such ceases to be carried on by the assessee or any one else. This is called discontinuance. In this case, a charge would arise on the person concerned at the Assessing Officers discretion under the provisions of, and in accordance with the procedure laid down in, section 176. Should the Assessing Officer choose not to take action under section 176, the charge would be levied in the assessment year following the previous year of discontinuance. The consequence of a finding of discontinuance would also involve that any business which is found to be carried on by the successor after the discontinuance would be a fresh and new business.

The second eventuality is not provided for in section 170.

- 1. Assessment on predecessor & successor [Section 170(1)]:** Where a person carrying on any business or profession (such person hereinafter in this section being referred to as the predecessor) has been succeeded therein by any other person (hereinafter in this section referred to as the successor) who continues to carry on that business or profession,—

- (a)** the predecessor shall be assessed in respect of the income of the previous year in which the succession took place up to the date of succession (including any gain accruing from the transfer of business as a



result of succession);

- (b) the successor shall be assessed in respect of the income of the previous year after the date of succession.

The effect of this section is that the predecessor in business is assessable in respect of the income of the year of succession upto the date of succession, while the successor is assessable in respect of the income of that year after the date of succession. The predecessor and the successor would each be liable to tax at the rate applicable to each. The income of the predecessor and the successor must be computed separately and each must be granted the deduction and allowances appropriate to his case. The assessment on each must be separate and distinct.

The successor is not allowed to carry forward and set off the losses incurred by his predecessor. He has also no right to carry forward the unabsorbed depreciation allowance of the years prior to his succession to the business.

2. **Assessment when predecessor cannot be found [Section 170(2)]:** Notwithstanding anything contained in sub-section (1), when the predecessor cannot be found, the assessment of—

- (a) the income of the previous year in which the succession took place up to the date of succession, and
(b) the previous year preceding the year of succession

shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Act shall, so far as may be, apply accordingly.

3. **Tax of predecessor can be recovered from successor [Section 170(3)]:** When any sum payable under this section in respect of the income of such business or profession for the previous year in which the succession took place up to the date of succession or for *the previous year preceding that year*, assessed on the predecessor, cannot be recovered from him, the Assessing Officer shall record a finding to that effect and the sum payable by the predecessor shall thereafter be payable by and recoverable from the successor, and the successor shall be entitled to recover from the predecessor any sum so paid.

Example: A firm RG is succeeded by R Ltd on 15-11-2013 and the tax cannot be recovered from the firm RG. In this case the tax relating to previous year 1-4-2013 to 15-11-2013 and the preceding previous year i.e. 2012-13 can only be recovered from the successor provided the Assessing Officer records a finding to that effect. However R Ltd shall be entitled to recover such income-tax from the firm RG.

4. **Recovery of tax of a HUF on succession thereto [Section 170(4)]:** Where the predecessor is a Hindu undivided family, and there is a partition in the family either simultaneously with the succession or sometime later, the tax due by the family in respect of its income from the business or profession succeeded to, up to the date of



the succession, shall be recoverable from the members of the divided family in accordance with the proportions of the property allotted to them on partition. The liability of such members is joint and several. In respect of such taxes owing by the divided members, the liability of the successor under sub-section (2) and (3) of section 170 would continue. Consequently, if any of the divided members cannot be found or the tax levied upon any of the divided members cannot be recovered from them, the same can be recovered from the successor, subject to the restrictions and qualifications discussed above.

5. **Predecessor's income includes capital gains by virtue of succession:** The explanation to section 170, states that any capital gain accruing to the transferor from the transfer which has resulted in the succession is treated as a category of the predecessors income to which this provision is applicable. One consequence is that, if the predecessor cannot be found, the successor would be liable to pay the tax on the sum of the capital gains.
6. **Section 41(1) vis-a-vis [Section 170]:** Section 41(1) provides that where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee (hereinafter referred to as the first mentioned person) and subsequently during any previous year, the successor in business has obtained, whether in cash or in any other manner whatsoever any assessment in respect of which the successor in business has obtained, whether in cash or in any other manner whatsoever, any amount in respect of which loss or expenditure was incurred by the first-mentioned person or some benefit in respect of the trading liability by way of remission or cessation thereof, the amount obtained by the successor in business or the value of benefit accruing to the successor in business shall be deemed to be profits and gains of the business or profession, and accordingly chargeable to income-tax as the income of that previous year.

(3). Liability of partners of limited liability partnership in liquidation [Section 167C]

As per section 167C, notwithstanding anything contained in the Limited Liability Partnership Act, 2008, where any tax due from a limited liability partnership in respect of any income of any previous year or from any other person in respect of any income of any previous year during which such other person was a limited liability partnership cannot be recovered, in such case, every person who was a partner of the limited liability partnership at any time during the relevant previous year, shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.

For the purpose of this section, the expression "tax due" includes penalty, interest or any other sum payable under the Act **[Explanation to section 167C] [Inserted by the Finance Act, 2013, w.e.f. 1-6-2013].**



(4). Discontinuance of business [Section 176]

The cessation of the business of the assessee may occur in 2 ways:—

- (i) Where the business is no longer in existence i.e. there is complete closing down of the business or profession and a cessor of all the operations immediately. This would amount to "discontinuance" used in that context under section 176.
- (ii) Where the business is in existence but has been transferred by the assessee as a going concern to another entity.—In this case, there is a mere change in the ownership or change in the constitution of firm. A change in ownership may amount to succession and this does not mean the discontinuance of the business. Similarly, there is no discontinuance when a partner of a firm ceases to be a partner.

Since succession and discontinuance are two mutually exclusive concepts there cannot be discontinuance in cases where there is a succession. Further, if a part of the business of an assessee is dropped owing to non-profitable nature, either permanently or temporarily it will not imply that the business has been discontinued.

In the case of dissolutions of a firm or the liquidation of a company, sometimes the trade may be carried on even after such dissolution or liquidation.

Other cases of discontinuance of business:

- (a) Amalgamation of two separate and independent business belonging to distinct owners may result in the discontinuance of those business.
 - (b) Partition of a joint family business and the business is divided amongst the members. In this case, there will be a discontinuance of the old business even if some or all the members carry on their business in the same premises and take the advantage of the old business connections.
 - (c) In case a firm is split up into two different firms and the old business is also divided amongst the different firms, the original firm shall be deemed to have discontinued the business.
 - (d) If a professional person ceases to exercise his profession a vocation then there would be discontinuance. The question whether a professional person discontinued his profession depends upon the state of his mind at the time of cessor. Merely because he takes to the profession once again it cannot be said that there is no discontinuance at the time of cessor.
- a. **Accelerated assessment [Section 176(1)]:** Section 176(1) enacts that notwithstanding any thing contained in section 4, where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year for that assessment year up to the date of such discontinuance may at the discretion of the Assessing Officer be charged to tax in that assessment year, that is to say, the pace of assessment may be accelerated. Now this period may cover either a fraction of an accounting year (a broken



period, to coin a phrase) or completed accounting year plus a broken period. Thus if the accounting year of an assessee be the financial year and the business is discontinued on, say, the 15-9-2013, i.e., during the assessment year 2014-15, the income of the period between the 1-4-2013 and 15-9-2013 will be income of a broken period. The income of the period contemplated by sub-section (1) of section 176 is that of the entire period between 1-4-2013 to 15-9-2013 being the date of discontinuance. This, as would be seen, includes a completed accounting year commencing from 1-4-2012 and ending with 31-3-2013 and in addition a broken period being 1-4-2013 to 15-9-2013.

- b. Manner of assessment [Section 176(2)]:** Section 176(2) states as to how the incomes of these two periods should be dealt with. It provides that separate assessments shall be made, one with reference to the income of the completed accounting year, and another with reference to the total income of the broken period. Applying the aforesaid principles to the above illustration, there shall have to be two separate computations of income for the two periods, viz., 1-4-2012 to 31-3-2013 and 1-4-2013 to 15-9-2013. Further such separate income shall be chargeable to tax at the rate or rates in force in that assessment year.
- c. Notice to the Assessing Officer [Section 176(3)]:** In order to enable the Assessing Officer to make the accelerated assessment, sub-section (3) provides that the assessee discontinuing the business or profession should give to the Assessing Officer notice of the discontinuance within 15 days thereof.
- d. Taxability of sum received after the discontinuance of business [Section 176(3A)]:** Where any business is discontinued in any year, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance.
- e. Taxability of sum received after the discontinuance of profession [Section 176(4)]:** Where any profession is discontinued in any year on account of the cessation of the profession by, or the retirement or death of, the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the aforesaid person had it been received before such discontinuance. Section 176(4) applies only to a profession and not to a business discontinued.

Fees earned by a professional person which are collected after his death by the executor are part of the estate and not the income of the estate within section 168, therefore such fees cannot be taxed in the hands of the executor under section 168 or be clubbed with the income of the estate, but the executor may be separately taxed in respect of such fees as the recipient thereof within section 176(4).

- f. Procedure for accelerated assessment [Section 176(5)]:** Sub-section (5) enacts that the Assessing Officer may, where he decides to complete an accelerated assessment, serve—



- (a) on the person whose income is to be assessed, or
- (b) in the case of a firm, on any of its partners at the time of its discontinuance, or
- (c) in the case of a company, on the principal officer thereof,

a notice calling for the return of the income of the assessee for the completed previous year and/or broken period.

The above procedure in relation to charge of income for a completed previous year or for a broken period is left to the discretion of the Assessing Officer. If the Assessing Officer opts to take action under this section, the sum of the tax would be ascertained and levied under this section. If he does not so opt, the assessment will be made in the normal course under section 4, when the relevant assessment year arrives. The above procedure applies where an assessee has several kinds of business or profession and he discontinues one or more of them and not all. The accelerated assessment would then apply only to the particular business or business or profession or professions discontinued.

- g. Provision is supplementary [Section 176(6)]:** Sub-section (6), clarifies that the special assessment for the completed and/or broken period is in addition to any other assessment on the assessee that may be started under any other provisions of this Act in respect of that assessment year, for example, in respect of a representative assessment to be made on the assessee under Chapter XV, sections B, C and E, or regular assessments to be made on him in the usual course of any assessment to be started in respect of escaped incomes.
- h. Restriction of time limit:** Sub-section (7), enacts that where the Assessing Officer proceeds to assess the income of the completed previous year and/or the broken period in the year of discontinuance itself, any notice that he issues to the assessee calling for a return either for a regular assessment, or for an escaped assessment or for representative assessment on the assessee, need not grant the normal time of thirty days from the date of service, as specified in section 142(1)(i) or 148, but, it can fix a shorter time of seven days or more as the Assessing Officer may think proper.

(5). Liability of an Association dissolved or business discontinued [Section 177]

This section covers discontinuance of the business of AOP as well as dissolution of AOP.

Where any business or profession carried on by an association of persons—

- (a) has been discontinued; or
- (b) is dissolved,

the Assessing Officer shall make an assessment of the total income of the association of persons as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating



to the levy of a penalty or any other sum chargeable under any provision of this Act shall apply, so far as may be, to such assessment.

Without prejudice to the generality of the above provisions, if the Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under this Act in respect of such association of persons is satisfied that the AOP was guilty of any acts specified in Chapter XXI (relating to penalty), he may impose or direct the imposition of a penalty in accordance to provisions of that Chapter.

Every person who was at the time of such discontinuance or dissolution a member the association of persons, and the legal representative of any such person who deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

Where such discontinuance or dissolution takes place after any proceedings respect of an assessment year have commenced, the proceedings may be continued against the persons referred above from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

A society registered under the Societies Registration Act is a legal entity. Its members are not personally liable for the tax levied on the society as an association of persons, so long as the society is not dissolved and its business is not discontinue.

(6). Liability of liquidator/receiver of a company in liquidation [Section 178]

A company in liquidation is still a Company within the meaning of the charging provisions of the Act and the liquidator/receiver is merely an agent of the Company to administer the property of the company for purpose prescribed by the statute. Thus the liquidator/receiver (hereinafter called as liquidator) would have to act in regard to the submission of the return, etc. after the company goes into liquidation, whether under the orders of a court or otherwise.

- a. Notice by liquidator [Section 178(1)]:** Section 178 of the Income-tax Act 1961 casts a duty on the liquidator/receiver to give notice to the Assessing Officer who entitled to assess the income of the company within 30 days of his appointment.
- b. The Assessing Officer to inform the tax due [Section 178(2)]:** The Assessing Officer shall, after making such enquiries or calling for such information as he may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the Assessing Officer, would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.



c. Restriction on liquidator to part with assets [Section 178(3)]: The liquidator —

- (i) shall not, without the leave of the Chief Commissioner or Commissioner, part with any of the assets of the company or the properties in his hands until he has been notified by the Assessing Officer under sub-section (2); and
- (ii) on being so notified, shall set aside an amount equal to the amount notified and until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands.

However, nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties for the purpose of (a) the payment of the tax payable by the company or (b) for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation or (c) for meeting such costs and expenses of the winding up of the company as are in the opinion of the Chief Commissioner or Commissioner reasonable.

d. Consequences of failure to give notice by the liquidator [Section 178(4)]

If the liquidator fails to give the notice in accordance with section 178(1) or fails to set aside the amount as required by section 178(3) or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of that subsection, he shall be personally liable for the payment of the tax which the company would be liable to pay.

However, if the amount of any tax payable by the company is notified under subsection (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.

The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(7). Liability of directors of private company in liquidation [Section 179]

As per section 179, where any tax due from a private company in respect of any income of any previous year or from any other company in respect of any income of any previous year during which such other company was a private company cannot be recovered, then, every person who was a director of the private company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.



Although, provisions of section 179(1) cannot be applied to a public company but where a public company was only a conduit for creation of unaccounted money and appropriating, its directors-cum-shareholders who were 7 in numbers and all of them being family members, it was held that if these facts are duly established, principle of lifting corporate veil should be applied and by application of section 179 of the Act, the recovery of tax due of the company can be sought from the directors.

Liability of directors for the tax dues of a private limited company arises only when the arrears cannot be recovered from the company: As per section 179 of the Income-tax Act, 1961, every person who was a director of the private company during the relevant year can be made jointly and severally liable to pay the arrears of tax provided the Income-tax Department is unable to realise the arrears from the company. In the absence of any reasons recorded by the Assessing Officer to the effect that the arrears could not be recovered from the company, recovery cannot be made from the directors.

Section 179 permits recovery of tax due from a company from the director only when revenue is able to establish that it had taken appropriate step for recovery from the company as the expression used in section 179 is that tax cannot be recovered from the company. Where the revenue has failed to establish the same, the proceedings under section 179 would not be valid.

For invoking section 179 it is not necessary that all three ingredients, viz, gross neglect, misfeasance and breach of duty are satisfied; it is sufficient if it is held that there is a gross neglect or misfeasance or breach of duty on part of directors in relation to affairs of company. Thus where a company did not file its return of income for more than 10 year & was not in a position to pay tax demanded, it could be said that there was a gross neglect on part of directors of company and, hence, all ingredients of section 179 were satisfied.

"Tax" for the purposes of section 179 does not include penalty, therefore, directors of the company cannot be called upon to pay penalty of the company under section 179. Order passed by the Assessing Officer under section 179 without examining the question as to whether the non recovery of tax from the assessee company was or not a result of gross neglect, misfeasance or breach of duty on the part of the assessee in relation to affairs of the company, Assessing Officer was directed to pass fresh order after giving a reasonable opportunity to the assessee.

While deciding, if the nomenclature 'tax' would include other components such as penalty as well as interest, the High Court placed reliance on the judgement in the case of **Soma Sundarams Ltd. v CIT 116 ITR 620**, which had held that the Court has decidedly stated that the component 'income tax' does not include payment of penalty as well as interest.

Amendment made by the Finance Act, 2013, w.e.f. 1-6-2013

For this purpose of this section, the expression "tax due" includes penalty, interest or any other sum payable under the Act. **[Explanation to section 179] [Inserted by the Finance Act, 2013, w.e.f. 1-6-2013].**



Energy Audit

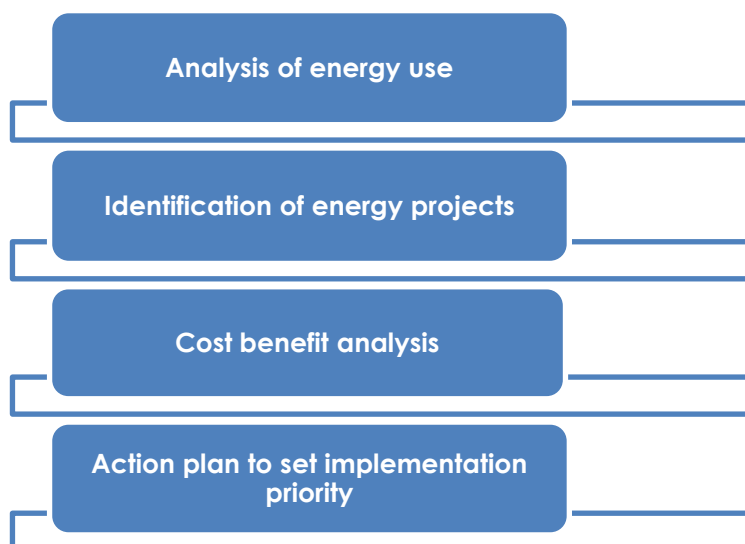
An energy audit is a preliminary activity towards instituting energy efficiency programs in an establishment. It consists of activities that seek to identify conservation opportunities preliminary to the development of an energy savings program.

To institute the correct energy efficiency programs, you have to know first which areas in your establishment unnecessarily consume too much energy, e.g. which is the most cost-effective to improve. An energy audit identifies where energy is being consumed and assesses energy saving opportunities - so you get to save money where it counts the most.

In the factory, doing an energy audit increases awareness of energy issues among plant personnel, making them more knowledgeable about proper practices that will make them more productive. An energy audit in effect gauges the energy efficiency of your plant against "best practices". When used as a "baseline" for tracking yearly progress against targets, an energy audit becomes the best first step towards saving money in the production plant.

Contents of an Audit

An energy audit seeks to document things that are sometimes ignored in the plant, such as the energy being used on site per year, which processes use the energy and the opportunities for savings. In so doing, it assesses the effectiveness of management structure for controlling energy use and implementing changes. The energy audit report establishes the needs for plant metering and monitoring, enabling the plant manager to institutionalize the practice and hence, save money for the years to come. The energy audit action plan lists the steps and sets the preliminary budget for the energy management program.





1. Analysis of energy use

Identifying where energy is used is useful because it identifies which areas the audit should focus on and raises awareness of energy use and cost. The results of the analysis can be used in the review of management structures and procedures for controlling energy use.

Analysis of energy use can be done by installing sub-meters in different plant locations to pinpoint actual energy usage per area. This is a good source data for allocating energy use. The plant manager can also list all equipment used and the corresponding operating hours. With this information, he can create spreadsheet information and generate charts useful for analysis.

Important Points to Consider When Collecting Site Load Data

- a. **Operating hours** - This can be gathered from plant personnel. It is important to ensure the accuracy of this data because much of the potential for energy savings lies on correct estimation of the equipment's operating hours.
- b. **Duty cycle** - Machines such as large electric motors have varying loads and hence, different power requirements.
- c. **Actual power consumed** - For electric power users, this is based on either 3-phase current/voltage readings or power analyzer measurements (e.g., direct kW which incorporates power factor). For fuel users, tank readings of monthly consumption estimates and flow meters with totalization can be sources of measurement.

2. Identification of energy projects

Opportunities for energy savings can range from the simplest, such as lighting retrofits, to the most complex such as the installation of a co-generation plant. The important thing to remember is to focus on major energy users and areas. Always apply the 80/20 rule, focus on opportunities that provide 80% of the saving but require 20% input. After the preliminary identification of opportunities, spend more time on those which have shorter payback periods.

3. Cost benefit analysis

The identified energy conservation opportunities should be analyzed in terms of the costs of implementing the project versus the benefits that can be gained. If you want to, say, install a heat plate exchanger to recover waste heat, you need to calculate the total cost of installation and compare that with the savings you will derive from recovering waste heat. It makes sense to go on with the project if there is a net positive benefit from the project.

4. Action plan to set implementation priority

After passing the cost benefit test, an action plan should be developed to ensure that the opportunities identified are implemented. The action plan should include all the major steps for implementing the opportunity as well as the people responsible. Furthermore, there should be a plan for monitoring the results.

Business Intelligence (BI)

Business intelligence (BI) is a set of theories, methodologies, processes, architectures, and technologies that transform raw data into meaningful and useful information for business purposes.



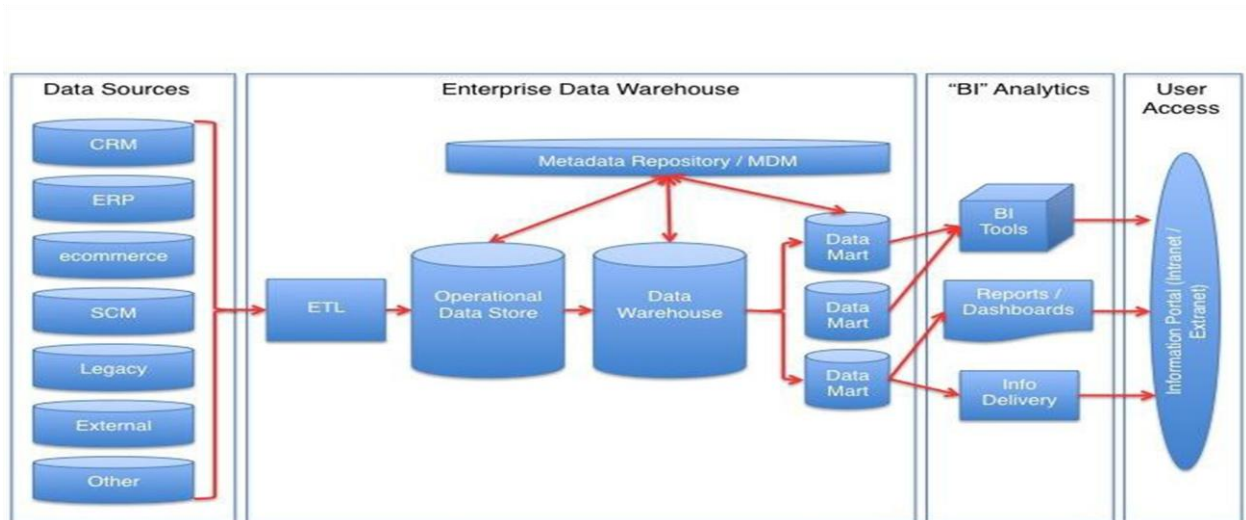
Common functions of business intelligence technologies are reporting, online analytical processing, analytics, data mining, process mining, complex event processing, business performance management, benchmarking, text mining, predictive analytics and prescriptive analytics.



Benefits of BI

- Faster, more accurate reporting
- Cost Savings
- Time Savings
- More efficient processes
- Improved strategies and plans
- Improved tactical decisions
- Improved decision making
- Improved customer service
- Increased revenue

BI's Architecture and Components



Successful Business Intelligence Implementation

- Appropriate Planning and Alignment with the Business Strategy
 - Planning and execution components are business, organization, functionality, and infrastructure.
- Establish a BI Competency Center (BICC) within the Company
 - Support dissemination, training and best practices.
- Other Issues
 - Real-time, On-Demand BI Is Attainable
 - Developing or Acquiring BI Systems
 - Justification and Cost/Benefit Analysis
 - Security and Protection of Privacy
 - Integration of Systems and Applications





Flexible Budget

The Flexible budget is a performance evaluation tool. It cannot be prepared before the end of the period. "A flexible budget is a budget which, by recognizing different cost behavior patterns, is designed to change as volume of output changes". It is designed to furnish budgeted cost at any level of activity actually attained. Flexible budget is also known as variable or sliding scale budget.



Characteristics of Flexible Budget:

- Planning budgets are prepared for a single planned level of activities.
- Performance evaluation is difficult when actual activity differs from the planned level of activity.
- May be prepared for any activity level in the relevant range.
- Show costs that should have been incurred at the actual level of activity, enabling "apples to apples" cost comparison
- Help managers control cost.
- Improve evaluation performance

The following steps are used to prepare the flexible budget:

- Determine the budgeted variable cost per unit of output. Also determine the budgeted sales price per unit of output, if the entity to which the budget applies generates revenue.
- Determine the budgeted level of fixed cost.
- Determine the actual volume of output achieved.
- Build the flexible budget based on the budgeted cost information from step 1, and 2 and the actual volume of output from step 3.

The preparation of a Flexible budget can be explained by the given example:

Illustration:

A manufacturing Company having a capacity of 6 lakh units has prepared the following cost sheet:

	Per unit
Direct materials	₹2.50



CMA Students Newsletter (For Intermediate Students)

Vol.3B: February 16, 2015

Direct wages	1.00
Factory overheads	2.00 (50% fixed)
Selling & admn. Overheads	1.50 (one- third variable)
Selling price	9.00

During the year 2014, the sales volume achieved by the company was 5 lakh units. The company has launched an expansion programme. The details of which are as under:

- The capacity will be increased to 10 lakh units.
- The additional fixed overheads will amount to ₹4 lakhs up to 8 lakh units and will increase by ₹2 lakhs more beyond 8 lakh units.
- The cost of investment on expansion is ₹ 8 lakhs which is proposed to be financed through bank borrowings carrying interest at 15% per annum.
- The average depreciation rate on the new investment is 10% based on straight line method.

Assume that the company's profits are taxed at the rate of 50%.

After the expansion is put through, the company has two alternatives for operating the expanded plant as under:

- a. Sales can be increased upto 8 units by spending ₹1,00,000 on special advertisement campaign to explore new market, or
- b. Sales can be increased to 10 lakh units subject to the following:
 - By an overall price reduction of Re. 1 per unit on all the units sold.
 - By increasing the variable selling and administration expenses by 5%.
 - The direct material costs would go down by 1% due to discounts on bulk buying.

Required:

Construct a flexible budget at the level of 5 lakhs, 8 lakhs and 10 lakhs units of production and advice which level of output should be chosen for operation.

Solution:

Flexible Budget

Output levels (units)	5 lakhs	8 lakhs	10 lakhs
Sales	45.00	72.00	80.00
Direct materials @ ₹2.50 per unit, but at a level of 10 lakhs discount of 1% is to allowed)	12.50	20.00	24.75
Direct wages	5.00	8.00	10.00
Factory overhead (V)	5.00	8.00	10.00
Selling & administration overhead – (V) (at level of 10 lakhs S & Adm. Increase by 5%)	2.50	4.00	5.25
Total Variable cost	25.00	40.00	50.00
Contribution	20.00	32.00	30.00
Fixed Expenses:			
Fixed factory overhead	6.00	6.00	6.00
Selling & Admn.	6.00	6.00	6.00
Increase due to expansion	-	4.00	6.00
Interest @ 15% on 8 lakhs	-	1.20	1.20
Depreciation @ 10% on 8 lakhs	-	0.80	0.80
Special advertisement	-	1.00	-
Total fixed expenditure	12.00	19.00	20.00
Profit	8.00	13.00	10.00
Therefore, activity to be chosen is 8 lakhs			



Valuation of Excisable Goods based on Retail Sale Price (RSP)

Retail Sale Price means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and the price is the sole consideration for such sale and includes —

- all taxes, local or otherwise,
- freight,
- transport charges,
- commission payable to dealers,
- all charges towards advertisement, delivery, packing, forwarding and the like

Section 4A of Central Excise Act empowers Central Government to specify goods on which duty will be payable based on 'retail sale price'. This section applies if the following conditions are satisfied:

- There are goods;
- The goods are excisable goods;
- The goods are chargeable to duty with reference to value;
- The goods are sold in package;
- The declaration of RSP on the package of such goods is mandatory as per the provisions of the Legal Metrology Act, 2009 or the rules made thereunder or under any other law for the time being in force.
- The said goods are notified by the Central Government for the purpose of this section.

Section 4A has overriding effect over Section 4 (Valuation of excisable goods for purposes of charging of duty of excise)

Valuation in case when more than one RSP declared: where on the package of any excisable goods more than one retail sale price is declared, the maximum of such retail sale prices shall be deemed to be the retail sale price.

Valuation in case when RSP is increased after removal from factory: where the retail sale price, declared on the package of any excisable goods at the time of its clearance from the place of manufacture, is altered to increase the retail sale price, such altered retail sale price shall be deemed to be the retail sale price.

Different RSP on different packages meant for different areas: where different retail sale prices are declared on different packages for the sale of any excisable goods in packaged form in different areas, each such retail sale



price shall be the retail sale price for the purposes of valuation of the excisable goods intended to be sold in the area to which the retail sale price relates.

Scored out MRP: if an MRP is scored out (even if remains visible) and another MRP printed on the package, then the scored-out MRP is to be ignored, since scored-out MRP could not be considered as an MRP either by seller or by the consumer.

Valuation in case of Multi-product packs or multi-piece packages:

(a) if individual item(s)—

- have clear markings that that they are not to be sold separately or are packed in such a way that they cannot be sold separately; or,
- have MRP's printed on them but are scored-out; or,
- is supplied free in the multi-pack and has no MRP printed on it

then valuation will be based on MRP indicated on multi-pack.

(b) if —

- the individual items do not contain any such inscription that they are not to be sold separately;
- such individual items are capable of being sold separately at the MRP printed on the individual pieces; and
- each of individual items and MRPs on the multi-pack, both are visible

then valuation will be based on sum of MRP's of pieces comprising the multi-pack.

Determination of Value under RSP provision = RSP – Notified % of abatement

Illustration: Alpha Ltd. manufactures Product 'X'. It is a specified product under section 4A of the Central Excise Act. The selling price of the product is ₹ 100. It includes excise duty @12.36% and central sales tax @2%. 1,00,000 units of the product were removed from the factory for sale. 40% abatement is permissible on the product. Calculate excise duty liability of the product.



Answer:

Calculation of excise duty liability

Particulars	Units	Price p. u. (₹)	₹
Retail sale price	1,00,000	100	1,00,00,000
Less: Abatement @40%		40	40,00,000
Assessable Value u/s 4A		60	60,00,000
Duty @12.36%			7,41,600

Purchase Consideration in case of Amalgamation

In case of amalgamation as the transferee company (purchasing company) is purchasing the business of Transferor Company, the transferee company shall pay purchase consideration to the transferor company.

Consideration for the amalgamation means total of the shares and other securities issued and payment made in form of cash or other assets by the transferee company to shareholders of the transferor company.

It can be paid in any form viz., cash, shares, debentures etc.

Purchase consideration does not vary with the methods of accounting used. Whether it is pooling of interest method or it is purchase method.





Computation of Purchase consideration:

Example 1:

A Ltd. and B Ltd. were amalgamation on and from 31st March, 2014. A new company X Ltd. was formed to take over the business of the existing companies. The Balance sheet of A Ltd and B Ltd as on 31st March, 2014 are given below:

(₹ in Lakhs)					
Liabilities	A Ltd.	B Ltd.	Assets	A Ltd.	B Ltd.
Share capital:			Fixed assets:		
Equity Shares of ₹ 100 each	850	725	Land and Building	460	275
10% Preference Share of ₹ 100 each	320	175	Plant and Machinery	325	210
Reserves and surplus:			Investments	75	50
Revaluation Reserve	125	80	Current Asset and		
General reserve	240	160	Loans and Advances:		
Investment Allowance Reserve	50	30	Stock	325	269
Profit and Loss Account	75	52	Sundry Debtors	305	270
Secured Loans:			Bills receivable	25	—
13% Debentures (₹100 each)	50	28	Cash and Bank	385	251
Unsecured Loan:					
Public Deposits	25	—			
Current liabilities and					
Provision:					
Sundry creditors	145	75			
Bills Payable	20	—			
	1,900	1,325		1,900	1,325

Other Information:

- i. 13% debentures of A Ltd and B Ltd are discharged by X Ltd. by issuing such number of its 15% debentures of ₹ 100 each so as to maintain the same amount to interest.
- ii. Preference shareholders of the two companies are issued equivalent number of 15% preference shares of X Ltd. at a price of ₹ 125 per share (face value ₹ 100)
- iii. X Ltd. will issue 4 equity shares for each equity share of A Ltd. and 3 equity shares for each equity share of B Ltd. The shares are to be issued @ ₹ 35 each, having a face value of ₹10 per share.
- iv. Investment allowance reserve is to be maintained for two more years.

Compute the purchase consideration.

Note: Unsecured Loans in assumed to be of less than 12 months hence treated on short term borrowings ignoring interest.



Solution:

Method 1: Amalgamation in the Nature of Merger

WN # 1 : Calculation of Purchase Consideration

Particulars	A Ltd.	B Ltd.
a. Equity Shares :		
i. No. of Shares outstanding	8.50	7.25
ii. Exchange Ratio	4:1	3:1
iii. No. of Shares to be issued	34	21.75
iv. Issue price per share (₹)	35	35
v. Purchase Consideration	1190	761.25
• Share capital	340	217.50
• Securities Premium	850	543.75
b. Preference Shares :		
i. No. of Shares outstanding	3.2	1.75
ii. Exchange Ratio	1:1	1:1
iii. No. of Shares to be issued	3.2	1.75
iv. Issue price per share (₹)	125	125
v. Purchase Consideration	400	218.75
• Share capital	320	175.00
• Securities Premium	80	43.75
c. Total Consideration {a(iv) + b(iv)}	1590	980.00
		₹ 2,570 Lakhs

Example 2:

The summarized Balance Sheets of P Ltd. and R Ltd. for the year ended 31.3.2014 are as under :

	P Ltd. ₹	R Ltd. ₹		P Ltd. ₹	R Ltd. ₹
Equity Share capital (in shares of ₹ 100 each)	24,00,000	12,00,000	Fixed Assets	55,00,000	27,00,000
8% Preference Share capital (in share of ₹ 100 each)	8,00,000	—	Current Assets	25,00,000	23,00,000
10% Preference Share capital (in shares of ₹ 100 each)	—	4,00,000			
Reserves	30,00,000	24,00,000			



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Current liabilities	18,00,000	10,00,000		
	80,00,000	50,00,000	80,00,000	50,00,000

1. The following information is provided:

	P Ltd. ₹	R Ltd. ₹
a) Profit before tax	10,64,000	4,80,000
b) Taxation	4,00,000	2,00,000
c) Preference dividend	64,000	40,000
d) Equity dividend	2,88,000	1,92,000

2. The Equity shares of both the companies are quoted in the market. Both the companies are carrying on similar manufacturing operations.
3. P. Ltd. proposes to absorb R Ltd. as on 31.3.2014. The terms of absorption are as under :
 - a. Preference shareholders of R Ltd. will receive 8% preference shares of P. Ltd. sufficient to increase the income of preference shareholders of R Ltd. by 10%
 - b. The equity shareholders of R Ltd. will receive equity shares of P Ltd. on the following basis :
 - i. The equity shares of R Ltd. will be valued by applying to the earnings per share of R Ltd. 75% of price earnings ratio of P Ltd. based on the results of 2013-2014 of both the companies.
 - ii. The market price of equity shares of P Ltd. is ₹ 400 per share.
 - iii. The number of shares to be issued to the equity shareholders of R Ltd. will be based on the above market value.
 - iv. In addition to equity shares, 8% preference share of P Ltd. will be issued to the equity shareholders of R Ltd. to make up for the loss in income arising from the above exchange of shares based on the dividends for the year 2013-2014.

4. The assets and liabilities of R Ltd. as on 31.3.2014 are revalued by professional valuer as under :

	Increased by ₹	Decreased by ₹
Fixed assets	1,60,000	—
Current assets	—	2,00,000
Current liabilities		40,000

5. For the next two years, no increase in the rate of equity dividend is expected.

You are required to calculate the purchase consideration.



Solution:

I. Purchase Consideration

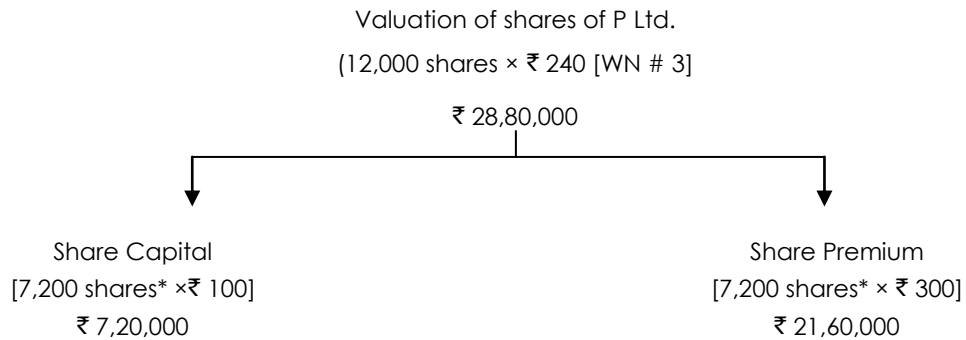
A. Preference Shareholders

8% preference shares of P Ltd. sufficient to increase income by 10%.

Particulars	₹
Current income from Preference shares of R Ltd. (₹ 4,00,000 × 10%)	40,000
Add : 10% increase	4,000
Income from Preference Share of P Ltd.	44,000

B. Equity Shareholders

i. Consideration by way of Equity shares



* No. of shares to be issued = ₹ 28,80,000 ÷ ₹ 400
= 7,200 Shares

ii. Consideration by way of Preference Shares

Particulars	₹
i. Current equity dividend from R Ltd.	1,92,00
ii. Expected Equity dividend from P Ltd.	86,400
iii. Loss in income	1,05,600
iv. Value of 8% Preference Shares to be issued (1,05,600 ÷ 8%)	13,20,000

C. Total Purchase Consideration

[5,50,000 + 28,80,000 + 13,20,000] ₹ 47,50,000

WN # 1 : Computation of EPS

₹



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Particulars	P Ltd.	R Ltd
Profit before tax (PBT)	10,64,000	4,80,000
Less : Tax (given)	<u>(4,00,000)</u>	<u>(2,00,000)</u>
Profit after tax (PAT)	6,64,000	2,80,000
Less : Preference dividend	<u>(64,000)</u>	<u>(40,000)</u>
Profit available to equity shareholders	<u>6,00,000</u>	<u>2,40,000</u>
Earnings per share (Profit for Equity Shareholders ÷ No of Shares)	<u>25</u>	<u>20</u>

WN # 2 : P/E ratio of R Ltd.

$$\text{P/E ratio} = \frac{\text{Market Price}}{\text{EPS}} = \frac{400}{25} = ₹ 16$$

$$75\% \text{ of P/E ratio} = (16 \times 0.75) = ₹ 12$$

WN # 3 : Value per share of P Ltd.

$$= \text{EPS} \times \text{P/E ratio}$$

$$= ₹ 20 \times 12$$

$$= ₹ 240$$