Supplementary Material

Intermediate
Group - I
[Syllabus - 2012]

The Institute of Cost Accountants of India
CMA Bhawan, 12, Sudder Street, Kolkata - 700 016

Paper - 5

FINANCIAL ACCOUNTING

Study Note -7

Royalty and Hire Purchase

Following changes and inclusions are incorporated in Hire-Purchase and Installment Purchase Systems.

1. Wherever in different illustrations corporate entities (using the words Ltd. , & Co. has been used) **- Name has been changed** making it a non-corporate entity (- like X Ltd. and Y Ltd. to Mr. X and Mr. Y, Z Ltd. to Z Associates, S Ltd. to S Traders etc.).
2. **Default and Repossession -** [Old matter under Complete repossession and Partial repossession has been removed and **New matter has been inserted** which is as follows].

Note:

It has been observed that Hire Purchase Trading Account (Debtors) method and Stock and Debtors method of ascertaining profit or loss on sale of goods of small value under hire purchase system based on the simplified approach are not fully compliant with AS 19 "Leases" since loading amount contains both profit as well as interest element.

As both companies and other than companies are involved in Hire Purchase Trading it is necessary to prepare the company accounts in compliance with Accounting Standards as per Companies Act, 2013.

Accordingly it is proposed to follow the methods other than Hire Purchase Trading Account (Debtors) Method and Stock and Debtors Method in case of Companies.

Meaning of Sales Method

Sales method follows a practical approach and practically (of course not technically) treats the hire purchaser as owner of the asset. Under this method, the asset is recorded at full cash price on the basis of 'substance over form'. This method is more appropriate since the intention all along is to buy the asset.

Journal Entries

The various accounting entries in the books of the hire purchaser and hire vendor are shown below:

Case	In the Books of Hire Purchaser	In the Books of Hire Vendor
1. On transfer of Possession	Asset A/c Dr. To Hire Vendor's A/c	Hire Purchaser's A/c Dr. To H.P. Sales A/c
2. On making Down Payment	Hire Vendor's A/c Dr. To Bank A/c	Bank A/c Dr. To Hire Purchaser's A/c
3. On making Interest due on unpaid balance	Interest A/c Dr. To Hire Vendor's A/c	Hire Purchaser's A/c Dr. To Interest A/c
4. On making payment of Instalment	Hire Vendor's A/c Dr. To Bank A/c	Bank A/c Dr. To Hire Purchaser's A/c
5. On providing Depreciation	Depreciation A/c Dr. To Asset A/c	No Entry
6. On closure of Depreciation A/c	Profit & Loss A/c Dr. To Depreciation A/c	No Entry
7. On closure of Interest A/c	Profit & Loss A/c Dr. To Interest A/c	Interest A/c Dr. To Profit & Loss A/c

Disclosure in Balance Sheet

At the end of each accounting period the balances of relevant accounts appear in the Balance Sheet as shown below:

Disclosure in Balance Sheet

Balance Sheet of Hire Purchaser				Balance Sheet of Hire Vendor			
Liabilities	₹	**Assets**	₹	**Liabilities**	₹	**Assets**	₹
		Fixed Assets:				Current Assets:	
		Asset (at full cash price)	xxx			Hire Purchase Debtors	xxx
		Less: Depreciation till date	xxx				
		Less: Balance in Hire Vendor's Account	xxx				
			xxx				**xxx**

Illustration:

On 01.01.2011 A purchased five Machines each costing ₹ 1,58,500 each from B Payment was to be made 20% down and the remainder in four equal annual instalments commencing from 31.12.2011 with interest at 10% p.a. A writes off depreciation @20% on the diminishing balance.

Give the necessary journal entries and ledger accounts in the books of A and B under Sales Method. Also show how the relevant of items will appear in the Balance Sheet.

Solution:

Journal

Journal A	Journal B	Dr. (₹)	Cr.(₹)
01.01.2011			
(a) Machines A/c Dr.	(a) A A/c Dr.	7,92,500	
To B A/c	To HP Sales A/c		7,92,500
(b) B A/c Dr.	(b) Bank A/c Dr.	1,58,500	
To Bank A/c	To A A/c		1,58,500
31.12.2011			
(c) Interest A/c Dr.	(c) A A/c Dr.	63,400	
To B A/c	To Interest A/c		63,400
(d) B A/c Dr.	(d) Bank A/c Dr.	2,21,900	
To Bank A/c	To A A/c		2,21,900
(e) Depreciation A/c Dr.	(e) No Entry	1,58,500	
To Machines A/c			1,58,500
(f) Profit & Loss A/c Dr.	(f) No Entry	1,58,500	
To Depreciation A/c			1,58,500
(g) Profit & Loss A/c Dr.	(g) Interest A/c Dr.	63,400	
To Interest A/c	To Profit & Loss A/c		63,400

31.12.2012			
(a) Interest A/c Dr.	(b) A A/c Dr.	47,550	
To B A/c	To Interest A/c		47,550
(b) B A/c Dr.	(b) Bank A/c Dr.	2,06,050	
To Bank A/c	To A A/c		2,06,050
(c) Depreciation A/c Dr.	(c) No Entry	1,26,800	
To Machines A/c			1,26,800
(d) Profit & Loss A/c Dr.	(d) No Entry	1,26,800	
To Depreciation A/c			1,26,800
(e) Profit & Loss A/c Dr.	(e) Interest A/c Dr.	47,550	
To Interest A/c	To Profit & Loss A/c		47,550
31.12.2013			
(a) Interest A/c Dr.	(c) A A/c Dr.	31,700	
To B A/c	To Interest A/c		31,700
(b) B A/c Dr.	(b) Bank A/c Dr.	1,90,200	
To Bank A/c	To A A/c		1,90,200
(c) Depreciation A/c Dr.	(c) No Entry	1,01,440	
To Machines A/c			1,01,440
(d) Profit & Loss A/c Dr.	(d) No Entry	1,01,440	
To Depreciation A/c			1,01,440
(e) Profit & Loss A/c Dr.	(e) Interest A/c Dr.	31,700	
To Interest A/c	To Profit & Loss A/c		31,700
31.12.2014			
(a) Interest A/c Dr.	(d) A A/c Dr.	15,850	
To B A/c	To Interest A/c		15,850
(b) B A/c Dr.	(b) Bank A/c Dr.	1,74,350	
To Bank A/c	To A A/c		1,74,350
(c) Depreciation A/c Dr.	(c) No Entry	81,152	
To Machines A/c			81,152
(d) Profit & Loss A/c Dr.	(d) No Entry	81,152	
To Depreciation A/c			81,152
(e) Profit & Loss A/c Dr.	(e) Interest A/c Dr.	15,850	
To Interest A/c	To Profit & Loss A/c		15,850

Dr. **Machines Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.11	To B A/c	7,92,500	31.12.11	By Depreciation A/c	1,58,500
				By Balance c/d	6,34,000
		7,92,500			**7,92,500**
01.01.12	To Balance b/d	6,34,500	31.12.12	By Depreciation A/c	1,26,800
				By Balance c/d	5,07,200
		6,34,500			**6,34,500**
01.01.13	To Balance b/d	5,07,200	31.12.13	By Depreciation A/c	1,01,440
				By Balance c/d	4,05,760
		5,07,200			**5,07,200**
01.01.14	To Balance b/d	4,05,760	31.12.14	By Depreciation A/c	81,152
				By Balance c/d	3,24,608
		4,05,760			**4,05,760**

Dr. **B's Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.11	To Bank A/c [Down Payment]	1,58,500	01.01.11	By Machines A/c	7,92,500
31.12.11	To Bank A/c [₹1,58,500 +₹63,400]	2,21,900	31.12.11	By Interest A/c [(₹7,92,500 - ₹1,58,500)×10/100]	63,400
	To Balance c/d	4,75,500			
		8,55,900			**8,55,900**
31.12.12	To Bank A/c [₹1,58,500 + ₹47,550]	2,06,050	01.01.12	By Balance b/d	4,75,500
	To Balance c/d	3,17,000	31.12.12	By Interest A/c [₹4,75,500 × 10/100]	47,550
		5,23,050			**5,23,050**
31.12.13	To Bank A/c [1,58,500 +31,700]	1,90,200	01.01.13	By Balance b/d	3,17,000
	To Balance c/d	1,58,500	31.12.13	By Interest A/c [₹3,17,000 × 10/100]	31,700
		3,48,700			**3,48,700**
31.12.14	To Bank A/c [1,58,500 +15,850]	1,74,350	01.01.14	By Balance b/d	1,58,500
			31.12.14	By Interest A/c [₹1,58,500 × 10/100]	15,850
		1,74,350			**1,74,350**

An Extract of Balance Sheet of A

Liabilities	1st yr	2nd yr	3rd yr	4th yr	Assets	1st yr (₹)	2nd yr (₹)	3rd yr (₹)	4th yr (₹)
					Fixed Assets:				
					Machines	7,92,500	7,92,500	7,92,500	7,92,500
					Less: Depreciation till date	1,58,500	2,85,300	3,86,740	4,67,892
					Less: Balance due To B	4,75,500	3,17,000	1,58,500	-
						1,58,500	**1,90,200**	**2,47,260**	**3,24,608**

Ledger Accounts in the books of B

Dr. **A's Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.11	To Sales A/c	7,92,500	01.01.11	By Bank A/c [Down payment]	1,58,500
31.12.11	To Interest A/c	63,400	31.12.11	By Bank A/c	2,21,900
				By Balance c/d	4,75,500
		8,55,900			**8,55,900**
01.01.12	To Balance b/d	4,75,500	31.12.12	By Bank A/c	2,06,050
31.12.12	To Interest A/c	47,550	31.12.12	By Balance c/d	3,17,000
		5,23,050			**5,23,050**
01.01.13	To Balance b/d	3,17,000	31.12.13	By Bank A/c	1,90,200
31.12.13	To Interest A/c	31,700		By Balance c/d	1,58,500
		3,48,700			**3,48,700**
01.01.14	To Balance b/d	1,58,500	31.12.14	By Bank A/c	1,74,350
31.12.14	To Interest A/c	15,850			
		1,74,350			**1,74,350**

An Extract of Balance Sheet of B

Liabilities	1st yr	2nd yr	3rd yr	4th yr	Assets	1st yr (₹)	2nd yr (₹)	3rd yr (₹)	4th yr (₹)
					Current Assets:				
					Hire Purchase Debtors – A	4,75,500	3,17,000	1,58,500	-

Default and Repossession

If a hire purchaser fails to pay any instalment on the stipulated date, the hire purchaser is said to be at default. In case of default by the hire purchaser, the hire vendor may repossess the goods. Repossession means taking back the possession of goods by the hire vendor. Subject to agreement, the repossession may be either complete or partial.

Meaning of Complete or Full Repossession

In case of complete or full repossession the hire vendor takes back the possession of all the goods.

Journal Entries under Complete or Full Repossession

All Entries till the date of default are passed in the usual manner. The additional Entries are as follows:

Books of Hire Purchaser	Books of Hire Vendor
1. For Closing Hire Vendor's Account Hire Vendor's A/c Dr. To Asset A/c **Note:** This entry is passed with the amount due to the hire-vendor.	**1. On Repossession of goods** Goods Repossessed A/c Dr. To Hire Purchaser's A/c **Note:** This entry is passed with the revalued amount of goods repossessed.
2. For Closing Asset Account **(i) If the Book Value of the Asset exceeds the amount due to Hire-Vendor** Profit & Loss A/c Dr. To Asset A/c **(ii) If the amount due to Hire-Vendor exceeds the Book Value of the Asset** Asset A/c Dr. To Profit & Loss A/c	**2. For amount spent on reconditioning of Goods Repossessed** Goods Repossessed A/c Dr. To Cash A/c/Bank A/c **3. For sale of Goods Repossessed** Cash A/c/Bank A/c /Debtors A/c Dr. To Goods Repossessed A/c **4. For loss on sale of Goods Repossessed** Profit & Loss A/c Dr. To Goods Repossessed A/c **Note:** In case of profit, a reverse entry will be passed.

Illustration:

On 1.1.2011, A purchased 5 Machines from B. Payment was to be made—20% down and the balance in four annual instalments of ₹2,80,000, ₹ 2,60,000, ₹ 2,40,000 and ₹ 2,20,000 commencing from 31.12.2011. The vendor charged interest @ 10% p.a. A, writes off depreciation @ 20% p.a. on the original cost.

On A's failure to pay the instalment due on 31.12.2012, B repossessed all the machines on 01.01.2013 and valued them on the basis of 40% p.a. depreciation on W.D.V. basis. B after incurring ₹6,000 on repairs sold the machines for ₹2,66,000 on 30th June 2013. Prepare the relevant accounts in the books of A and B.

Solution:

Computation of Cash Price and Periodic Interest

A Instalment Number	B Closing Balance after the Payment of Instalment	C Instalment *Amount*	D = B + C Closing Balance before the payment of Instalment	E = D×R/(100 + R) Interest D× 10/110	F=D-E Opening Balance
IV	—	2,20,000	2,20,000	20,000	2,00,000
III	2,00,000	2,40,000	4,40,000	40,000	4,00,000
II	4,00,000	2,60,000	6,60,000	60,000	6,00,000
I	6,00,000	2,80,000	8,80,000	80,000	8,00,000

Let the cash price be '*X*

X = ₹ 8,00,000 + 20% of X (i.e. down payment) 0.8X = ₹ 8,00,000

X = ₹ 8,00,000/0.8 = ₹10,00,000

Dr. **Ledger Accounts in the book of A** **Cr.**

Machinery Account

Date	Particulars	₹	Date	Particulars	₹
01.01.11	To B's A/c	10,00,000	31.12.11	By Depreciation A/c By Balance c/d	2,00,000 8,00,000
	To Balance b/d		31.12.12	By Depreciation A/c By Balance c/d	
	To Balance b/d To P&L A/c (Profit)		01.01.13	By B's A/c	
		10,00,000			10,00,000
01.01.12	To Balance b/d	8,00,000		By Depreciation A/c By Balance c/d	2,00,000 6,00,000
		8,00,000			8,00,000
01.01.13	To Balance b/d To P&LA/c (Profit)	6,00,000 60,000		By B's A/c	6,60,000
		6,60,000			6,60,000

Dr. **B's Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.11	To Bank A/c (Down payment)	2,00,000	01.01.11	By Machinery A/c	10,00,000
31.12.11	To Bank A/c [₹2,00,000 +₹80,000]	2,80,000	31.12.11	By Interest A/c[(₹10,00,000 - ₹2,00,000) × 10/100]	80,000
	To Balance c/d	6,00,000			
		10,80,000			**10,80,000**
31.12.12	To Balance c/d	6,60,000	01.01.12	By Balance b/d	6,00,000
				By Interest A/c[(₹6,00,000 × 10/100)]	60,000
01.01.13	To Machinery A/c	6,60,000	01.01.13	By Balance b/d	6,60,000

Ledger Accounts in the books of B

Dr. **A's Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.11	To H.P. Sales A/c	10,00,000	01.01.11	By Bank A/c(Down Payment)	2,00,000
31.12.11	To Interest A/c [(₹10,00,000 - ₹2,00,000) × 10/100]	80,000	31.12.11	By Bank A/c (₹2,00,000 + ₹80,000)	2,80,000
				By Balance c/d	6,00,000
		10,80,000			**10,80,000**
01.01.12	To Balance b/d	6,00,000	31.12.12	By Balance c/d	6,60,000
31.12.12	To Interest A/c [₹6,00,000 × 10/100]	60,000			
		6,60,000	01.01.13		**6,60,000**
01.01.13	To Balance b/d	6,60,000	01.01.13	By H.P. Goods Repossessed A/c	3,60,000
				By Profit & Loss A/c	3,00,000
		6,60,000			**6,60,000**

Dr. **H.P. Goods Repossessed Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.13	To A's A/c	3,60,000	30.06.13	By Bank A/c	2,66,000
	To Bank A/c	6,000		By P&L A/c	1,00,000
		3,66,000			**3,66,000**

Partial Repossession

In case of partial repossession, the hire vendor takes back the possession of a part of the goods.

Practical Steps under Partial Repossession

Step1: Calculate Book value of Goods Repossessed

A. Cost

B. Less: Depreciation upto date of repossession

C. Book value of Goods Repossessed

Step 2: Calculate Agreed Value of Goods Repossessed

Step 3: Loss on default = Book Value – Agreed Value

Journal Entries Under Partial Repossession

Entries till the date of default are passed in the usual manner. The additional Entries are as follows:

Books of Hire Purchaser	Books of Hire Vendor
1. For transfer of the agreed value of Goods Repossessed Hire Vendor's A/c Dr. To Asset A/c	**1. On Repossession of Goods at agreed value** H.P. Goods Repossessed A/c Dr. To Hire Purchaser's A/c
2. For Transfer of Loss on default Profit & Loss A/c Dr. To Asset A/c Note: In case of profit on default, the reverse entry will be passed	2,3,4—Same entries as in case of complete repossession.

Illustration:

On 1.1.2011, A purchased 5 Machines from B. Payment was to be made—20% down and the balance in four annual instalments of ₹2,80,000, ₹ 2,60,000, ₹ 2,40,000 and ₹ 2,20,000 commencing from 31.12.2011. The vendor charged interest @ 10% p.a. A, writes off depreciation @ 20% p.a. on the original cost.

On A's failure to pay the instalment due on 31.12.2012, after negotiations on 01.01.2013 B agreed to leave two machines with A adjusting the value of the other three machines against the amount due. The machines being valued at cost less 40% p.a. depreciation on W.D.V basis, B after spending ₹6000 on repairs of each of such machines sold @ ₹70,000 on 30th June 2013. Prepare the relevant accounts in the books of A and B.

Solution:

A Instalment Number	B Closing Balance after the payment of Instalment	C Instalment Amount	D= B+C Closing Balance before the payment of Instalment	E = D × R/(100 +R) Interest D × 10/110	F = D-E Opening Balance
IV	-	2,20,000	2,20,000	20,000	2,00,000
III	2,00,000	2,40,000	4,40,000	40,000	4,00,000
II	4,00,000	2,60,000	6,60,000	60,000	6,00,000
I	6,00,000	2,80,000	8,80,000	80,000	8,00,000

Let the cash price be 'X'

X = ₹8,00,000 +20% of X (i.e. down payment)

0.8X = ₹8,00,000

X = ₹8,00,000/0.8 = ₹10,00,000

Dr. **Machinery Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.11	To B A/c	10,00,000	31.12.11	By Depreciation A/c	2,00,000
				By Balance c/d	8,00,000
		10,00,000			**10,00,000**
01.01.12	To Balance b/d	8,00,000	31.12.12	By Depreciation A/c	2,00,000
				By Balance c/d	6,00,000
		8,00,000			**8,00,000**
01.01.13	To Balance b/d	6,00,000	01.01.13	By B A/c	2,16,000
				By P&L A/c [loss on default]	1,44,000
				By Depreciation A/c	80,000
				By Balance c/d	1,60,000
		6,00,000			**6,00,000**

Dr. **B's Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.11	To Bank A/c (Down payment)	2,00,000	01.01.11	By Machinery A/c	10,00,000
31.12.11	To Bank A/c [₹2,00,000 +₹80,000]	2,80,000	31.12.11	By Interest A/c[(₹10,00,000 - ₹2,00,000) × 10/100]	80,000
	To Balance c/d	6,00,000			
		10,80,000			**10,80,000**
31.12.12	To Balance c/d	6,60,000	01.01.12	By Balance b/d	6,00,000
			31.12.12	By Interest A/c[(₹6,00,000 × 10/100)]	60,000
01.01.13	To Machinery A/c	6,60,000	01.01.13	By Balance b/d	6,60,000

Working Notes

1. Calculation of Book value of Goods Repossessed

A. Cost [₹2,00,000 × 3]	₹6,00,000
B. Less: Depreciation for 2 years [₹6,00,000 × 20% × 2]	₹2,40,000
	₹3,60,000

2. Calculation of Agreed value of Goods Repossessed

A. Cost [₹2,00,000 × 3]	₹6,00,000
B. Less: Depreciation for 1st Year [40% of ₹6,00,000]	₹2,40,000
C. Book Value in the beginning of 2nd year	₹3,60,000
D. Less: Depreciation for 2nd year [40% of ₹3,60,000]	₹1,44,000
E. Book Value at the end of 2nd Year	₹2,16,000

3. Loss on Default = Book Value – Agreed Value = ₹3,60,000 - ₹2,16,000 = ₹1,44,000

Dr. **A's Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.11	To H.P. Sales A/c	10,00,000	01.01.11	By Bank A/c (Down payment)	2,00,000
31.12.11	To Interest A/c [(₹10,00,000 - ₹2,00,000) ×10/100]	80,000	31.12.11	By Bank A/c [₹2,00,000 +₹80,000]	2,80,000
				By Balance c/d	6,00,000
		10,80,000			**10,80,000**
01.01.12	To Balance b/d	6,00,000	31.12.12	By Balance c/d	6,60,000
31.12.12	To Interest A/c [₹6,00,000 × 10/100]	60,000			
		6,60,000			**6,60,000**
01.01.13	To Balance b/d	6,60,000	01.01.13	By H.P. Goods Repossessed A/c	2,16,000
				By Balance c/d	4,44,000
		6,60,000			**6,60,000**

Dr. **H.P. Goods Repossessed Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.13	To A's A/c	2,16,000	30.06.13	By Bank A/c	2,10,000
	To Bank A/c (Repairs) [₹6,000 ×3]	18,000		By P&L A/c (Loss)	24,000
		2,34,000			**2,34,000**

Illustration:

A Transport purchased from Kolkata Motors 3 Tempos costing ₹50,000 each on the hire purchase system on 1.1.2011. Payment was to be made ₹30,000 down and the remainder in 3 equal annual instalments payable on 31.12.2011, 31.12.2012 and 31.12.2013 together with interest @ 9%. p.a. A Transport writes off depreciation at the rate of 20% p.a. on the diminishing balance. It paid the instalment due at the end of the first year i.e. 31.12.2011 but could not pay the next on 31.12.2012. Kolkata Motors agreed to leave one Tempo with the purchaser on 31.12.2012 adjusting the value of the other 2 Tempos against the amount due on 31.12.2012. The Tempos were valued on the basis of 30% depreciation annually on W.D.V. basis.

Show the necessary accounts in the books of A Transport for the year 2011, 2012,2013.

Solution:

Dr. **Tempos Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.11	To Kolkata Motors' A/c (₹50,000 × 3)	1,50,000	31.12.11	By Depreciation A/c (20% on ₹1,50,000)	30,000
				By Balance c/d	1,20,000
		1,50,000			**1,50,000**
01.01.12	To Balance b/d	1,20,000	31.12.12	By Depreciation A/c	24,000
			31.12.12	By Kolkata Motors' A/c (Value of 2 tempos taken away)	49,000
			31.12.12	By P&L A/c (Loss on Default)	15,000
			31.12.12	By Balance c/d (value of one tempo left)	32,000
		1,20,000			1,20,000
01.01.13	To Balance b/d	32,000	31.12.13	By Depreciation A/c	6,400
			31.12.13	By Balance c/d	25,600
		32,000			**32,000**

Dr. **Kolkata Motor's Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.11	To Bank A/c (Down Payment)	30,000	01.01.11	By Tempos A/c (₹50,000 ×3)	1,50,000
31.12.11	To Bank A/c	50,800	31.12.11	By Interest A/c (9% on ₹1,20,000)	10,800
31.12.11	To Balance c/d	80,000			
		1,60,800			**1,60,800**
31.12.12	To Tempos A/c	49,000	01.01.12	By Balance b/d	80,000
31.12.12	To Balance c/d	38,200	31.12.12	By Interest A/c(9% on ₹80,000)	7,200
		87,200			**87,200**
31.12.13	To Bank A/c	41,638	01.01.13	By Balance b/d	38,200
			31.12.13	By Interest A/c (9% on ₹38,200)	3,438
		41,638			**41,638**

Working Notes:

1. Value of a tempo left with the buyer = ₹50,000 × 80/100 × 80/100 = ₹32,000
2. Value of Tempos taken away by the seller = ₹50,000 × 2 × 70/100 × 70/100 = ₹49,000
3. Loss on Tempos taken away = Book Value – Agreed Value

   = [2 × ₹50,000 × 80/100 × 80/100] - ₹49,000 = ₹15,000.

Illustration:

On 1 January 2012, A purchased from B a plant valued at ₹7,45,000; payment to be made by four semi-annual instalments of ₹2,10,000 each; interest being charged at 5% per half year. A paid the first instalment on 1st July 2012 but failed to pay the next. B repossessed the plant on 4 January 2013.On 5 January 2013, after negotiation, A was allowed to retain the plant of which the original cash price was ₹3,90,000 and he was to bear the loss on the remainder which was taken over by B on that date for ₹3,75,000. B waived the interest after 31st December 2012.Another agreement was signed for payment of the balance amount.

Required: Show by ledger accounts the necessary records in the books of A charging depreciation at 10% per annum half yearly on the written down value.

Solution:

Dr. **Machinery Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.2012	To B's A/c	7,45,000	30.06.2012	By Depreciation A/c	37,250
				By Balance c/d	7,07,750
		7,45,000			**7,45,000**
01.07.2012	To Balance b/d	7,07,750	31.12.2012	By Depreciation A/c	35,388
				By Balance c/d	6,72,362
		7,07,750			**7,07,750**
01.01.2013	To Balance b/d	6,72,362	05.01.2013	By B's A/c	3,75,000
	To Profit & Loss A/c (Balancing Figure) [3,75,000-3,20,387]	54,613		By Balance c/d	3,51,975
		7,26,975			**7,26,975**

Dr. **B's Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
30.6.2012	To balance c/d	7,82,250	01.01.2012	By Plant on Hire Purchase A/c	7,45,000
			30.06.2012	By Interest A/c [₹7,45,000 × 5%]	37,250
		7,82,250			**7,82,250**
01.07.2012	To Bank A/c	2,10,000	01.07.2012	By Balance b/d	7,82,250
31.12.2012	To Balance c/d	6,00,863	31.12.2012	By Interest A/c [₹5,72,250 × 5%]	28,613
		8,10,863			**8,10,863**
05.01.2013	To Machinery A/c	3,75,000	01.01.2013	By Balance b/d	6,00,863
	To Balance c/d	2,25,863			
		6,00,863			**6,00,863**

Working Note: Calculation of Book Value of Plant Repossessed and Retained

		Repossessed (₹)	Retained (₹)
A.	Cash Price of the Plant	3,55,000	3,90,000
B.	Less: Depreciation @10% for 6 months	(17,750)	(19,500)
C.	Book Value	3,37,250	3,70,500
D.	Less: Depreciation @10% for 6 months	(16,863)	(18,525)
E.	Book Value	3,20,387	3,51,975

Illustration:

Z sold 3 Machinery for a total cash sale price of ₹6,00,000 on hire purchase basis to X on 01.01.2011. The terms of agreement provided for 30% as cash down and the balance of the cash price in three equal instalments together with interest at 10% per annum compounded annually. The instalments were payable as per the following schedule:

1st instalment on 31.12.2012; 2nd instalment on 31.12.2013 and 3rd instalment on 31.12.2014. X paid the 1st instalment on time but failed to pay thereafter. On his failure to pay the second instalment, Z repossessed two machineries and valued them at 50% of the cash price. X charges 10% p.a. depreciation on straight line method.

Required: Prepare necessary ledger accounts in the books of X for 2011-2013.

Solution:

Dr. **Machinery Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.2011	To Z's A/c	6,00,000	31.12.2011	By Depreciation A/c	60,000
				By Balance c/d	5,40,000
		6,00,000			**6,00,000**
01.01.2012	To Balance b/d	5,40,000	31.12.2012	By Depreciation A/c	60,000
				By Balance c/d	4,80,000
		5,40,000			**5,40,000**
01.01.2013	To Balance b/d	4,80,000	31.12.2013	By Depreciation A/c	60,000
				By Z's A/c	2,00,000
				By Profit and Loss A/c (balancing figure)	80,000
				By Balance c/d	1,40,000
		4,80,000			**4,80,000**

Dr. **Z's Account** **Cr.**

Date	Particulars	₹	Date	Particulars	₹
01.01.2011	To Bank A/c	1,80,000	31.12.2011	By Machinery A/c	6,00,000
31.12.2011	To Balance c/d	4,62,000		By Interest A/c [10% on (₹6,00,000 - ₹1,80,000)]	42,000
		6,42,000			**6,42,000**
31.12.2012	To bank A/c(1,40,000 +42,000+46,200)	2,28,200	01.01.2012	By Balance c/d	4,62,000
	To Balance c/d	2,80,000	31.12.2012	By Interest A/c [10% on ₹4,62,000]	46,200
		5,08,200			**5,08,200**
31.12.2013	To Machinery A/c	2,00,000	01.01.2013	By Balance b/d	2,80,000
	To Balance c/d	1,08,000	31.12.2013	By Interest A/c	28,000
		3,08,000			**3,08,000**

Working Notes:

1. Book value of machine left and repossessed

	1 left	2 repossessed
A. Costs	2,00,000	4,00,000
B. Less: Depreciation for 3 years @10%	(60,000)	(1,20,000)
	1,40,000	2,80,000

2. Agreed Value of 2 Machinery Repossessed = Cash Price – 50% of cash price
   = ₹(4,00,000 – 2,00,000) = ₹2,00,000

3. Loss on Default = Agreed Value – Book Value
   = ₹(2,00,000 - 2,80,000) = ₹80,000

Study Note – 12

Following changes and inclusions are incorporated in Study Note - 12

Accounting of Banking Companies

1. **Time limit for disposal of Non-banking Assets (Section – 9)**

   Non-banking assets must be disposed off within 7 years from the date of acquisition or period extended by RBI.

2. **Cash Reserve (Section 18)**

   Every non-scheduled bank has to maintain a cash reserve at least to the extent of at % prescribed (by RBI) of its demand and time liabilities in India on the last Friday of the second preceding fortnight.

3. **Restrictions on Loans and Advances (Section 20)**

   No banking company shall

(a) grant any loans or advances on the security of its own shares, or

(b) enter into any commitment for granting any loan or advance to or on behalf of

(i) Any of its directors,

(ii) Any firm, in which any of its directors is interested as partner, manager, employee or guarantor, or

(iii) Any company (not being a subsidiary of the banking company or a company registered under Section 25 of the Companies Act, 1956 or a Government Company) of which any of the directors of the banking company is a director, manager, employee or guarantor or in which he holds substantial interest, or

(iv) Any individual, in respect of whom any of its directors is a partner or guarantor.

4. **Form A**

In form of Balance Sheet — Schedule 17 is Notes to Accounts and Schedule 18 is Principal Accounting Policies.

5. **Restructured Advances:**

- Restructured accounts classified as standard advances will attract a provision (as prescribed from time to time) in the first two years from the date of restructuring. In cases of moratorium on payment of interest/principal after restructuring, such advances will attract a provision for the period covering moratorium and two years thereafter;
- Restructured accounts classified as non-performing advances, when upgraded to standard category will attract a provision (as prescribed from time to time) in the first year from the date of upgradation.

6. **Banks will hold provision against the restructured advances as per the extant provisioning norms.**

The above-mentioned higher provision on restructured standard advances (2.75 per cent as prescribed vide circular dated November 26, 2012) would increase to 5 per cent in respect of new restructured standard accounts (flow) with effect from June 1, 2013 and increase in a phased manner for the stock of restructured standard accounts as on May 31, 2013 as under:

- 3.50 per cent - with effect from March 31, 2014 (spread over the four quarters of 2013-14)
- 4.25 per cent - with effect from March 31, 2015 (spread over the four quarters of 2014-15)
- 5.00 per cent - with effect from March 31, 2016 (spread over the four quarters of 2015-16)

7. **HOW TO MAKE PROVISION IN RESPECT OF ADVANCES COVERED BY THE GUARANTEES OF DICGC/ ECGC**

In the case of advances guaranteed by Export Credit Guarantee Corporation (ECGC) or by Deposit Insurance and Credit Guarantee Corporation (DICGC), provision is required to be made only for the balance in excess of the amount guaranteed by these corporations.

In case the bank also holds a security in respect of an advance guaranteed by ECGC/DICGC, the realizable value of the security should be deducted from the outstanding balance before the ECGC/ DICGC guarantee is off-set.

Where there is an upper limit to which the ECGC.DICGC guarantee applies, this fact should be duly recognized in computing the amount of provision required.

Statement showing the calculation of Provision:

	₹
A. Amount Outstanding	xxx
B. Less: Realizable value of Security (if any held)	(xxx)
	xxx
C. Less: ECGC/DICGC cover (% limited to ….)	(xxx)
D. Unsecured Portion [A-B-C]	xxx
E. Provision required for unsecured portion of Doubtful Asset @100%	xxx
F. Provision required for secured portion of Doubtful Asset @ 25%,/40%/100%	xxx
G. Total Provision required [E+F]	xxx

8. **CAPITAL ADEQUACY NORMS**

Objectives of Capital Adequacy Norms

The fundamental objectives are:

(a) To strengthen the soundness and stability of the banking system,

(b) To achieve a high degree of consistency in its application to banks in different countries.

Minimum Capital Adequacy Ratio

All India Scheduled Commercial Banks (excluding Regional Rural Banks) as well as foreign banks operating in India are required to achieve 9% Capital Adequacy Ratio (i.e. Ratio of Capital fund to Risk Weighted Assets and off Balance Sheet Items).

Meaning of Capital Funds

(a) The Basel Committee has defined capital in two tiers – Tier I and Tier II.

Accounting of Insurance Companies

1. IMPORTANT PROVISIONS OF THE INSURANCE ACT, 1938

Some provisions have been amended by The Insurance Laws (Amendment) Act, 2015 and these have been separately listed.

(1) Forms for final accounts [Sec 11(1)]. Every insurer, on or after the date of the commencement of the Insurance Laws (Amendment) Act,2015, in respect of insurance business transacted by him and in respect of his shareholders' funds, shall at the expiration of each financial year, prepare with reference to that year, balance sheet, a profit and loss account, a separate account of receipts and payments, a revenue account in accordance with the regulations as may be specified.

(2) Audit. The Act provides that the company carrying on general insurance business be audited as per the requirements of the Companies Act, 2013.

(3) Register of policies [sec 14](1)(a)] Every insurer shall maintain a record of policies, in which shall be entered, in respect of every policy issued by t5he insurer, the name and address of the policyholder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice.

(4) Register of claims. The insurer must also maintain a register of claims for record of claims, every claim made together with the date of the claim, the name and address of the claimant and the date on which the claim was discharged, or in the case of a claim which is rejected, the date of rejection and the grounds thereof.

(5) Approved investments (27B) All assets of an insurer carrying on general insurance business shall subject to such conditions, if any, as may be prescribed, be deemed to be assets invested or kept invested in approved investments specified in this section.

(6) Payment of commission to authorized agents (Sec 40). No person shall, pay or contract to pay any remuneration or reward, whether by way of commission or otherwise for soliciting or procuring insurance business in India to any person except an insurance agent or an intermediary or insurance intermediary in such manner as may be specified by the regulations.

(7) SEC 40 (C).Every insurer transacting insurance business in India shall furnish to the Authority, the details of expenses of management in such manner and form as may be specified by the regulations made under this Act.

(8) Sec 64VA Every insurer and re-insurer shall at all times maintain an excess of value of assets over the amount of liabilities of, not less than fifty per cent of the amount of minimum capital as stated under Section 6 and arrived at in the manner specified by the regulations.

2. Section 18 and 19 —

The central office is located at Mumbai and has zonal offices at Mumbai, Kolkata, Delhi, Kanpur and Chennai. There may be established as many divisional offices and branches in each zone as may be decided by the Corporation in accordance with the guidelines issued by the Insurance Regulatory and Development Authority established under the Insurance Regulatory and Development Authority Act, 1999 in this regard.

3. Section 26 —

There must be an actuarial valuation at least once in every year and the Corporation must submit the report to the Central Government.

4. Interim Bonus — It is a bonus declared between dates of two valuation Balance Sheets. It is for a period for which valuation is not complete.

5. Marine Insurance: As per Sec 3 of Marine Insurance Act, 1963 "A contract of marine insurance is an agreement whereby the insurer undertakes to indemnify the assured, in the manner and to the extent thereby agreed, against marine losses, that is to say , losses incidental to marine adventure. Similarly, Sec 4 (1) states that "a contract of marine insurance may, by its express terms, or by usage of trade, be extended so as to protect the insured against losses on inland water or any land risk which may be incidental to any sea voyage.

6. Claims Incurred:

			₹
Claims Settled during the year			—
— Direct business			—
— Re-insurance acceptor			—
Add:	Legal charges, if any		—
Add:	Surveyor's charges		—
Add:	Payment to Co-insurance		—
			—
Less:	Received from Co-insurance		—
	Received from Re-insurance	—	—
			—
Add: Estimated liability at the end of the year			—
			—
Less: Estimated liability at the beginning of the year			—
Claims as expenses			—

Paper - 6

LAWS, ETHICS AND GOVERNANCE

List of Amended Sections under respective Acts

Name of the Act	Sections	
The Payment of Bonus Act, 1965	• 2(13)	Modified
	• 8	Modified
The Industrial Disputes Act, 1947	• 2(s)	Modified
The Employee's State Insurance Act, 1948	• 2(6A)	Modified
	• 2(9)	Modified
	• 2(12)	Modified
The Payment of Wages Act, 1936	• 1(6)	Modified
The Negotiable Instrument Act, 1881	• 142	Re-numbered
	• 142(2)	Inserted
	• 142(A)	Inserted
The Indian Partnership Act, 1932	• 464 of CA, 2013	Modified
The Limited Liability Partnership Act, 2008	• 5	Modified
	• 15	Modified
The Prevention of Money Laundering Act, 2002	• 2(ra)	Modified
	• 2(sb)	Inserted
	• 2(sc)	Inserted
	• 9	Modified
	• 14	Modified
	• 70	Modified
The Companies Act, 2013	• 2(68)	Modified
	• 2(71)	Modified
	• 9	Modified
	• 11	Omitted
	• 12	Modified
	• 22	Modified
	• 143(12)	Modified
	• 177(4)(iv)	Modified
	• 185(1)(c)	Inserted
	• 185(1)(d)	Inserted
	• 186	Modified
	• 188	Modified
The Right to Information Act, 2005	• 2(h)	Modified
	• 31	Inserted
	• 32	Inserted

PAYMENT OF BONUS ACT, 1965

Section 2(13) and Section 8 – Modified

The Payment of Bonus (Amendment) Act, 2015 envisages enhancement of eligibility limit under section 2(13) from ₹10,000/- per month to ₹21,000/- per month.

Section 12 – Modified

Calculation Ceiling under section 12 from ₹3500 to ₹7000 or the minimum wage for the scheduled employment, as fixed by the appropriate Government, whichever is higher.

INDUSTRIAL DISPUTES ACT, 1947

Section 2(s) — Modified

"workman" means any person (including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding **ten thousand rupees** per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, function mainly of a managerial nature.

EMPLOYEE STATE INSURANCE ACT, 1948

Section 2(6-A) — Modified

"dependant" means any of the following relatives of a deceased insured person, namely : —

(i) a widow, a legitimate or adopted son who has not attained the age of **twenty - five years**, an unmarried legitimate or adopted daughter ;

(ia) a widowed mother ;

(ii) if wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of **twenty – five** and who is infirm ;

(iii) if wholly or in part dependent on the earnings of the insured person at the time of his death, —

(a) a parent other than a widowed mother,

(b) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor,

(c) a minor brother or an unmarried sister or a widowed sister if a minor,

(d) a widowed daughter-in-law,

(e) a minor child of a pre-deceased son,

(f) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(g)a paternal grand-parent if no parent of the insured person is alive ;

Section 2(9) — Modified

"employee " means any person employed for wages in or in connection with the work of a factory or establishment to which this Act applies and —

(i) who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the factory or establishment, whether such work is done by the employee in the factory or establishment or elsewhere ; or

(ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment ; or

(iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service ; and includes any person employed for wages on any work connected with the administration of the factory or establishment or any part, department or branch thereof or with the purchase of raw materials for, or the distribution or sale of the products of, the factory or establishment ;

or any person engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961), **and includes such person engaged as apprentice whose training period is extended to any length of time** but does not include —

(a) any member of the Indian naval, military or air forces ; or

(b) any person so employed whose wages (excluding remuneration for overtime work) exceed such wages as may be prescribed by the Central Government

Provided that an employee whose wages (excluding remuneration for overtime work exceed such wages as may be prescribed by the Central Government at any time after (and not before) the beginning of the contribution period, shall continue to be an employee until the end of that period;

Section 2(12) — Modified

"**factory**" means any premises including the precincts thereof whereon ten or more persons are employed or were employed on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1952 (35 of 1952), or a railway running shed;

Section 6 — Modified

Cheque

A cheque is a bill of exchange drawn on a specified banker payable on demand (Sec 6). Further, the expression includes the electronic image of a truncated cheque or a cheque in electronic form.

"A cheque in electronic form" means a cheque drawn in electronic form by using any computer resources and signed in a secure system with digital signature (with or without biometrics signature) and asymmetric crypto system or with electronic signature, as the case may be.

For the purpose of this section, the expression "asymmetric crypto system", "computer resources", "digital signature", "electronic form" and "electronic signature" shall have the same meanings respectively assigned to them in the Information Technology Act, 2000.

Additional Information

Cheque should be presented to the banker within – (a) 3 months from the date of issue of cheque, or (b) validity period of the cheque, whichever is earlier.

Section 142 — Modified as 142(1)

Cognizance of offences

The payee/holder must make a complaint with the court [Sec 142(1)]. The following conditions should be satisfied :

1. A complaint should be made to the court, and the complaint shall be in writing.
2. It shall be made – (i) by the payee, or (ii) the holder in due course of a cheque.
3. The complaint shall be made within 1 month of the date on which the cause of action arises u/s 138(c). However the court may relax this time period if the complainant satisfies the court that he had sufficient cause for not making the complaint within such period.

Section 142(2) — Inserted

The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction **[Sec 142(2)]** –

(a) If the cheque is delivered for collection through an account,

The branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) If the cheque is presented for payment by the payee or holder in due course otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

For the purpose of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.

Section 142(A) – Inserted

Validation for transfer of pending cases

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or directions of any court, all cases transferred to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, shall be deemed to have been transferred under this Ordinance, as if that sub-section had been in force at all material times.

(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1), and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.

(3) If, on the date of the commencement of this Ordinance, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, before which the first case was filed and is pending, as if that sub-section had been in force at all material times."

INDIAN PARTNERSHIP ACT, 1932

As per Section 464 of Companies Act, 2013 the maximum number of persons in a partnership should not exceed **50**.

LIMITED LIABILITY PARTNERSHIP ACT, 2008

Section 5 – Modified

As per section 5 of LLP Act, 2008 only an individual or body corporate may be a partner in a Limited Liability Partnership. A HUF cannot be treated as a body corporate for the purpose of LLP Act, 2008. Therefore, a HUF or its karta cannot become a designated partner in LLP.

Section 15 – Modified

Along with the applicable restrictions in the name of a Limited Liability Partnership, the following additional restrictions have been added.

(1) No company should be allowed to be registered with the word "National" as part of its title unless it is a government company and the Central/State government(s) has a stake in it.

(2) The word 'Bank' may be allowed in the name of an entity only when such entity produces a 'No Objection Certificate' from the RBI in this regard.

(3) The word 'Stock Exchange" or 'Exchange' should be allowed in name of a company only where 'No Objection Certificate' from SEBI in this regards is produced by the Promoters.

PREVENTION OF MONEY LAUNDERING ACT, 2002

Section 2(ra) – Modified

"Offence of cross border implications", means –

(1) any conduct by a person at a place outside India which constitutes an offence at that place and which would have constituted an offence specified in Part A, Part B or Part C of the Schedule, had it been committed in India and if such person **transfers in any manner** the proceeds of such conduct or part thereof to India; or

(2) any offence specified in Part A, Part B or Part C of the Schedule which has been committed in India and the proceeds of crime, or part thereof have been transferred to a place outside India or any attempt has been made to transfer the proceeds of crime, or part thereof from India to a place outside India.

Explanation:-

Nothing contained in this clause shall adversely affect any investigation, enquiry, trial or proceeding before any authority in respect of the offences specified in Part A or Part B of the Schedule to the Act before the commencement of the Prevention of Money – Laundering (Amendment) Act 2009;

Section 2(sb) – Inserted

"**precious metal**" means gold, silver, platinum, palladium or rhodium or such other metal as may be notified by the Central Government.

Section 2(sc) – Inserted

"**precious stone**" means diamond, emerald, ruby, sapphire or any such other stone as may be notified by the Central Government.

Section 9 – Modified

Vesting of property in Central Government:

Where an order of confiscation has been made under **sub-section (5) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60**, in respect of any property of a person, all the rights and title in such property shall vest absolutely in the Central Government free from all encumbrances:

Provided that where **the Special Court or the Adjudicating Authority**, as the case may be, after giving an opportunity of being heard to any other person interested in the property attached under this Chapter, or seized **or frozen** under Chapter V, is of the opinion that any encumbrance on the property or le se-hold interest has been created with a view to defeat the provisions of this Chapter, it may, by order, declare such encumbrance or lease-hold interest to be void and thereupon the aforesaid property shall vest in the Central Government free from such encumbrances or lease-hold interest:

Provided further that nothing in this section shall operate to discharge any person from any liability in respect of such encumbrances which may be enforced against such person by a suit for damages.

Section 14 – Modified

No Civil or Criminal Proceedings against reporting entity, its directors and employees in certain cases

Save as otherwise provided in section 13, the reporting entity, its directors and employees shall not be liable to any civil or criminal proceedings against them for furnishing information under clause (b) of sub-section (1) of section 12.

Section 70 – Modified

Offences by companies

(1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made there under is a company, every person who, at the time the contravention was committed, was in charge of and was responsible to the company, for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made there under has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of any company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravent on and shall be liable to be proceeded against and punished accordingly.

Explanation 1.-For the purposes of this section,-

(i) "company" means any body corporate and includes a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

Explanation 2

For the removal of doubts, it is hereby clarified that a company may be prosecuted, notwithstanding whether the prosecution or conviction of any legal juridical person shall be contingent on the prosecution or conviction of any individual.

COMPANIES ACT, 2013

Section 2(68) – Modified

"**Private Company**" means a company having a minimum **paid-up share capital as may be prescribed**, and which by its articles,—

(i) restricts the right to transfer its shares;

(ii) except in case of One Person Company, limits the number of its members to two hundred:

Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:

Provided further that—

(A) persons who are in the employment of the company; and

(B) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased, shall not be included in the number of members; and

(iii) prohibits any invitation to the public to subscribe for any securities of the company;

Section 2(71) – Modified

"**Public Company**" means a company which—

(a) is not a private company;

(b) has a minimum **paid-up share capital as may be prescribed**:

Provided that a company which is a subsidiary of a company, not being a private company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its articles ;

Section 9 – Modified

Effect of Registration

From the date of incorporation mentioned in the certificate of incorporation, such subscribers to the memorandum and all other persons, as may, from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable of exercising all the functions of an incorporated company under this Act and having perpetual succession ~~**and a common seal**~~ with power to acquire, hold and dispose of property, both movable and immovable, tangible and intangible, to contract and to sue and be sued, by the said name.

Section 11 - Ommitted

Commencement of Business, etc. - Omitted w.e.f. 29.05.2015

Section 22 - Modified

Execution of Bills of Exchange, etc.

(1) A bill of exchange, hundi or promissory note shall be deemed to have been made, accepted, drawn or endorsed on behalf of a company if made, accepted, drawn, or endorsed in the name of, or on behalf of or on account of, the company by any person acting under its authority, express or implied.

(2) A company may, by writing under its common seal, **if any**, authorise any person, either generally or in respect of any specified matters, as its attorney to execute other deeds on its behalf in any place either in or outside India.

Provided that in case a company does not have a common seal, the authorization under this sub-section shall be made by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary.

(3) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company.

Section 143(12) – Modified

(12) Notwithstanding anything contained in this section, if an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving an amount of rupees one crore or above, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the Central Government within such time and in such manner as prescribed by the Companies (Audit and Auditors) Amendment Rules, 2015 dated vide notification dated 14.12.2015.

Provided that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board immediately

but not later than two days of his knowledge of the fraud and he shall report the matter in such manner as prescribed by the Companies (Audit and Auditors) Amendment Rules, 2015 dated vide notification dated 14.12.2015.

Provided further that the companies, whose auditors have reported frauds under this sub-section to the audit committee or the Board but not reported to the Central Government, shall disclose the details about such frauds in the Board's report in such manner as may be prescribed.

Section 177(4) – Modified

(iv) approval or any subsequent modification of transactions of the company with related parties;

Provided that the Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to such conditions as may be prescribed.

Section 185 - Modified

Loan to Directors, Etc.

(1) Save as otherwise provided in this Act, no company shall, directly or indirectly, advance any loan, including any loan represented by a book debt, to any of its directors or to any other person in whom the director is interested or give any guarantee or provide any security in connection with any loan taken by him or such other person.

Provided that nothing contained in this sub-section shall apply to—

(a) the giving of any loan to a managing or whole-time director—

(i) as a part of the conditions of service extended by the company to all its employees; or

(ii) pursuant to any scheme approved by the members by a special resolution; or

(b) a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such loans an interest is charged at a rate not less than the bank rate declared by the Reserve Bank of India.

Explanation.— For the purposes of this section, the expression "to any other person in whom director is interested" means—

(a) any director of the lending company, or of a company which is its holding company or any partner or relative of any such director;

(b) any firm in which any such director or relative is a partner;

(c) any private company of which any such director is a director or member;

(d) anybody corporate at a general meeting of which not less than twenty-five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or

(e) anybody corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.

(c) any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company; or

(d) any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company.

Provided that the loans made under clauses (c) and (d) are utilized by the subsidiary company for its principal business activities.

(2) If any loan is advanced or a guarantee or security is given or provided in contravention of the provisions of sub-section (1), the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, and the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both.

Section 186(11) - Modified

Loan and Investment by Company

(11) Nothing contained in this section, except sub-section (1), shall apply—

(a) to a loan made, guarantee given or security provided by a banking company or an insurance company or a housing finance company in the ordinary course of its business or a company engaged in the business of financing of companies or of providing infrastructural facilities;

(b) to any acquisition—

(i) made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 and whose principal business is acquisition of securities.

Provided that exemption to non-banking financial company shall be in respect of its investment and lending activities;

(ii) made by a company whose principal business is the acquisition of securities;

(iii) of shares allotted in pursuance of clause (a) of sub-section (1) of section 62.

(iv) made by a banking company or an insurance company or a housing finance company, making acquisition of securities in the ordinary course of its business.

Section 188(1) – Modified

Related Party Transaction

(1) Except with the consent of the Board of Directors given by a resolution at a meeting of the Board and subject to such conditions as may be prescribed, no company shall enter into any contract or arrangement with a related party with respect to—

(a) sale, purchase or supply of any goods or materials;

(b) selling or otherwise disposing of, or buying, property of any kind;

(c) leasing of property of any kind;

(d) availing or rendering of any services;

(e) appointment of any agent for purchase or sale of goods, materials, services or property;

(f) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and

(g) underwriting the subscription of any securities or derivatives thereof, of the company.

Provided that no contract or arrangement, in the case of a company having a paid-up share capital of not less than such amount, or transactions not exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a resolution.

Provided further that no member of the company shall vote on such resolution, to approve any contract or arrangement which may be entered into by the company, if such member is a related party.

Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business other than transactions which are not on an arm's length basis.

Provided also that the requirement of passing the resolution under first proviso shall not be applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

Explanation.—

In this sub-section,—

(a) the expression "office or place of profit" means any office or place—

(i) where such office or place is held by a director, if the director holding it receives from the company anything by way of remuneration over and above the remuneration to which he is entitled as director, by way of salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

(ii) where such office or place is held by an individual other than a director or by any firm, private company or other body corporate, if the individual, firm, private company or body corporate holding it receives from the company anything by way of remuneration, salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

(b) the expression "arm's length transaction" means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

RIGHT TO INFORMATION ACT, 2005

Section 2(i) – Modified

(i) "record" includes—

(a) any document, manuscript and file;

(b) any microfilm, microfiche and facsimile copy of a document;

(c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and

(d) any other material produced by a computer or any other device;

Explanation –

The expression "authority or body or institution of self-government established or constituted" by any law made by Parliament shall not include any association or body of individuals registered or recognized as political party under the Representation of the People Act, 1951.

Section 31 – Inserted

The Freedom of Information Act, 2002 is hereby repealed.

Section 32 – Inserted

Notwithstanding anything contained in any judgement, decree or order of any court or commission, the provisions of this Act, as amended by the Right to Information (Amendment) Act, 2013, shall have effect and shall be deemed always to have effect, in the case of any association or body of individuals registered or recognized as political party under the Representation of the People Act, 1951 or any other law for the time being in force and the rules made or notifications issued thereunder.

Paper - 7

DIRECT TAXATION

AMENDMENTS BROUGHT IN BY THE FINANCE ACT, 2015

AMENDMENTS MADE IN INCOME-TAX ACT

Rates of income-tax for Assessment Year 2016-17

1. Normal rates of Income Tax

(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 or any other AOP or BOI which is taxable at maximum marginal rate) whether incorporated or not, or every artificial judicial person

Upto ₹ 2,50,000	Nil
₹ 2,50,010 to ₹ 5,00,000	10%
₹ 5,00,010 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 ₹ 3,00,000	Nil
₹3,00,010 to ₹5,00,000	10%
₹5,00,010 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
₹5,00,010 to ₹10,00,000	20%
Above ₹ 10,00,000	30%

Note:-

1. **Special rates of income tax:** Besides the normal rates, special rates of tax are applicable in case of certain incomes in the hands of various persons. These rates are given in Chapter XII of the Income Tax Act which are covered under sections 111A to 115BBE.
2. **Rebate of income tax under section 87A:** This rebate is allowed to an individual who is resident in India and whose total income (including the income taxable at special rates) does not exceed ₹5,00,000. The rebate available shall be 100% of income tax payable (before cess) or ₹2,000, whichever is less.

Surcharge: The amount of income-tax computed in accordance with the above normal and special rates shall be increased by a surcharge at the rate of 12% of such income-tax in case of a person referred to in clause (A) above 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.

Illustration 1.

Marginal relief

The total income of R for the assessment year 2016-17 is ₹ 1,01,20,000. Compute the tax payable by R for the assessment year 2016-17.

	₹	₹
Tax on ₹ 1 crore		
On first ₹2,50,000		Nil
Next ₹2,50,000 — 10%		25,000
Next ₹5,00,000 — 20%		1,00,000
Balance ₹90,00,000 — 30%		27,00,000
		28,25,000
Tax on ₹ 1,20,000 which is above ₹1 crore (₹ 1,20,000 @ 30%)		36,000
Total tax		28,61,000
Additional income above ₹1 crore	1,20,000	
Tax payable	36,000	
Balance income	84,000	
Surcharge on ₹28,61,000 @ 12% — ₹3,43,320		
∴ Surcharge in this case shall be ₹84,000 or ₹3,43,320 whichever is less due to marginal relief		84,000
Tax including surcharge		29,45,000
Add: Education cess & SHEC @ 3%		88,350
		30,33,350

Illustration 2.

What shall be your answer if the total income is ₹ 1,04,50,000 instead of ₹1,01,20,000.

		₹
Tax on ₹ 1 crore (as above)		28,25,000
Tax on ₹4,50,000 which is above ₹1 crore		1,35,000
		29,60,000
Additional income above ₹1 crore	4,50,000	
Less: Tax payable @ 30%	1,35,000	
Balance income	3,15,000	
Surcharge @ 12% on ₹ 29,60,000	3,55,200	
∴Surcharge in this case shall be ₹ 3,15,000 or ₹ 3,55,200 whichever is less		3,15,000
		32,75,000
Add: Education cess & SHEC @ 3%		98,250
		33,73,250

Illustration 3.

What will be your answer if the total income is ₹ 1,06,00,000

		₹
Tax on ₹ 1 crore		28,25,000
Tax on ₹ 6,00,000		1,80,000
Total tax		30,05,000
Additional income above ₹ 1 crore	6,00,000	
Less: Tax payable @ 30%	1,80,000	
Balance income	4,20,000	
Surcharge @ 12% on ₹ 30,05,000	3,60,600	
∴Surcharge in this case shall be ₹ 4,20,000 or ₹ 3,60,600 whichever is less (In this case there is no marginal relief)		3,60,600
		33,65,600
Add: Education cess & SHEC @ 3%		1,00,968
		34,66,568

(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 computed as per the normal and special rates shall be increased by a surcharge at the rate of 12% 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 computed as per the normal and special rates shall be increased by a surcharge at the rate of 12% 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: The surcharge @ 7% of income tax computed as per the normal and special rates shall be levied if the total income of the domestic company exceeds ₹ 1 crore but does not exceed ₹10 crore.

The surcharge at the rate of 12% of income tax computed as per the normal and special rates shall be levied if the total income of the domestic company exceeds ₹10 crore.

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. 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: In case of companies other than domestic companies, the surcharge of 2% of income tax computed as per the normal and special rates shall be levied if the total income of such company exceeds ₹ 1 crore but does not exceed ₹10 crore.

The surcharge at the rate of 5% of income tax computed as per the normal and special rates shall be levied if the total income of the company other than domestic company exceeds ₹10 crore.

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. 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 to section 2(13A)

Section 2(13A) defines "business trust". It has been amended with effect from the assessment year 2016-17. Under the amended definition "business trust" means a trust registered as,-

a. an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the SEBI Act; or

b. a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the SEBI Act, and

the units of which are required to be listed on a recognized stock exchange in accordance with the aforesaid regulations.

3. Rationalisation of definition of charitable purpose in the Income-tax Act [Section 2(15)] [W.e.f. A.Y. 2016-17]

(A) Yoga to be treated as separate limb of charitable purpose

The activity of Yoga has been one of the focus areas in the present times and international recognition has also been granted to it by the United Nations. Therefore, the Act has included 'yoga' as a separate category in the definition of charitable purpose on the lines of education.

Thus, 'yoga' like relief to the poor, education, medical relief, etc. will constitute an independent limb of charitable purpose and the trust can carry on commercial activities without any financial limit if such activity is incidental to the attainment of the objectives of the trust.

(B) Trust/institution covered under advancement of any other object of general public utility can do commercial activities upto 20% of its total receipts as against ₹25,00,000 allowed earlier

In so far as the advancement of any other object of general public utility is concerned, there is a need to ensure appropriate balance being drawn between the object of preventing business activity in the garb of charity and at the same time protecting the activities undertaken by the genuine organization as part of actual carrying out of the primary purpose of the trust or institution.

The Act has, therefore, merged the first and second provisos given under section 2(15) relating to the definition of charitable purpose to provide that the advancement of any other object of general public utility **shall not be a charitable purpose,** if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, **unless,**—

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; **and**

(ii) the aggregate receipts from such activity or activities, during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, for the previous year.

4. Subsidy or grant or cash incentive, duty drawback etc. deemed to be income [Section 2(24)(xviii)] [W.e.f. A.Y. 2016-17]

The Finance Act, 2015 has inserted clause (xviii) in section 2(24) which provides as under:

"assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of Explanation 10 to section 43(1)." shall be deemed to be income.

Amendments relating to determination of residential status

5. CBDT empowered to prescribe the manner and procedure for computing period of stay in India of an Indian citizen who is a member of the crew of a foreign bound ship [Explanation 2 to section 6(1) inserted] [W. r. e. f. A.Y. 2015-16]

The provisions of section 6(1) provide the conditions under which an individual is held to be resident in India. The determination is based, inter alia, on the number of days during which such individual has been in India during a previous year.

In the case of foreign bound ships, where the destination of the voyage is outside India, there is uncertainty with regard to the manner and basis of determination of the period of stay in India for crew members of such ships who are Indian citizens.

In view of the above, the Act has inserted Explanation 2 to section 6(1) to provide that in the case of an Individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.

6. The conditions for determining residential status in respect of a company amended [Substitution of section 6(3)] [W.e.f. A.Y. 2016-17]

The Act has substituted the existing clause (3) to section 6 by a new clause (3) to provide as under:

A company shall be said to be resident in India in any previous year, if—

(i) it is an Indian company; or

(ii) d uring that year, the control and management of its affairs is situated wholly in India.

Further, the Act has inserted the following Explanation under section 6(3) to define the place of effective management.

"For the purposes of this clause "place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made."

Since POEM is an internationally well accepted concept, there are well recognised guiding principles for determination of POEM although it is a fact dependent exercise. However, in due course, a set of guiding principles to be followed in determination of POEM would be issued for the benefit of the taxpayers as well as, tax administration.

Amendments relating to income deemed to accrue or arise in India

7. Modifications pertaining to indirect transfer provisions [Sec. 9(1)(i)]

Section 9(1)(i) provides a set of circumstances in which income accruing or arising, directly or indirectly, is taxable in India. The said clause provides that all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a capital asset situated in India shall be deemed to accrue or arise in India.

Modifications by the Finance Act, 2012 - The Finance Act, 2012 inserted certain clarificatory amendments in the provisions of section 9. The amendments, inter alia, included insertion of the Explanation 5 to section 9(1)(i) with retrospective effect from the assessment year 1962-63. The Explanation 5 (clarified that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India, shall be deemed to be situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

- Meaning of the expression "substantially" -The Delhi High Court in the case of DIT v. Copal Research Ltd. [2014] 49 taxmann.com 125 (Delhi) examined the meaning of expression "substantially" and concluded that the expression "substantially" would necessarily have to be read as synonymous to "principally", "mainly" or at least "majority", Explanation 5 must be read restrictively and at best to cover situations where in substance the assets in India are transacted by transferring in shares of overseas holding companies and not to transactions where assets situated overseas are transacted which also derive some value on account of assets situated in India. In view of the above, the court held that gains arising from sale of a share of a company incorporated overseas, which derives less than 50 per cent of its value from assets situated in India would certainly not be taxable under section 9(1)(i), read with the Explanation 5 thereto.

Amendment - Considering the concerns raised by various stakeholders regarding the scope and impact of the above amendments, an Expert Committee under the Chairmanship of Dr. Parthasarathi Shome was constituted by the Government to go into various aspects relating to the amendments. The recommendations of the Expert Committee were considered and a number of recommendations (either in full or with partial modifications) have been accepted for implementation either by way of an amendment to the Act or by way of issuance of a clarificatory circular in due course. In order to give effect to the recommendations, the following amendments have been made (with effect from the assessment year 2016-17) to section 9 (and other sections) relating to indirect transfer -

"Substantial" - The share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date the value of Indian assets,-

a. exceeds the amount of ₹ 10 crore; and

b. represents at least 50 per cent of the value of all the assets owned by the company or entity.

Value of asset - Value of an asset shall mean the fair market value of such an asset without reduction of liabilities, if any, in respect of the asset.

Specified date - The specified date of valuation shall be the date on which the accounting period of the company or entity ends (i.e., March 31 or accounting period end date, as the case may be) preceding the date of transfer. If, however, the book value of the assets of the company or entity on the date of transfer exceeds by at least 15 per cent of the book value of the assets as on the last balance sheet date preceding the date of transfer, then instead of the date mentioned above, the date of transfer shall be the specified date of valuation.

Mode of determination of fair market value - The manner of determination of fair market value of the Indian assets vis-a-vis global assets of the foreign company shall be prescribed in the rules.

Taxation on proportionate basis - The taxation of gains arising on transfer of a share or interest deriving, directly or indirectly, its value substantially from assets located in India will be on proportional basis. The method for determination of proportionality will be specified in the rules.

Exemption in case foreign entity that is transferred directly owns Indian assets - Exemption shall be available to the transferor of a share of, or interest in, a foreign entity if the transferor (along with its associated enterprises) -

a. neither holds the right of control or management;

b. nor holds voting power or share capital or interest exceeding 5 per cent of the total voting power or total share capital,

in the foreign company or entity directly holding the Indian assets.

Exemption in case foreign entity that is transferred indirectly owns Indian assets through another company - In case the transfer is of snares or interest in a foreign entity which does not hold the Indian assets directly then the exemption shall be available to the transferor if the transferor (along with its associated enterprises),-

a. neither holds the right of management or control in relation to such company or the entity,

b. nor holds any rights in such company which would entitle it to either exercise control or management of the direct holding company or entity or entitle it to voting power exceeding 5 per cent in the direct holding company or entity.

Exemption in the case of amalgamation/demerger - The transfer of shares in a foreign company (deriving value of assets substantially from assets situated in India) on account of amalgamation/demerger of foreign companies will be exempt from tax subject to the satisfaction of the following conditions of section 47(viab)/(vicc) –

In case of amalgamation	In case of demerger
1. At least 25 per cent of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company.	1. The shareholders, holding not less than 75 per cent in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company.
2. Such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated.	2. Such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated.
	3. The provisions of sections 391 to 394 of the Companies Act, 1956 shall not apply in case of demergers given above.

Reporting obligation on Indian concern - There shall be a reporting obligation on Indian concern through or in which the Indian assets are held by the foreign company or the entity. The Indian entity shall be obligated to furnish information relating to the off-shore transaction having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity. In case of any failure on the part of Indian concern in this regard a penalty shall be leviable. The quantum of penalty in such case shall be -

a. a sum equal to 2 per cent of the value of the transaction in respect of which such failure has taken place in case where such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern; and

b. a sum of ₹ 5 lakh in any other case.

Example:

Consider the case given below -

Who is transferor	N Inc. (a company incorporated in country N)
Who is transferee	C Inc. (a company incorporated in country C)
What is transferred by N Inc.	Shares in E Inc.
In which country E Inc. is located	E Inc. is located in country E
Where shares are transferred	In country N or C or E or any other country (but not in India)
Where sale proceeds of shares are received by Nine.	Sale proceeds of shares are received in US Dollars in a country outside India
What is Indian connection in this transfer	E Inc. has assets (tangible/intangible) located in India
Whether capital gain arising to N Inc. is taxable in India	It depends upon additional information which is given below.

	Situation 1	**Situation 2**	**Situation 3**	**Situation 4**	**Situation 5**	**Situation 6**
Date of transfer	June 25, 2015	June 25, 2015	June 25, 2015	June 25, 2015	June 25, 2015	June 25, 2015
Last date of the accounting period of E Inc.	December 31,2014	December 31,2014	December 31,2014	December 31,2014	December 31,2014	December 31,2014
Book value of assets of E Inc. on June 25, 2015						
- located in India	₹ 56 crore	₹ 59 crore	₹ 57 crore	₹ 10 crore	₹ 11 crore	₹ 10 crore
- located outside India	₹ 58 crore	₹ 57 crore	₹ 59 crore	₹ 5 crore	₹ 7 crore	₹ 8 crore
Book value of assets of E Inc. on December 31, 2014						
- located in India	₹ 60 crore	₹ 60 crore	₹ 60 crore	₹ 11 crore	₹ 10 crore	₹ 11 crore
- located outside India	₹ 40 crore	₹ 40 crore	₹ 40 crore	₹ 7 crore	₹ 5 crore	₹ 4 crore

E Inc. has liabilities (pertaining to these assets) which are situated in India and outside India. There is no amalgamation or demerger of N Inc. and C Inc. N Inc. owns (individually and along with its associated enterprises) more than 5 per cent shares in E Inc. during 12 months ending on the date of transfer. However, N Inc. does not hold right of management or control in relation to E Inc. at any time during 12 months ending on the date of transfer. Book value of assets and fair market value of assets are the same.

Solution:

		Situation 1	Situation 2	Situation 3	Situation 4	Situation 5	Situation 6
Book value of global assets of E Inc. on December 31, 2014 (i.e., last date of accounting year immediately before date of transfer)	(a)	₹ 100 crore	₹ 100 crore	₹ 100 crore	₹ 18 crore	₹ 15 crore	₹ 15 crore
Book value of global assets of E Inc. on June 25, 2015 (i.e., date of transfer)	(b)	₹ 114 crore	₹ 116 crore	₹ 116 crore	₹ 15 crore	₹ 18 crore	₹ 18 crore
Whether (b) exceeds (a) by more than 15% of (a)	(c)	No	Yes	Yes	No	Yes	Yes
Specified date [it is last date of accounting year, if (c) is "No"] (otherwise it is date of transfer)	(d)	December 31,2014	June 25, 2015	June 25, 2015	December 31,2014	June 25, 2015	June 25, 2015
Fair market value of assets owned by E Inc. in India on specified date	(e)	₹ 60 crore	₹ 59 crore	₹ 57 crore	₹ 11 crore	₹ 11 crore	₹ 10 crore
Fair market value of assets owned by E Inc. outside India on specified date	(f)	₹ 40 crore	₹ 57 crore	₹ 59 crore	₹ 7 crore	₹ 7 crore	₹ 8 crore
Percentage of Indian assets of E Inc. on specified date [(e) ÷ {(e) + (f)}]	(g)	60%	50.86%	49.14%	61.11%	61.11%	55.56%
Whether income of N Inc. from transfer of shares in E Inc. is chargeable to tax in India		Yes [Note 1]	Yes [Note 1]	No [Note 2]	Yes [Note 1]	Yes [Note 1]	No [Note 3]

Notes -

1. Income of N Inc. in respect of transfer of shares in E Inc. outside India is taxable in India on proportionate basis, as the transaction satisfies the following conditions -
   a. fair market value of Indian assets of E Inc. on the specified date is more than ₹ 10 crore;
   b. Indian assets of E Inc. on the specified date are more than 50% of its global assets;
   c. transfer of shares is not on account of amalgamation/demerger of N Inc. and C Inc.;
   d. N Inc. owns (individually and along with its associated enterprises) more than 5 per cent shares in E Inc.
2. Indian assets of E Inc. on the specified date are not more than 50% of its global assets. Consequently, nothing is taxable in India in the hands of N Inc.
3. The fair market value of Indian assets of E Inc. on the specified date is not more than ₹10 crore. Consequently, nothing is taxable in India in the hands of N Inc.

Example:

In example above, assume that fair market value of assets is different from book value of assets. Fair market value of assets is given below (no change in book value as given in the original example) -

	Situation 1	Situation 2	Situation 3	Situation 4	Situation 5	Situation 6
Fair market value of assets of E Inc. on June 25, 2015						
– located in India	₹ 85 crore	₹ 60 crore	₹ 69 crore	₹ 17 crore	₹ 12 crore	₹ 11 crore
– located outside India	₹ 90 crore	₹ 58 crore	₹ 67 crore	₹ 8 crore	₹ 9 crore	₹ 10 crore

Fair market value of assets of E Inc. on December 31, 2014						
- located in India	₹ 70 crore	₹ 61 crore	₹ 61 crore	₹ 12 crore	₹ 10 crore	₹ 12 crore
- located outside India	₹ 80 crore	₹ 41 crore	₹ 41 crore	₹ 13 crore	₹ 6 crore	₹ 6 crore

Solution:

Determination of "specified date" is based upon book value of assets. Consequently, specified date (as given in the original example) will have to be adopted.

		Situation 1	**Situation 2**	**Situation 3**	**Situation 4**	**Situation 5**	**Situation 6**
Specified date (as given in the original example)	(d)	December 31,2014	June 25,2015	June 25,2015	December 31,2014	June 25,2015	June 25,2015
Fair market value of assets owned by E Inc. in India on specified date	(e)	₹ 70 crore	₹ 60 crore	₹ 69 crore	₹ 12 crore	₹ 12 crore	₹ 11 crore
Fair market value of assets owned by E Inc. outside India on specified date	(f)	₹ 80 crore	₹ 58 crore	₹ 67 crore	₹ 13 crore	₹ 9 crore	₹ 10 crore
Percentage of Indian assets of E Inc. on specified date [(e) ÷{(e)+(f)}]	(g)	46.67%	50.85%	50.74%	48%	57.14%	52.38%
Whether income of N Inc. from transfer of shares in E Inc. is chargeable to tax in India		No [Note 2]	Yes [Note 1]	Yes [Note 1]	No [Note 2]	Yes [Note 1]	Yes [Note 1]

Notes -

1. Income of N Inc. in respect of transfer of shares in E Inc. outside India is taxable in India on proportionate basis, as the transaction satisfies the following conditions -
   a. fair market value of Indian assets of E Inc. on the specified date is more than ₹10 crore;
   b. Indian assets of E Inc. on the specified date is more than 50% of its global assets;
   c. transfer of shares is not on account of amalgamation/demerger of N Inc. and C Inc.;
   d. N Inc. owns (individually and along with its associated enterprises) more than 5 per cent shares in E Inc.
2. Indian assets of E Inc. on the specified date are not more than 50% of its global assets. Consequently, nothing is taxable in India in the hands of N Inc.

In example above, assume that there is amalgamation/demerger of N Inc. and C Inc. However, amalgamation/demerger does not satisfy the conditions of section 47(viab)/(vicc).

- As conditions of section 47(viab)/(vicc) are not satisfied, exemption is not available to N Inc. Consequently, N Inc. is chargeable to tax in Situations 2, 3, 5 and 6.

In example above, assume that N Inc. owns (individually and along with its associated enterprises) 5 per cent (or less) shares in E Inc. during 12 months ending on the date of transfer.

- Nothing will be taxable in the hands of N Inc. in India if N Inc. does not hold right of management or control in relation to E Inc. at any time during 12 months ending on the date of transfer. Conversely, if N Inc. holds such right of management or control in relation to E Inc., it will be chargeable to tax in Situations 2, 3, 5 and 6.

8. Interest paid by Indian PE to its foreign head office bank [Sec. 9(1)(v)]

When interest is payable by an Indian branch of a foreign bank to its overseas head office, it is deductible while computing income of Indian branch. Moreover, in the hands of recipient head office, the same is not taxable in India as payer and recipient are the same. Tax is not deductible by the payer Indian branch.

Many judicial rulings are available on this point - Sumitomo Mitsui Banking Corpn. v. DIT [2012] 19 taxmann.com 364 (Mum.), Bank of Tokyo Mitsubishi UFJ Ltd. v. ADIT[2014] 49 taxmann.com 441 (Delhi-Trib.), Deutche Bank AG v. Asstt. DIT[2014] 47 taxmann.com 378 (Mum.-Trib.), ADIT v. Mizuho Corporate Bank Ltd. [2014] 48 taxmann.com 104 (Mum.-Trib.).

Amendment - To supersede the aforesaid ruling, section 9(1)(v) has been amended with effect from the assessment year 2016-17. The modified version is applicable if the following conditions are satisfied -

1. The assessee is a non-resident and engaged in the business of banking.
2. Interest is payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India.

If the above two conditions are satisfied, the permanent establishment in India shall be deemed to be a person separate and independent of the non-resident person of which it is a permanent establishment and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery would apply.

Section 9(1)(v) has been amended in order to provide that in the case of a non-resident, being a person engaged in the business of banking, any interest payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the permanent establishment in India.

Accordingly, the PE in India shall be obligated to deduct tax at source on any interest payable to either the head office or any other branch or PE, etc., of the non-resident outside India. Further, non-deduction would result in disallowance of interest claimed as expenditure by the PE and may also attract levy of interest and penalty in accordance with relevant provisions of the Act.

9. Fund Managers in India not to constitute business connection of offshore funds [Section 9A] [W.e.f. A.Y. 2016-17]

There are a large number of fund managers who are of Indian origin and are managing the investment of offshore funds in various countries. These persons are not locating in India due to the above tax consequence in respect of income from the investments of offshore funds made in other jurisdictions.

In order to facilitate location of fund managers of off-shore funds in India, section 9A has been inserted in the Act in line with international best practices which provides as under,—

(1) 'Fund management activity' in case of an 'eligible investment fund' carried out through an 'eligible fund manager' shall not constitute business connection in India [Section 9A(1)]

(2) 'Eligible investment fund' will not be treated as resident in India even if 'eligible fund manager' is situated in India [Section 9A(2)]

Amendments relating to income exempt from tax

10. Income of Swachh Bharat Kosh and Clean Ganga Fund to be exempt from income-tax [Section 10(23C)] [W.r.e.f. A.Y. 2015-16]

Considering the importance of Swachh Bharat Kosh and Clean Ganga Fund, the Act has amended section 10(23C) of the Act so as to exempt the income of Swachh Bharat Kosh and Clean Ganga Fund set up by the Central Government from income-tax.

11. Exemption to income of Core Settlement Guarantee Fund (SGF) set up by the recognised Clearing Corporations [Section 10(23EE)] [Inserted w.e.f. A.Y. 2016-17]

Section 10(23EE) has been inserted to exempt the income of the Core SGF set up by recognised clearing corporation in accordance with regulation as the Central Government may by notification in the Official Gazette specify in this behalf.

12. Income of Investment Fund other than the income chargeable under the head PGBP to be exempt [Section 10(23FBA)] [W.e.f. A.Y. 2016-17]

13. Proportionate income received by unit holder from investment fund which was taxable under PGBP in the hands of the investment fund to be exempt [Section 10(23FBB)] [Inserted w.e.f. A.Y. 2016-17]

14. Income by way of renting or leasing or letting out any real estate asset owned directly by a real estate investment trust to be exempt in the hands of real estate investment trust [Section 10(23FCA)] [Inserted w.e.f. A.Y. 2016-17]

15. Exemption u/s 10(38) in respect of long-term capital gain to be available to the sponsor of business trust [Section 10(38)] [W.e.f. A.Y. 2016-17]

16. Rationalisation of provisions of section 11 relating to accumulation of Income by charitable trusts and institutions [Section 11 & 13] [W.e.f. A.Y. 2016-17]

The following amendments have been made by the Finance Act, 2015 relating to accumulation of income by charitable trusts and institutions:

(A) Amendment of the provisions relating to the income which is treated as deemed to have been applied in the previous year [Clause (2) of the Explanation to section 11(1)] [W.e.f. A.Y. 2016-17]

The existing clause (2) to the Explanation to section 11(1) provides as under:

If the income applied to charitable or religious purposes during the previous year falls short of 85% of the income derived during the year either:

(a) for the reason that whole or part of the income has **not been received during the previous year,** or

(b) for any other reason,

then the charitable trust has been given the option to spend such income for charitable or religious purposes in the following manner:

(i) In case of (a) either during the previous year in which the income is so received or in the immediately following previous year.

(ii) In case of (b) during the previous year immediately following the previous year in which the income was derived.

To avail the facility of the above extended period of application of income, the **trust has to exercise such option in writing before the due date of filing return under section 139(1).**

The words given in bold above have been substituted by the following words:

The trust has to excise such option before the expiry of the time allowed under section 139(1) for furnishing the return of income **in such form or manner as may be prescribed.**

In other words, the words 'in writing' have been substituted by the words in such form or manner as may be prescribed.

(B) Provisions relating to accumulation of income in excess of 15% of the income earned amended [Section 11(2)] [W.e.f. A.Y. 2016-17]

As per section 11(1)(a), the assessee is allowed to accumulate indefinitely upto 15% of the income earned during the year for application for charitable or religious purposes in India in future. If the assessee wants to accumulate or set apart the income in addition to 15% of the income, he cannot do so unless certain conditions prescribed under section 11(2) are satisfied. In this case, the amount accumulated in excess of 15% shall be deemed to have been applied for charitable or religious purposes in India during the previous year itself.

Conditions to be satisfied under existing section 11(2):

(1) Such assessee should give a notice, in writing, in the prescribed form [F. No. 10] and manner, to the Assessing Officer specifying:

(a) the purpose for which the income is being accumulated or set apart;

(b) the period for which the income is to be accumulated or set apart. Such period should not exceed 5 years in any case.

(2) The money so accumulated or set apart should be invested or deposited in the form or mode specified in section 11(5).

In order to remove the ambiguity regarding the period within which the assessee is required to file Form 10, and to ensure due compliance of the above conditions within time, the existing conditions mentioned in sub-section (2) of section 11 have been substituted by the following:

Exemption under section 11(2) shall be allowed subject to the following conditions being satisfied:

"(a) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in section 11(5);

(c) the statement referred to in clause (a) is furnished on or before the due date specified under section 139(1) for furnishing the return of income for the previous year.

Provided that in computing the period of five years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Consequential amendment due to the new conditions specified under section 11(2)

Exemption under section 11(2) not be allowed unless the statement mentioned in section 11(2)(a) and the return of income of the trust is furnished before the due date of filing the return specified under section 139(1) [Section 13(9) inserted w.e.f. A.Y. 2016-17]

As per section 13(9), nothing contained in section 11(2) shall operate so as to exclude any income from the total income of the previous year of a person in receipt thereof, if—

(i) the statement referred to in clause (a) of section 11(2) (mentioned above) in respect of such income is not furnished on or before the due date specified under section 139(1) for furnishing the return of income for the previous year; or

(ii) the return of income for the previous year is not furnished by such person on or before the due date specified under section 139(1) for furnishing the return of income for the said previous year.

In other words, benefit of accumulation shall not be allowed under section 11(2) unless the said statement in prescribed form as well as the return of income are furnished before the due date of filing the return of income specified under section 139(1).

Amendments relating to "income from Business and Profession"

17. Allowance of balance 50% additional depreciation [Third proviso to section 32(1)(ii) inserted] [W.e.f. A.Y. 2016-17]

To encourage investment in plant or machinery by the manufacturing and power sector, additional depreciation of 20% of the cost of new plant or machinery acquired and installed is allowed under the existing provisions of section 32(1)(iia) of the Act over and above the general depreciation allowance. On the lines of allowability of general depreciation allowance, the second proviso to section 32(1) inter alia provides that the additional depreciation would be restricted to 50% when the new plant or machinery acquired and installed by the assessee, is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in the previous year. Non-availability of full 100% of additional depreciation for acquisition and installation of new plant or machinery in the second half of the year may motivate the assessee to defer such investment to the next year for availing full 100% of additional depreciation in the next year. To remove the discrimination in the matter of allowing additional depreciation on plant or machinery used for less than 180 days and used for 180 days or more, the Act has inserted following third proviso to section 32(1)(ii).

Provided also that where an asset referred to in section 32(1)(iia) (i.e. eligible for addition depreciation @ 20%) or the **first proviso to section 32(1)(iia) (i.e. eligible for addition depreciation @ 35%),** as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than one hundred and eighty days in that previous year, and the deduction under this sub-section in respect of such asset is restricted to 50% of the amount calculated at the percentage prescribed for an asset under section 32(1)(iia) for that previous year, then, the deduction for the balance 50% of the amount calculated at the percentage prescribed for such asset under section 32(1)(iia) shall be allowed under this sub-section in the immediately succeeding previous year in respect of such asset.

18. Incentives for the State of Andhra Pradesh, State of Bihar, State of Telangana or State of West Bengal [Section 32(1)(iia) & 32AD] [W.e.f. A.Y. 2016-17]

In order to encourage the setting up of industrial undertakings in the backward areas of the State of Andhra Pradesh, State of Bihar, State of Telangana or State of West Bengal, the Act has provided following Income-tax incentives:

(A) Additional Depreciation at the rate of 35 %

To incentivise investment in new plant or machinery, additional depreciation of 20% is allowed under the existing provisions of section 32(1)(iia) of the Act in respect of the cost of plant or machinery acquired and installed by certain assessees. This depreciation allowance is allowed over and above the deduction allowed for general depreciation under section 32(1)(ii) of the Act. In order to incentivise acquisition and installation of plant and machinery for setting up of manufacturing units in the notified backward area in the State of Andhra Pradesh, or in the State of Bihar, or in the State of Telangana or in the State of West Bengal, the Act has allowed higher additional depreciation at the rate of 35% (instead of 20%) in respect of the actual cost of new machinery or plant (other than a ship and aircraft) acquired and installed by a manufacturing undertaking or enterprise which is set up in the notified backward area in the State of Andhra Pradesh, or in the State of Bihar, or in the State of Telangana or in the State of West Bengal on or after 1.4.2015. This higher additional depreciation shall be available in respect of acquisition and installation of any new machinery or plant for the purposes of the said undertaking or enterprise during the period beginning on the 1.4.2015 and ending before 1.4.2020. The eligible machinery or plant for this purpose shall not include the machinery or plant which are currently not eligible for additional depreciation as per the existing proviso to section 32(1)(iia) of the Act.

Consequential amendments have been made in the second proviso to section 32(1)(ii) of the Act for applying the existing restriction of the allowance to the extent of 50% for assets used for the purpose of business for less than 180 days in the year of acquisition and installation. However, the balance 50% of the allowance will be allowed in the immediately succeeding financial year.

(B) Investment in new plant and machinery in notified backward areas in certain States [Section 32AD]

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

A new section 32AD has been inserted in the Act to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee (whether company or non-company), if—

(a) he sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 01.04.2015 in any backward area notified by the Central Government in this behalf in the State of Andhra Pradesh, or in the State of Bihar, or in the State of Telangana or in the State of West Bengal; and

(b) the new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from 01.04.2015 & ending before 01.04.2020.

The deduction will be available for the assessment year relevant to the previous year in which the new asset is installed. But in order to avail benefit under section 32AD, the new asset must both be acquired and installed on or after 01.04.2015 but on or before 31.03.2020.

This deduction shall be available over and above the existing deduction available under section 32AC of the Act which is allowed only to a company assessee. Accordingly, if an undertaking is set up in the notified backward areas in the State of Andhra Pradesh, or in the State of Bihar, or in the State of Telangana or in the State of West Bengal by a company, it shall be eligible to claim deduction under the existing provisions of section 32AC of the Act as well as under the new section 32AD if it fulfills the conditions (such as investment above a specified threshold of ₹ 25 crore) specified in the said section 32AC and conditions specified under section 32AD.

(2) Meaning of new asset [Section 32AD(4)]

"New asset" means any new plant or machinery (other than a ship or aircraft), but does not include—

(a) any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;

(b) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(b) any office appliances including computers or computer software;

(c) any vehicle;

(d) 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.

Note:-

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.

(3) Consequences if the new asset acquired and installed is transferred within a period of 5 years from the date of its installation except in connection with the amalgamation or demerger or reorganization of business [Section 32AD(2)]

If any new asset acquired and installed by the assessee is sold or otherwise transferred except in connection with the amalgamation or demerger or reorganisation of business referred to in section 47(xiii), (xiiib) or (xiv), 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 32AD(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.

(4) Consequences if amalgamated company or resulting company or the successor referred to in section 47(xiii), (xiiib) or (xiv), as the case may be, transfers such assets within 5 years from the date of installation by the amalgamating company or demerged company or the predecessor referred to in section 47(xiii), (xiiib) or (xiv) [Section 32AD(3)]

If after amalgamation or demerger or reorganisation of business referred to in section 47(xiii), (xiiib) or (xiv), the amalgamated company or the resulting company or the successor, 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 or the predecessor referred to in section 47(xiii), (xiiib) or (xiv), then the amalgamated company or resulting company or the successor shall be taxed in the same manner as it would have been taxed in the hands of the amalgamating or demerged company or the predecessor, as the case may be.

19. Prescribed conditions relating to maintenance of accounts, audit etc to be fulfilled by the approved in-house R&D facility [Section 35(2AB)] [W.e.f. A.Y. 2016-17]

In order to have a better and meaningful monitoring mechanism for weighted deduction allowed under section 35(2AB) of the Act, the Act has amended the provisions of section 35(2AB)(3) of the Act to provide that deduction under the said section shall be allowed if the company enters into an agreement with the prescribed authority for cooperation in such research and development facility and **fulfills such conditions with regard to maintenance of account and audit thereof and furnishing of reports in such manner as may be prescribed.**

20. Interest on borrowing for acquisition of an asset, till the date the asset is first put to use not to be allowed as deduction in all cases [Proviso to section 36(1)(iii)] [W.e.f. A.Y. 2016-17]

As per existing provisions of the proviso to section 36(1)(iii), no deduction shall be allowed in respect of any amount of interest paid, in respect of capital borrowed for acquisition of new asset **for extension of existing business or profession** (whether capitalised in the books of account or not) and such amount of interest is for the period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use. Hence, such interest shall be added to the cost of the asset.

The Finance Act, 2015 has omitted the words **"for extension of existing business or profession".**

Hence, the interest on money borrowed for acquisition of a new asset shall not be allowed as deduction till the asset is put to use, whether such asset is acquired for extension of existing business or otherwise. However, such interest shall be added to the cost of the asset.

21. Bad debts to be allowed as deduction only in the year in which they become irrecoverable on the basis of recently notified income computation and disclosure standards without recording the same in the accounts [Section 36(1)(vii)] [W.e.f. A.Y. 2016-17]

Where the amount of debt or part thereof which has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof becomes irrecoverable or of an earlier previous year on the basis of income computation and disclosure standards notified under section 145(2) without recording the same in the accounts, then, such debt or part thereof shall be allowed in the previous year in which such debt or part thereof becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the purposes of this clause.

22. Expenditure incurred by a cooperative society engaged in the business of manufacture of sugar for purchase of sugarcane at a specified price to be allowed as deduction [Section 36(1)(xvii)] [W.e.f. A.Y. 2016-17]

The amount of expenditure incurred by a cooperative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government shall be allowed as a deduction.

Amendments relating to Capital Gains

23. Transfer of shares of a foreign company in a scheme of amalgamation not to be regarded as a transfer [Section 47(viab)] [W.e.f. A.Y. 2016-17]

Any transfer, in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in Explanation 5 to section 9(1)(i), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company shall not be regarded as transfer, if—

(A) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

(B) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated;

Further, section 49(1)(iii)(e) of the Income-tax Act has also been amended to include transfer under section 47(viab) and to provide that the cost of acquisition of an asset acquired by the amalgamated company shall be the cost for which the amalgamating company acquired the capital asset as increased by the cost of improvement incurred or borne by the amalgamating company or the amalgamated company.

24. Transfer of shares of a foreign company in a scheme of demerger not to be regarded as a transfer [Section 47(vicc)] [W.e.f. A.Y. 2016-17]

Any transfer in a demerger, of a capital asset, being a share of a foreign company, referred to in Explanation 5 to section 9(1)(i), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company shall not be regarded as transfer, if,—

(a) the shareholders, holding not less than three-fourths in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and

(b) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated:

Provided that the provisions of sections 391 to 394 of the Companies Act, 1956 shall not apply in case of demergers referred to in this clause.

Further, section 49(1)(iii)(e) of the Income-tax Act has been amended to include transfer under section 47(vicc) and to provide that the cost of acquisition of an asset acquired by resulting company shall be the cost for which the demerged company acquired the capital asset as increased by the cost of improvement incurred by the demerged company.

25. Tax neutrality on merger of similar schemes of Mutual Funds [Section 47(xviii)] [Inserted w.e.f. A.Y. 2016-17]

Securities and Exchange Board of India has been encouraging mutual funds to consolidate different schemes having similar features so as to have simple and fewer numbers of schemes. However, such mergers/consolidations are treated as transfer and capital gains are imposed on unitholders under the Income-tax Act.

In order to facilitate consolidation of such schemes of mutual funds in the interest of the investors, the Act has provided tax neutrality to unit holders upon consolidation or merger of mutual fund schemes by inserting clause (xviii) in section 47.

Clause (xviii) provides as under:

any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund shall not be regarded as transfer.

Provided that the consolidation is of two or more schemes of equity oriented fund **or** of two or more schemes of a fund other than equity oriented fund.

Consequential amendments in other provisions due to insertion of clause (xviii) in section 47

(1) Cost of acquisition of the units of the consolidated scheme acquired in lieu of units held in a consolidating scheme [Section 49(2AD)] [Inserted w.e.f. A.Y. 2016-17]

Where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in section 47(xviii), the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund.

(2) Period of holding of units of consolidated scheme of mutual funds [Explanation 1 to section 2(42A)] [W.e.f. A.Y. 2016-17]

The following sub-clause (hd) has been inserted in the Explanation 1 to section 2(42A) for determining the time period of holding of the units acquired under the consolidated scheme:

"in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in section 47(xviii), there shall be **included** the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee".

26. Amendment to section 49

The following amendments have been made to section 49 with effect from the assessment year 2016-17:

- Securities and Exchange Board of India has been encouraging mutual funds to consolidate different schemes having similar features so as to have simple and fewer number of schemes. To provide tax neutrality, section 47 has been amended (as given above). Besides, section 49 has been amended with effect from the assessment year 2016-17 to provide the following –

    1. The cost of acquisition of the units of consolidated scheme shall be the cost of units in the consolidating scheme.

    2. Period of holding of the units of the consolidated scheme shall include the period for which the units in consolidating schemes were held by the assessee.

- Where shares in a company is acquired by a non-resident assessee on redemption of Global Depository Receipts [referred to in section 115AC(1)(b) held by such assessee], the cost of acquisition of such shares shall be calculated on the basis of the price prevailing on any recognised stock exchange on the date on which a request for such redemption was made.

27. Cost of acquisition of a capital asset in the hands of resulting company to be the cost for which the demerged company acquired the capital asset [Section 49(1)(iii)(e)] [W.e.f. A.Y. 2016-17]

Under section 47(vib) of the Income-tax Act any capital asset transferred by the demerged company to the resulting company in the scheme of demerger is not regarded as transfer if the resulting company is an Indian company. In such cases the cost of such asset in the hands of resulting company should be cost of such asset in the hands of demerged company as increased by the cost of improvement, if any, incurred by the demerged company. Further, the period of holding of such asset in the hands of resulting company should include the period for which the asset was held by the demerged company. Under the existing provisions of the Income-tax Act, there is no express provision to this effect. Accordingly, section 49(1)(iii)(e) of the Income-tax Act has been amended to include transfer under section 47(vib) and to provide that the cost of acquisition of an asset acquired by resulting company shall be the cost for which the demerged company acquired the capital asset as increased by the cost of improvement incurred by the demerged company.

Amendments relating to deductions from Gross Total Income

28. Tax benefits under section 80C for the girl child under the Sukanya Samriddhi Account Scheme [Section 80C] [W.r.e.f. A.Y. 2015-16]

Pursuant to the Budget announcement in July 2014, a special small savings instrument for the welfare of the girl child was introduced under the Sukanya Samriddhi Account Rules, 2014. The following tax benefits had been envisaged in the Sukanya Samriddhi Account scheme:

(i) The investments made in the Scheme will be eligible for deduction under section 80C of the Act.

(ii) The interest accruing on deposits in such account will be exempt from income tax.

(iii) The withdrawal from the said scheme in accordance with the rules of the said scheme will be exempt from tax.

The Scheme has been notified under section 80C(2)(viii) vide Notification number 9/2015 S.O.210(E), F. No. 178/3/2015-ITA-I dated 21.01.2015.

The Act has formulized the above benefits envisaged in the Sukanya Samriddhi Account scheme by making the following amendments in the Income Tax Act:

(1) Deduction under section 80C: As per section 80C(2), subscription made to Sukanya Samriddhi Account scheme by the individual in the name of any of the following persons referred to in section 80C(4)(ba) shall be eligible for deduction under section 80C:

   (i) individual, or (ii) any girl child of that individual, or (iii) any girl child for whom such person is the legal guardian, if the scheme so specifies.

(2) Withdrawal from the Sukanya Samriddhi Account shall be exempt under section 10(11A).

A new clause (11A) has been inserted in section 10 of the Act so as to provide that any payment from an account opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Saving Bank Act, 1873 shall not be included in the total income of the assessee. As a result, the interest accruing on deposits in, and withdrawals from any account under the scheme would be exempt.

Illustration:

R, an individual resident in India, aged 54 years, submits you the following information for the previous year 2015-16:

	₹
Income under the head salary	6,80,000
Income from house property (self occupied for residence)	(-) 2,00,000
Income from other sources	1,60,000
Amount deposited in PPF	1,20,000
Amount deposited in Sukanya Samridhi Account in the name of girl child	70,000

Compute the tax payable by R for the assessment year 2016-17.

Solution:

Computation of total income and tax payable R for the assessment year 2016-17

	₹	₹
Income under the head salary	6,80,000	
Less: Loss from House Property (self occupied)	2,00,000	4,80,000
Income from house property	(-) 2,00,000	
Less: Set off from income under the head salary	2,00,000	---
Income from other sources		1,60,000
Gross total income		6,40,000
Less: Deduction u/s 80C		
PPF	1,20,000	
Sukanya Samridhi Account	70,000	
	1,90,000	
But limited to maximum ₹ 1,50,000		1,50,000
Total income		4,90,000

	₹	₹
Tax on ₹4,90,000		
First ₹2,50,000	Nil	
Balance ₹2,40,000 — 10%	24,000	
	24,000	
Less: Rebate u/s 87A		
100% of tax or ₹ 2,000 whichever is less	2,000	
	22,000	
Add: Education cess and SHEC @ 3%	660	
	22,660	

29. Raising the limit of deduction under 80CCC [Section 80CCC] [W.e.f. A.Y. 2016-17]

Under the existing provisions contained in section 80CCC(1), an assessee, being an individual is allowed a deduction upto ₹ 1,00,000 in the computation of his total income, of an amount paid or deposited by him to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from a fund set up under a pension scheme.

In order to promote social security, the Act has amended section 80CCC(1) so as to raise the limit of deduction under section 80CCC from ₹ 1,00,000 to ₹ 1,50,000, within the overall limit provided in section 80CCE.

30. Additional deduction under 80CCD [Section 80CCD] [W.e.f. A.Y. 2016-17]

Under the existing provisions contained in section 80CCD(1) of the Income-tax Act, 1961 if an individual, employed by the Central Government on or after 1.1.2004, or being an individual employed by any other employer, or any other assessee being an individual has paid or deposited any amount in a previous year in his account under a notified pension scheme, a deduction of such amount not exceeding 10% of his salary in the case of an employee and 10% of the gross total income in case of any other individual is allowed. Similarly, the contribution made by the Central Government or any other employer to the said account of the individual under the pension scheme is also allowed as deduction under section 80CCD(2), to the extent it does not exceed 10% of the salary of the individual in the previous year. Section 80CCD(1A) provides that the amount of deduction under sub-section (1) shall not exceed ₹1,00,000. Till date, under section 80CCD, only the National Pension System (NPS) has been notified by the Ministry of Finance.

With a view to encourage people to contribute towards NPS, the following amendments have been made in section 80CCD:

(i) **Section 80CCD(1A) omitted:** Section 80CCD(1A) which allowed the deduction under section 80CCD(1) to the maximum extent of ₹ 1,00,000 has been omitted. Due to this omission, deduction under section 80CCD(1) will now be allowed within the overall limit of ₹ 1,50,000 provided in section 80CCE.

(ii) **Deduction of ₹ 50,000 under section 80CCD(1B):** In addition to the enhancement of the limit under section 80CCD(1), the Act has inserted a new sub-section (1B) to section 80CCD so as to provide for a deduction in respect of any amount paid, upto ₹50,000 for contributions made by any individual assessees under the NPS, **whether or not any deduction is allowed under section 80CCD(1).**

However, no deduction under section 80CCD(1B) shall be allowed in respect of the amount on which a deduction has been claimed and allowed under section 80CCD(1).

Consequential amendments have also made in section 80CCD(3) to specify that amount which was eligible for deduction under section 80CCD(1B) if, later on, withdrawn as per the scheme shall be taxable. Further, according to section 80CCD(4), the amount so contributed under section 80CCD(1B) shall not be eligible for deduction under section 80C.

Illustration:

R, aged 61 years, a resident in India, submits you the following information for the previous year ending 31-3-2016.

	₹
Income under the head salary	6,00,000
Income from house property	1,10,000
Income from other sources	30,000

He has contributed 10% of basic salary and dearness allowance amounting to ₹50,000 to National Pension Scheme referred to in section 80CCD(1) to which his employer contributes equal amount. He has also deposited ₹ 1,20,000 to his PPF. In addition to amount contributed under section 80CCD(1), he has deposited a sum of ₹ 45,000 in new pension scheme under section 80CCD(1B). Compute the tax payable by R for the assessment year 2016-17.

Solution:

Computation of total income and tax payable by R for the assessment year 2016-17

	₹	₹
Income under the head salary		6,00,000
Income from house property		1,10,000
Income from other sources		30,000
		7,40,000
Less: Deductions under Chapter VI-A		
Section 80C — PPF	1,20,000	
Section 80CCD — Employee contribution	50,000	
	1,70,000	
Limited to ₹ 1,50,000 under section 80CCE	1,50,000	
Employers contribution to National Pension Scheme (Not covered in the overall ceiling of ₹ 1,50,000 under section 80CCE)	50,000	
Contribution to National Pension Scheme covered under section 80CCD(1B)	45,000	2,45,000
Total income		4,95,000

		₹
Tax on ₹ 4,95,000		
First ₹ 3,00,000		Nil
Balance ₹ 1,95,000 — 10%		19,500
		19,500
Less: Rebate u/s 87A 100% of tax or ₹ 2,000 whichever is less		2,000
		17,500
Add: Education cess & SHEC @ 3%		525
		18,025
Rounded off		18,030

31. Amendment in section 80D relating to deduction in respect of health insurance premia [Section 80D] [W.e.f. A.Y. 2016-17]

The existing provisions contained in section 80D, inter alia, provide for deduction of—

(a) upto ₹ 15,000 to an assessee, being an individual in respect of health insurance premia, paid by any mode, other than cash, to effect or to keep in force an insurance on the health of the assessee or his family or any contribution made to the Central Government Health Scheme or any other notified scheme or any payment made on account of preventive health check up of the assessee or his family; and

(b) an additional deduction of ₹15,000 is provided to an individual assessee to effect or to keep in force insurance on the health of the parent or parents of the assessee.

A similar deduction is also available to a Hindu undivided family (HUF) in respect of health insurance premia, paid by any mode, other than cash, to effect or to keep in force insurance on the health of any member of the HUF.

The section also presently provides for a deduction of ₹ 20,000 in both the cases if the person insured is a senior citizen of sixty years of age or above.

The quantum of deduction allowed under section 80D to individuals and HUF in respect of premium paid for health insurance had been fixed vide Finance Act, 2008 at ₹ 15,000 and ₹20,000 (for senior citizens). In view of continuous rise in the cost of medical expenditure, the Act has amended section 80D so as to raise the limit of deduction from ₹ 15,000 to ₹ 25,000. Consequently, the limit of deduction for senior citizens has been raised from ₹ 20,000 to ₹30,000.

Further, very senior citizens are often unable to get health insurance coverage and are therefore unable to take tax benefit under section 80D. Accordingly, as a welfare measure towards very senior citizens, the Act has provided that the whole of the amount paid on account of medical expenditure in respect of a very senior citizen, (if no payment has been made to keep in force an insurance on the health of such person), as does not exceed ₹30,000 shall be allowed as deduction to any of the following persons who has paid such amount:

(a) An individual, provided the amount is incurred by the assessee on himself or any member of his family

(b) HUF, provided the amount is incurred for very senior citizen who is the member of HUF

(c) An individual, provided is the amount incurred for very senior citizen who is the parent of such individual

The aggregate deduction available to any individual in respect of health insurance premia and the medical expenditure incurred would however be limited to ₹ 30,000. Similarly aggregate deduction for health insurance premia and medical expenditure incurred in respect of parents would be limited to ₹30,000.

Example

		₹
(i)	For Individual and his family	
	Health insurance premia	21,000
(ii)	For parents	
	Health insurance of Mother	18,000
	Medical expenditure on father (very senior citizen)	15,000
	Deduction eligible u/s 80D ₹ 21,000 + ₹ 30,000	51,000

Note:-

1. Meaning of senior citizen: "Senior citizen" means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year.
2. Meaning of very senior citizen: "Very senior citizen" means an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.

32. Raising the limit of deduction under section 80DD for person with disability and person with severe disability [Section 80DD] [W.e.f. A.Y. 2016-17]

The existing provisions of section 80DD, inter alia, provide for a deduction to an individual or HUF, who is a resident in India, who has incurred—

(a) Expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability as defined under the said section; or

(b) Paid any amount to LIC or any other insurer in respect of a scheme for the maintenance of a disabled dependant.

The section presently provides for a deduction of ₹ 50,000 if the dependant is suffering from disability and ₹1,00,000 if the dependant is suffering from severe disability (as defined under the said section).

The limits under section 80DD in respect of a person with disability were fixed at ₹ 50,000 by Finance Act, 2003. Further, the limit under section 80DD in respect of a person with severe disability was last enhanced from ₹ 75,000 to ₹ 1,00,000 by Finance (No. 2) Act, 2009.

In view of the rising cost of medical care and special needs of a disabled person, the Act has amended section 80DD so as to raise the limit of deduction in respect of a person with disability from ₹ 50,000 to ₹ 75,000 and in respect of a person with severe disability from ₹1,00,000 to ₹1,25,000.

33. Raising the limit of deduction under section 80DDB [W.e.f. A.Y. 2016-17]

Under the existing provisions of section 80DDB of the Act, an assessee, resident in India is allowed a deduction of a sum not exceeding forty thousand rupees, being the amount actually paid, for the medical treatment of certain chronic and protracted diseases such as Cancer, full blown AIDS, Thalassaemia, Haemophilia etc. specified in rule 3A(2) of Income Tax Rules, 1962. This deduction is allowed up to sixty thousand rupees where the expenditure is in respect of a senior citizen i.e. a person who is of the age of sixty years or more at any time during the relevant previous year.

The above deduction is available to an individual for medical expenditure incurred on himself or a dependant relative. It is also available to a Hindu undivided family (HUF) for such expenditure incurred on its members. Dependant in case of an individual means the spouse, children, parents, brother or sister of an individual and in case of an HUF means a member of the HUF, wholly or mainly dependant on such individual or HUF for his support and maintenance.

Under the existing provisions of this section, a certificate in the prescribed form, from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist working in a Government hospital is required. It has been represented that the requirement of a certificate from a doctor working in

a Government hospital causes undue hardship to the persons intending to claim the aforesaid deduction. Government hospitals at many places do not have doctors specialising in the above branches of medicine. For this and other reasons, it may be difficult for the taxpayer to obtain a certificate from a Government hospital.

In view of the above, the Act has amended section 80DDB to provide that the assessee will be required to obtain a prescription from a specialist doctor for the purpose of availing this deduction.

Section 80DDB has been further amended to provide for a higher limit of deduction of upto ₹80,000, for the expenditure incurred in respect of the medical treatment of a "very senior citizen". A "very senior citizen" defined as an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.

34. Tax benefits for Swachh Bharat Kosh and Clean Ganga Fund [Section 80G] [W.r.e.f. A.Y. 2015-16]

With a view to encourage and enhance people's participation in the national effort to improve sanitation facilities and rejuvenation of river Ganga, the Act has amended section 80G of the Act so as to allow 100% deduction from the total income on account of donations made by the specified assessee to the following two funds:

(i) donations made by any assessee (resident and non-resident) to the Swachh Bharat Kosh set up by the Central Government, and

(ii) donations made by a resident assessee to Clean Ganga Fund set up by the Central Government.

However, any sum spent in pursuance of Corporate Social Responsibility under section 135(5) of the Companies Act, 2013 for die above purpose, will not be eligible for deduction from the total income of the assessee.

35. 100% deduction for National Fund for Control of Drug Abuse [Section 80G] [W.e.f. A.Y. 2016-17]

The National Fund for Control of Drug Abuse is a fund created by the Government of India in the year 1989, under section 7A of the Narcotic Drugs and Psychotropic Substances Act, 1985. Since, National Fund for Control of Drug Abuse is also a Fund of national importance, the Act has amended section 80G so as to provide 100% deduction in respect of donations made to the said National Fund for Control of Drug Abuse.

36. Deduction for employment of new workmen [Section 80JJAA] [W.e.f. A.Y. 2016-17]

The existing provisions contained in section 80JJAA of the Act, inter alia, provide for deduction to an Indian company, deriving profits from manufacture of goods in a factory. The quantum of deduction allowed is 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.

Section 80JJAA(2)(a), inter alia, provides that no deduction under section 80JJAA(1) shall 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.

Clause (i) of Explanation to the section defines "Additional wages" to mean the wages paid to the new regular workmen in excess of 100 workmen employed during the previous year.

With a view to encourage generation of employment, the Act has made the following changes in section 80JJAA:

(i) Section 80JJAA(1) has been amended so as to extend the benefit to all assessees having manufacturing units rather than restricting it to company assessees only.

(ii) Section 80JJAA(2)(a) has been amended so as to provide that no deduction under section 80JJAA(1) shall be available if the factory is acquired by the assessee by way of transfer from any other person or as a result of any business re-organisation.

(iii) Clause (i) of the Explanation has been amended so as to provide "additional wages" to mean the wages paid to the new regular workmen in excess of 50 workmen (instead of 100) employed during the previous year.

37. Raising the limit of deduction under section 80U for persons with disability and severe disability [Section 80U] [W.e.f. A.Y. 2016-17]

In view of the rising cost of medical care and special needs of a disabled person, the Act has amended section 80U(1) so as to raise the limit of deduction in respect of a person with disability from ₹50,000 to ₹75,000.

Further, the proviso to section 80U(1) has been amended so as to raise the limit of deduction in respect of a person with severe disability from ₹ 1,00,000 to ₹ 1,25,000.

Amendments relating to Specified Domestic Transactions

38. Raising the threshold limit for specified domestic transactions [Sec. 92BA]

The existing threshold limit for specified domestic transactions of ₹ 5 crore under section 92BA has been extended to ₹ 20 crore from the assessment year 2016-17.

Amendments relating to General Anti-Avoidance Rule (GAAR)

39. Deferment of provisions relating to General Anti-Avoidance Rule (GAAR) [Sec. 95]

Implementation of GAAR has been deferred by 2 years. GAAR provisions will now be applicable to the income of the previous year 2017-18 (assessment year 2018-19) and subsequent years. Further, investments made up to March 31, 2017 will be protected from the applicability of GAAR.

Amendments relating to Determination of Tax in certain special cases

40. Amendment to section 111A

The second proviso to section 111A(1) provides that the provisions of section 111A shall not be applicable in respect of any income arising from transfer of units of a business trust which were acquired by the assessee in exchange of the shares of a special purpose vehicle.

Amendments - The said second proviso has been omitted with effect from the assessment year 2016-17. After the amendment, section 111A will be applicable in respect of any income arising from transfer of units of a business trust which were acquired by the assessee in exchange of the shares of a special purpose vehicle.

41. Reduction in rate of tax on income by way of royalty and fees for technical services in case of non-residents [Sec. 115A]

Royalty and fees for technical services (FTS) received by a non-resident from the Government or an Indian concern, which is not effectively connected with permanent establishment, if any, of the nonresident in India, is currently taxable at the rate of 25 per cent (+SC+EC+SHEC) of gross amount. The rate of 25 per cent has been reduced to 10 per cent (+SC+EC+SHEC) with effect from the assessment year 2016-17.

42. Modification in the taxation scheme of Global Depository Receipts (GDRs) [Sec. 115ACA]

The Depository Receipts Scheme, 2014 was notified by the Department of Economic Affairs in October 2014. This scheme replaces "Issue of Foreign Currency Convertible Bonds and Ordinary Shares (through Depository Receipt Mechanism) Scheme, 1993".

New scheme - Under new scheme, Depository Receipts (DRs) can be issued against the securities of listed, unlisted or private or public companies against underlying securities which can be debt instruments, shares or units, etc. Further, both the sponsored issues and unsponsored deposits and acquisitions are permitted under the new scheme. DRs can be freely held and transferred by both residents and non-residents.

Modification in present taxation scheme - The tax benefits under section 115ACA were intended to be provided in respect of sponsored GDRs and listed companies only. Therefore, the present scheme of section 115ACA has been amended (with effect from the assessment year 2016-17) to continue the tax benefits only in respect of such GDRs as were defined in the earlier depository scheme. Under the modified version, "Global Deposit Receipts" means an instrument in the form of a depository receipt or certificate created by the Overseas Depository Bank outside India and issued to investors against the issue of,-

a. ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or

b. foreign currency convertible bonds of issuing company.

Amendments relating to Minimum Alternate Tax

43. Modification in the scheme of Minimum Alternate Tax [Sec. 115JB]

The following amendments have been made to the scheme of minimum alternate tax under section 115JB from the assessment year 2016-17 onwards –

Share of profit from AOP - In some cases, income of AOP is taxable at the maximum marginal rate of tax (or taxable at a rate higher than maximum marginal rate of tax). Share of profit from such AOP is not taxable in the hands of its members by virtue of section 86. If a joint stock company (say, X Ltd.) is a member of such AOP, share of profit from AOP is not taxable for computing income of the X Ltd. (under normal provisions other than minimum alternate tax provisions). However, under the present provisions, such share of profit from AOP is liable to minimum alternate tax (MAT) in the hands of X Ltd., as there is no provision to exclude such income within the parameters of section 115JB – CIT v. B. Seenaiah & Co. Projects Ltd. [2014] 150 ITD 189 (Hyd. - Trib.), Goldgerg Finance (P.) Ltd. v. CIT [2015] 152 ITD 766 (Mum. - Trib.).

To supersede the above rulings, section 115JB has been amended so as to provide that share of profit from AOP, credited to the profit and loss account of a company (on which no income-tax is payable in accordance with the provisions of section 86), shall be excluded while computing book profit. Likewise, any expenditure (debited to the profit and loss account), corresponding to such income, shall be added back to convert net profit into book profit.

Capital gains, interest, royalty, technical fees of foreign companies - The following incomes of a foreign company will not be subject to minimum alternate tax (MAT) –

Income of foreign company (on which MAT will not be applicable)	Relevant conditions to avoid MAT
a Capital gains arising on transactions in securities Interest, royalty or technical fees chargeable to tax under sections 115A to 115BBE	1. These incomes are credited in the profit and loss account. 2. Income-tax payable in respect of these incomes under normal provisions (other than provisions governing MAT) is less than 18.5 per cent.

Above incomes shall be excluded while computing book profit. Any expenditure (debited to profit and loss account), corresponding to these incomes, shall be added back to convert net profit into book profit.

Notional gain /loss on transfer of shares in SPV to business trust -The following income will not be subject to MAT -

a. notional capital gain on transfer of a share in a special purpose vehicle (SPV) to a business trust in exchange of units allotted by that trust referred to in section 47(xvii); or

b. notional gain resulting from any change in carrying amount of said units.

The above incomes shall be excluded while computing book profit (if these are credited to profit and loss account). Any notional loss [pertaining to (a) or (b) (supra)] shall be added back to convert net profit into book profit (whether or not such notional losses are debited to profit and loss account).

Gain or loss on transfer of units referred to in section 47(xvii) - In respect of transfer of units referred to in section 47(xvii) the following adjustments will be made –

1. Gain on transfer of units referred to in section 47(xvii) shall be deducted from net profit (if it is credited to profit and loss account).
2. Loss on transfer of units referred to in section 47(xvii) shall be added to net profit (whether or not it appears in profit and loss account).
3. The amount of loss on transfer of units referred to in section 47(xvii) computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit or loss account, as the case may be, shall be deducted from net profit to convert it into book profit.
4. Amount of gain [if any, pertaining to transaction mentioned in (3) (supra)] shall be added to net profit to convert it into book profit as per profit and loss account.

44. Amendment to section 115U

Section 115U has been amended (with effect from the assessment year 2016-17) to provide that the existing pass through scheme contained in sections 10(23FB) and 115U shall not apply to investment funds covered by the new regime provided in section 115UB.

45. Modification in taxation regime for Real Estate Investment Trusts (REIT) and Infrastructure Investment -Trusts (InvIT) [Sec. 115UA]

Business trust includes a Real Estate investment Trust (REIT) or an Infrastructure Investment Trust (InvIT) which is registered under regulations framed by SEBI in this regard.

Tax incidence on offloading units of a business trust acquired in exchange of shareholding in SPV - The existing tax regime for the business trust and their investors (as contained in different sections), inter alia, provides for the following -

1. The listed units of a business trust (when traded on a recognised stock exchange) are liable to securities transaction tax (STT). Long-term capital gains is exempt under section 10(38) and the short-term capital gains is taxable at the rate of 15 per cent under section 111A.
2. In case of capital gains arising to the sponsor at the time of exchange of shares in Special Purpose Vehicle (SPV), being the unlisted company through which income generating assets are held indirectly by the business trusts, with units of the business trust, the taxation of gains is deferred.
3. The tax on such gains is to be levied at the time of disposal of units by the sponsor. However, the preferential capital gains regime (consequential to levy of STT) available to other unit holders of a business trust, is not available to the sponsor in respect of these units at the time of their transfer. For the purpose of computing capital gain, the cost of these units is considered as cost of the shares to the sponsor. The holding period of shares is included in computing the holding period of such units.

4. The pass through is provided in respect of income by way of interest received by the business trust from SPV (i.e., there is no taxation of such interest income in the hands of the trust and no withholding tax at the level of SPV). However, TDS at the rate of 5 per cent (in case of payment of interest component of income distributed to non-resident unit holders) and at the rate of 10 per cent (in respect of payment of interest component of distributed income to a resident unit holder) is required by the trust.
5. The dividend received by the trust is subject to dividend distribution tax at the level of SPV and is exempt in the hands of the trust, and the dividend component of the income distributed by the trust to the unit holders is also exempt.

Illogical tax treatment of capital gains - The deferral of capital gains provided to the sponsor of business trust places such a sponsor at a disadvantageous tax position vis-a-vis direct listing of the shares of the SPV. In case sponsor holding the shares of the SPV decides to exit through the Initial Public Offer (IPO) route, then the benefit of concessional tax regime relating to capital gains arising on transfer of shares subject to levy of STT is available to him. The tax on short-term capital gains in such cases is levied at the rate of 15 per cent under section 111A and the long-term capital gain is exempt under section 10(38). The benefit of concessional regime is, however, not available to the sponsor at the time it offloads units of business trust acquired in exchange of its shareholding in the SPV through IPO at the time of listing of business trust on stock exchange.

Amendment - In order to provide uniformity in the case given above, the following amendments have been made -

1. The sponsor would get the same tax treatment on offloading of units under an initial offer on listing of units as it would have been available had he offloaded the underlying shareholding through an IPO.
2. The Finance (No. 2) Act, 2004 has been amended (with effect from June 1, 2015) to provide that STT shall be levied on sale of such units of business trust which are acquired in lieu of shares of SPV, under an Initial offer at the time of listing of units of business trust on similar lines as in the case of sale of unlisted equity shares under an IPO.
3. Section 111A has been amended (with effect from the assessment year 2016-17) to provide the benefit of concessional tax regime of tax at 15 per cent on short-term capital gain. Similarly, section 10(38) has been amended (with effect from the assessment year 2016-17) to provide exemption to long-term capital gain. These benefits will be available to the sponsor on sale of units received in lieu of shares of SPV subject to levy of STT.

Example:

X is a shareholder in S Ltd., a SPV. On January 5, 2015, he gets 1,000 unlisted units in DEF, a business trust, by surrendering his shareholding in S Ltd. These unlisted units in DEF are transferred under an IPO as follows -

- 500 units are transferred on March 30, 2015.
- 300 units are transferred on May 10, 2015.
- 200 units are transferred on June 10, 2015.

Solution:

Tax treatment will be as follows -

1. **Transfer of 500 units on March 30, 2015 -** Capital gain is taxable for the assessment year 2015-16. The amended provisions are applicable from the assessment year 2016-17. Long-term capital gain/short-term capital gain will be taxable under normal provisions. The concessional tax treatment of section 111A in the case of short-term capital gain and exemption under section 10(38) are not available.

2. **Transfer of 300 units on May 10, 2015 -** Units are transferred during the previous year 2015-16 (i.e., assessment year 2016-17). The amended provisions of sections 10(38) and 111A are applicable from the assessment year 2016-17. However, the concession given by these sections is applicable only if securities transaction tax is payable. For this purpose, the Finance (No. 2) Act, 2004 is amended only from June 1, 2015. On May 10, 2015, securities transaction tax is not applicable. Consequently, long-term capital gain/short-term capital gain will be taxable under normal provisions. In the absence of securities transaction tax, the concessional tax treatment of section 111A in the case of short-term capital gain and exemption under section 10(38) are not available.

3. **Transfer of 200 units on June 10, 2015 -** Units are transferred during the previous year 2015-16 (i.e., assessment year 2016-17). Securities transaction tax is applicable from June 1,2015. Short-term capital gain will be taxable in the hands of X under section 111A at the rate of 15% (+SC+EC+SHEC). However, long-term capital gain will be exempt by virtue of section 10(38).

Example:

Suppose in above example, X holds 1,000 unlisted units in DEF directly (no investment through SPV). These units are transferred on the dates given in the example.

Solution:

Securities transaction tax is applicable in the 3 cases. Consequently, in these cases short-term capital gain will be taxable in the hands of X under section 111A at the rate of 15% (+SC+EC+SHEC). However, long-term capital gain will be exempt by virtue of section 10(38).

Rental income of REITs - In case of a business trust, being REITs, the income is predominantly in the nature of rental income. This rental income arises from the assets held directly by REIT or held by it through an SPV. The rental income received at the level of SPV gets passed through by way of interest or dividend to the REIT, the rental income directly received by the REIT is taxable at REIT level and does not get pass through benefit.

Amendments - In order to provide pass through to the rental income arising to REIT from real estate property directly held by it, the following amendments have been made from the assessment year 2016-17-

1. Any income of a business trust, being REIT by way of renting or leasing or letting out any real estate asset owned directly by such business trust shall be exempt under section 10(23FCA).

2. The distributed income (or any part thereof) received by a unit holder from the REIT, which is in the nature of income by way of renting or leasing or letting out any real estate asset owned directly by such REIT, shall be deemed to be income of such unit holder and shall be charged to tax.

3. The REIT shall deduct tax at source on rental income allowed to be passed through. In case of resident unit holder, tax shall deducted at the rate of 10 per cent under section 194LBA and in case of distribution to non-resident unit holder, the tax shall be deducted at rate in force as applicable for deduction of tax on payment to the non-resident of any sum chargeable to tax [i.e., at 30 per cent (+SC+EC+SHEC) if the recipient is a non-resident (not being a foreign company) or at 40 per cent (+SC+EC+SHEC) if the recipient is a foreign company].

4. No tax deduction shall be made under section 194-I where the income by way of rent is credited or paid by a tenant to a business trust, being a REIT, in respect of any real estate asset held directly by such REIT.

Example:

DEF is a real estate investment trust (REIT). It owns house properties in different parts of Maharashtra. Besides, it holds controlling interest in A Ltd. (A Ltd., an Indian company, is SPV created by DEF for the purpose of

owning commercial properties). Annual taxable income of DEF is calculated as follows –

	₹ in crore
Rental income from properties directly owned by DEF (annual value : ₹ 13 crore - municipal tax : ₹ 3 crore - standard deduction : ₹ 3 crore)	7
Long-term capital gain on sale of land and buildings directly owned by DEF (computed as per section 48 after deducting indexed cost of acquisition)	20
Interest from A Ltd.	13
Dividend from A Ltd.	10
Total	50

DEF distributes ₹ 40 crore to its unitholders. X is one of the unitholders. He holds 10 per cent units in DEF and is entitled to ₹ 4 crore (before TDS).

The above information pertains to (a) previous year 2014-15 (Situation 1) or (b) previous year 2015-16 (Situation 2).

Solution:

Income of DEF – (₹ in crore)

	AY 2015-16	AY 2016-17
Rental income [exempt under section 10(23FCA)]	7	Nil
Long-term capital gain	20	20
Interest from A Ltd. [exempt under section 10(23FC]	Nil	Nil
Dividend [exempt under section 10(34)]	Nil	Nil
Net Income	27	20
Income-tax [(30% of ₹ 7 crore + 20% of ₹ 20 crore), (20% of ₹ 20 crore)]	6.1	4
Add: Surcharge	0.61	0.48
Income-tax and surcharge	6.71	4.48
Add: Education cess	0.2013	0.1344
Tax liability of DEF	6.9113	4.6144

Income of X –

	AY 2015-16	AY 2016-17
Rental income [₹ 4 crore × ₹ 7 crore ÷ ₹ 50 crore]: ₹0.56 crore	Exempt[1]	0.56
Long-term capital gain [₹4 crore × ₹ 20 crore ÷ ₹ 50 crore]: ₹ 1.6 crore	Exempt[1]	Exempt[1]
Interest [₹ 4 crore × ₹ 13 crore ÷ ₹ 50 crore]: ₹ 1.04 crore	1.04	1.04
Dividend [₹4 crore × ₹ 10 crore ÷ ₹ 50 crore]: ₹ 0.8 crore	Exempt[1]	Exempt[1]
Net income	1.04	1.6

[1] Exempt under section 10(23FD).

46. Pass through status to Category I and Category II Alternative Investment Funds [Sec. 115UB]

The existing provisions of section 10(23FB) provide that any income of a Venture Capital Company (VCC) or a Venture Capital Fund (VCF) from investment in a Venture Capital Undertaking (VCU) shall be exempt from taxation. Section 115U 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, on current year basis, as if the person had made direct investment in the VCU.

These sections provide a tax pass through (i.e., income is taxable in the hands of investors instead of VCF/ VCC) only to the funds, being set-up as a company or a trust, which are registered (i) before May 21, 2012 as a VCF under SEBI (Venture Capital Funds) Regulations, 1996, or (ii) as venture capital fund [being one of the sub-categories under Category-I Alternative investment fund (AIF) regulated by SEBI (AIF) Regulations, 2012] with effect from May 21, 2012. The existing pass through 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 (VCF) Regulations, 1996 or SEBI (AIF) Regulations, 2012 (AIF regulations).

Under the AIF regulations, various types of AIFs have been classified under three separate categories as Category I, II and III AIFs -

– **Category I** includes AIFs that invest in start-ups or early stage ventures or social ventures or small and medium enterprises (SMEs) or infrastructure or other sectors or areas, which the Government or regulators consider as socially or economically desirable. Category I AIFs are the funds which have positive spillover effects on economy and for which the Government/SEBI/other regulators in India might consider providing incentives or concessions.

– **Category II** AIFs are funds including private equity funds or debt funds which do not fall in Category I and III and which do not undertake leverage or borrowing other than to meet day-to-day operational requirements.

– **Category III** AIFs are funds which employ diverse or complex trading strategies and may employ leverage including through investment in listed or unlisted derivatives. These AIFs are hedge funds or funds, which trade with a view to making short-term returns, or such other funds, which are open ended, for which no specific incentives or concessions are given by the Government or any other regulators.

These funds can be set-up as a trust, company, limited liability partnership and any other body corporate. Similarly, investment by AIFs can be in entities which can be a company, firm, etc.

Pooled investment vehicles (other than hedge funds) engaged in making passive investments have been accorded pass through in certain tax jurisdictions. In order to rationalize the taxation of Category I and Category II AIFs (hereafter referred to as investment fund), a special tax regime has been provided under section 115UB. The salient features of the special regime are given below -

- Income of a person (being a unit holder of an investment fund) out of investments made in the investment fund shall be chargeable to income-tax in the same manner as if it was the income accruing or arising to (or received by) such person, had the investments (made by the investment fund) been made directly by him.
- Income in the hands of investment fund, other than income from profits and gains of business, shall be exempt from tax. The income in the nature of profits and gains of business or profession shall be taxable in the case of investment fund. If investment fund is a company or a firm, such business income will be taxable at the rate applicable to the company or firm. Conversely, if such fund is a person other than company or firm, business income will be taxable at the maximum marginal rate of tax (i.e., at 34.608 per cent for the assessment year 2016-17).
- Income in the hands of investor which is of the same nature as income by way of profits and gain of business at investment fund level shall be exempt.
- Where any income, other than income which is taxable at investment fund level, is payable to a unit holder by an investment fund, the fund shall deduct income-tax at the rate of 10 per cent under section 194LBB (with effect from June 1, 2015).
- The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as if it had been received by, or had accrued or arisen to, the investment fund.

- If in any year there is a loss at the fund level (either current loss or the loss which remained to be set off), the loss shall not be allowed to be passed through to the investors but would be carried over at fund level to be set off against income of the next year in accordance with the provisions of Chapter VI.
- The provisions of dividend distribution tax under section 115-O or tax on distributed income under section 115R shall not apply to the income paid by an investment fund to its unit holders.
- The income received by the investment fund would be exempt from TDS requirement [a notification to this effect will be issued under section 197A(1F)].
- It shall be mandatory for the investment fund to file its return of income. The investment fund shall also provide to the prescribed income-tax authority and the investors, the details of various components of income, etc., for the purposes of the scheme.
- The existing pass through regime shall continue to apply to VCF/VCC which had been registered under SEBI (VCF) Regulations, 1996. Remaining VCFs (being part of Category I AIFs) shall be subject to the new pass through regime.

Example:

DEF is an investment fund. There are 20 unit holders. X is one of the unit holders holding 1 unit. For the previous year 2015-16, DEF reports the following income -

₹ in crore

Business income	8
Long-term capital gains	10
Income from other sources	2

After payment of income-tax, the entire post-tax income is distributed to unit holders. Income of X from other sources is bank interest of ₹ 24,60,000. Find out the net income and tax liability of DEF under the following situations -

Situation 1 [DEF (AOP)] - DEF is an Indian trust and has registration certificate as Category I Alternate Investment Fund under SEBI (AIF) Regulations.

Situation 2 [DEF (LLP)] - DEF in the above case is a limited liability partnership in India.

Situation 3 [DEF (Co.)] - DEF in the above case is an Indian company.

Solution:

Computation of income and tax of DEF –

	DEF (AOP) ₹	DEF (LLP) ₹	DEF (Co.) ₹
Business income	8,00,00,000	8,00,00,000	8,00,00,000
Long-term capital gains [exempt under section 10(23FBA)]	-	-	-
Income from other sources [exempt under section 10(23FBA)]	-	-	-
Net income	8,00,00,000	8,00,00,000	8,00,00,000
Tax liability [34.608% (being maximum marginal rate of tax, i.e., IT : 30%, SC : 12%, EC : 3%) in the case of AOP, 34.608% (being applicable rate, i.e., IT : 30%, SC : 12%, EC : 3%) in the case of LLP and 33.063% (being applicable rate, i.e., IT : 30%, SC : 7%, EC : 3%) in the case of company]	2,76,86,400	2,76,86,400	2,64,50,400

Notes –

1. At the time of distribution of income to unit holders, there is no distribution tax or dividend tax under section 115-O or section 115R.

2. When income (pertaining to long-term capital gains and income from other sources) is distributed to unit holders, DEF will deduct tax at source at the rate of 10% (no surcharge/education cess) under section 194LBB. However, there is no TDS if income is paid/credited during April 1, 2015 and May 31, 2015. Moreover, when business income is distributed to unit holders, TDS provisions are not applicable.
3. Minimum alternate tax/alternate minimum tax provisions will not have any impact in the above computation of tax liability.

Computation of income and tax of X - X holds 1 out of 20 (i.e., 5%) units. His income will be calculated as follows -

	₹
Business income received from DEF [exempt under section 10(23FBB)]	Nil
Long-term capital gains received from DEF (5% of ₹ 10,00,00,000)	50,00,000
Income from other sources -	
- received from DEF (i. e., 5% of ₹ 2,00,00,000)	10,00,000
- bank interest	24,60,000
Net income	84,60,000
Income-tax (20% of ₹ 50,00,000 and normal tax on the balance)	18,63,000
Add: Surcharge	Nil
Tax and surcharge	18,63,000
Add: Education cess	55,890
Tax liability	19,18,890

Example:

In the above example, income of DEF pertaining to the previous year 2015-16 is as follows (in place of income given in the table in the original example) –

	₹ In Core
Business income	(-)6
Long-term capital gains	(-)2
Income from other sources	7

No other change in data/information.

Solution:

Computation of income of DEF for the assessment year 2016-17

	DEF (AOP) ₹	**DEF (LLP) ₹**	**DEF (Co.) ₹**
Business loss (it is adjusted against income from other sources)			
Long-term capital loss (it cannot be set off during the current year, it will be carried forward by DEF)	Nil	Nil	Nil
Income from other sources (₹ 7 crore - business loss of ₹ 6 crore)	-	-	-
Less: Exemption under section 10(23 FBA)	1,00,00,000	1,00,00,000	1,00,00,000
Net income	1,00,00,000	1,00,00,000	1,00,00,000
	Nil	Nil	Nil

Computation of income and tax of X - Income of X will be ₹ 29,60,000 (being 5% of ₹ 1 crore + bank interest of ₹ 24,60,000).

Example:

In example above, income of DEF pertaining to the previous year 2016-17 is as follows -

	₹ In Core
Business income	1
Long-term capital gains	5
Income from other sources	4

No other change in data/information.

Solution:

Computation of income of DEF for the assessment year 2017-18 -

	DEF (AOP) ₹	DEF (LLP) ₹	DEF (Co.) ₹
Business income	1,00,00,000	1,00,00,000	1,00,00,000
Long-term capital gains (₹ 5 crore - brought forward long-term capital loss of ₹ 2 crore) [₹ 3 crore is exempt under section 10(23 FBA)]	-		
Income from other sources [₹ 4 crore is exempt under section 10(23FBA)]	-		
Net income	1,00,00,000	1,00,00,000	1,00,00,000
Tax liability* [34.608% (being maximum marginal rate of tax, i.e., IT: 30%, SC : 12%, EC : 3%) in the case of AOP, 30.9% (being applicable rate, i.e., IT: 30%, SC : nil, EC : 3%) in the case of LLP or in the case of company]	34,60,800	30,90,000	30,90,000

*It is assumed that tax rates for the assessment years 2016-17 and 2017-18 will be the same.

Computation of income and tax of X - Income of X will be ₹ 59,60,000 [i.e., long-term capital gain : ₹ 15,00,000 (being 5% of ₹ 3 crore) + income from other sources : ₹ 44,60,000 (being 5% of ₹ 4 crore + bank interest of ₹ 24,60,000)].

Amendments relating to Income-Tax Authorities - Powers

47. Amendment to section 132B

The existing provisions contained in section 132B provide that the assets seized under section 132 or requisitioned under section 132A may be adjusted against the amount of existing liability under the Income-tax Act, the Wealth-tax Act, etc., and the amount of liability determined on completion of assessment. This provision has been amended with effect from June 1, 2015 to provide that the asset seized under section 132 or requisitioned under section 132A may be adjusted against the amount of liability arising on an application made before the Settlement Commission under section 245C(1).

Amendments relating to filing of returns, assessments and re-assessment

48. Compulsory filing of return in relation to assets, etc. located outside India [Fourth proviso to section 139(1)] [W.e.f. A.Y. 2016-17]

Fourth proviso to section 139(1) provides that a person, being a resident other than not ordinarily resident in India, who is not required to furnish a return under section 139(1) and who during the previous year has:

(a) (i) any asset located outside India, or

(ii) any financial interest in any entity located outside India like right to share profit in any entity outside India as partner or member of AOP, etc.

(b) signing authority in any account located outside India,

shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed.

The Act has substituted the above fourth proviso by the following:

A person, being a resident other than not ordinarily resident in India within the meaning of section 6(6), who is not required to furnish a return under this sub-section and who at any time during the previous year,—

(a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or

(b) is a beneficiary of any asset (including any financial interest in any entity) located outside India,

shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed.

Provided also that nothing contained in the fourth proviso shall apply to an individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India when income, if any, arising from such asset is includible in the income of the person referred to in clause (a) of that proviso in accordance with the provisions of this Act.

Note:-

"Beneficial owner" in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.

"Beneficiary" in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.

49. Prescribed form of return of income to also require the assessee to furnish certain additional particulars relating to assets held by him [Section 139(6)] [W.e.f. A.Y. 2016-17]

The Act has amended section 139(6) to provide that, besides other particulars required to be furnished in the form, the form of return of income shall require the assessee to give particulars relating to assets of the prescribed nature and value, held by him as a beneficial owner or otherwise or in which he is a beneficiary.

50. Furnishing of return of income also made mandatory for certain funds or institution [Section 139(4C) & (4F)] [W.e.f. A.Y. 2016-17]

(a) Universities or educational institutions or hospitals or other institutions referred to in section 10(23C) (iiiab) and (iiiac) mandatorily required to furnish return of income [Section 139(4C)] [W.e.f. A.Y. 2016-17]

Under the Income Tax Act, exemption under section 10(23C)(iiiab) and (iiiac), subject to specified conditions, is available to such university or educational institution, hospital or other institution which is **wholly or substantially** financed by the Government.

Under the existing provisions of section 139(4C), besides other institutions specified under that clause, all entities whose income is exempt under section 10(23C)(iiiad), (iiiae), (iv), (v), (vi), (via), are mandatorily required to file their return of income.

The Act has amended section 139(4C) to provide that entities covered under section 10(23C)(iiiab) and (iiiac) i.e. university or educational institution, hospital or other institution which is wholly or substantially financed by the Government shall also be mandatorily required to file their return of income.

In other words, all universities or educational institutions or hospitals or other institution whether financed by the Government or not or whether their gross receipts exceed ₹1 crore or not, will be required to file return of income as per section 139(4C).

(b) Investment fund referred to in section 115UB mandatory required to furnish return of income [Section 139(4F)] [Inserted w.e.f. A.Y. 2016-17]

Every investment fund referred to in section 115UB, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under section 139(1).

51. Simplification of approval regime for issue of notice for re-assessment [Section 151] [W.e.f. 01-06-2015]

Section 151 of the Act provides for sanction from certain authorities before issue of notice for reassessment of income under section 148. Under certain specified circumstances, the Assessing Officer is required to obtain sanction before issue of notice under section 148. Section 151 specifies different sanctioning authorities based on-(i) whether scrutiny under section 143(3) or section 147 has been made earlier or not, (ii) whether notice is proposed to be issued within or after four years from the end of relevant assessment year, and (iii) the rank of the Assessing Officer proposing to issue notice.

To bring simplicity, section 151 has been substituted by the new section 151 which provides as under:

(1) Where the notice is to be issued after the expiry of 4 years [Section 151(1)]: No notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

(2) In any other case: In a case other than a case falling under section 151(1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.

However, for the purposes of section 151(1) and section 151(2), the Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself. [Section 151(3)]

52. Assessment of income of a person other than the person in whose case search has been initiated [Sec. 153C]

Section 153C relates to assessment of income of any other person. The existing provisions provide that where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belong to a person other than searched person, then the books of account, documents, etc., shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against such other person. On a plain reading of section 153C, it is evident that the Assessing Officer of the searched person must be "satisfied" that inter alia any document seized or requisitioned "belongs to" a person other than the searched person.

Originals v. Photocopies - Finding of photocopies in the possession of a searched person does not necessarily mean and imply that they (i.e., photocopies) "belong" to the person who holds the originals.

Possession of documents and possession of photocopies of documents are two separate things. Take the case of a search on the premises of Jay Ltd. During search photocopies of certain documents belonging to Peesee Ltd. are recovered from the premises of Jay Ltd. "Photocopies" are owned by Jay Ltd. but original documents belong to Peesee Ltd. Unless it is established that the documents in question (i.e., photocopies in this example) do not belong to Jay Ltd., the question of invoking section 153C does not arise and proceedings cannot be started on Peesee Ltd. - Pepsico India Holdings (P.) Ltd. v. CIT [2014] 50 taxmann.com 299 (Delhi).

Amendment - To supersede the above observations, section 153C has been amended with effect from June 1, 2015. The amended section provides that notwithstanding anything contained in sections 139, 147, 148, 149, 151 and 153, where the Assessing Officer is satisfied that,-

a. any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or

b. any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,

any person, other than the searched person, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person. hereunto

53. Amendment to section 154

Provisions of section 154 (rectification of mistakes) have been amended with effect from June 1, 2015 so as to insert the reference of "collector" in different sub-sections. Consequently, intimation generated after processing of TCS statement can be rectified under section 154.

54. Amendment to section 156

The existing provisions contained in the proviso to section 156 provide that where any sum is determined to be payable by the assessee or by the deductor under section 143(1) or section 200A(1), the intimation under these sections shall be deemed to be a notice of demand for the purposes of section 156.

The scope of above provision has been extended (with effect from June 1, 2015) to cover intimation generated after processing of TCS statements. The amended provisions provide that where any sum is determined to be payable by the assessee or the deductor or the collector under section 143(1), section 200A(1) or section 206CB(1), the intimation under these sub-sections shall be deemed to be a notice of demand for the purposes of section 156.

Amendments relating to Special procedure for avoiding Repetitive Appeals

55. Procedure for appeal by revenue when an identical question of law is pending before Supreme Court [Sec. 158AA]

Presently, special provisions for avoiding repetitive appeals are given by section 158A.

Existing provisions of section 158A - Section 158A provides that during pendency of proceedings in his case for an assessment year an assessee can submit a claim before the Assessing Officer or any appellate authority that a question of law arising in the instant case for the assessment year under consideration is identical with the question of law already pending in his own case before the High Court or Supreme Court for another assessment year. If the Assessing Officer or any appellate authority agrees to apply the final decision on the question of law in that earlier year in the present year, he will not agitate the same question of law once again for the present year before higher appellate authorities. The Assessing Officer or any appellate authority before whom his case is pending can admit the claim of the assessee. As and when the decision on the question of law becomes final, they will apply the ratio of the decision of the High Court or Supreme Court for that earlier case to the relevant year's case also.

Section 158A not applicable if revenue has to file appeal for subsequent years - There is presently no parallel provision for revenue to not file appeal for subsequent years where the Department is in appeal on the same question of law for an earlier year. As a result, appeals are filed by the revenue year after year on the same question of law until it is finally decided by the Supreme Court, thus, multiplying litigations.

New provisions of section 158AA - New section 158AA has been inserted with effect from June 1, 2015. It is applicable when department is in appeal before the Supreme Court. It provides that where any question of law arising in the case of an assessee for any assessment year is identical with a question of law arising in his case for another assessment year which is pending before the Supreme Court (in an appeal or in a special leave petition) filed by the revenue, against the order of the High Court in favour of the assessee, the Commissioner or Principal Commissioner may (instead of directing the Assessing Officer to appeal to the Appellate Tribunal), direct the Assessing Officer to make an application to the Appellate Tribunal in the prescribed form within 60 days from the date of receipt of order of the Commissioner (Appeals) stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the earlier case.

The Commissioner or Principal Commissioner shall proceed under above provisions only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case. However, in case no such acceptance is received the Commissioner or Principal Commissioner shall proceed in accordance with the provisions contained in section 253(2)/(2A) and, accordingly, may, if he objects to the order passed by the Commissioner (Appeals), direct the Assessing Officer to appeal to the Appellate Tribunal.

Where the order of the Commissioner (Appeals) is not in conformity with the final decision on the question of law in the other case (if the Supreme Court decides the earlier case in favour of the Department), the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal against such order within 60 days from the date on which the order of the Supreme Court is communicated to the Commissioner or Principal Commissioner.

Amendments relating to TDS

56. Employer to obtain evidence/proof regarding deductions, exemptions or allowances claimed by the employee while estimating the income of the employee for the purpose of deduction of tax under section 192 [Section 192] [W.e.f. 01.06.2015]

Under section 192 of the Act, the person responsible for paying (DDO) income chargeable under the head "salaries" under the Act is authorised to allow certain deductions, exemptions or allowances or set-off of certain loss as per the provisions of the Act for the purposes of estimating income of the assessee or computing the amount of the tax deductible under the said section. The evidence/proof/particulars for some of the deductions/exemptions/ allowances/set-off of loss claimed by the employee such as rent receipt for claiming exemption of HRA, evidence of interest payments for claiming loss from self occupied house property etc. is generally not available with the DDO. In these circumstances, the DDO has to depend upon the evidence/particulars furnished, if any, by the employees in support of their claim of deductions, exemptions, etc. As the existing provisions of the Act do not contain any guidance regarding nature of evidence/documents to be obtained by the DDO, there is no uniformity in the approach of the DDO in this matter.

In order to bring clarity in this matter, sub-section (2D) has been inserted in section 192, w.e.f. 01.06.2015 which provides as under:

The person responsible for making the payment referred to in section 192(1) shall, for the purposes of estimating income of the assessee or computing tax deductible under section 192(1), obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act **in such form and manner as may be prescribed.**

57. TDS on income in respect of payment of accumulated balance due to an employee under Employees Provident Fund and Miscellaneous Provisions Act, 1952 [Section 192A] [W.e.f. 1-6-2015]

Under the existing provisions of rule 8 of Schedule IV-A of the Act, the withdrawal of accumulated balance by an employee from the RPF is exempt from taxation. However, in order to discourage pre-mature withdrawal and to promote long term savings, it has been provided that such withdrawal shall be taxable if the employee makes withdrawal before continuous service of five years (other than the cases of termination due to ill health, closure of business, etc.) and does not opt for transfer of accumulated balance to new employer. Rule 9 of the said Schedule further provides computation mechanism for determining tax liability of the employee in respect of such pre-mature withdrawal. For ensuring collection of tax in respect of these withdrawals, rule 10 of Schedule IV-A provides that the trustees of the RPF, at the time of payment, shall deduct tax as computed in rule 9 of Schedule IV-A.

Rule 9 of Schedule IV-A of the Act provides that the tax on withdrawn amount is required to be calculated by recomputing the tax liability of the years for which the contribution to RPF has been made by treating the same as contribution to unrecognized provident fund. The trustees of private PF schemes, being generally part of the employer group, have access to or can easily obtain the information regarding taxability of the employee making pre-mature withdrawal for the purposes of computation of the amount of tax liability under rule 9 of the Schedule-IV-A of the Act. However, at times, it is not possible for the trustees of EPFS to get the information regarding taxability of the employee such as year-wise amount of taxable income and tax payable for the purposes of computation of the amount of tax liability under rule 9 of the Schedule-IV-A of the Act.

Therefore, a new section 192A has been inserted w.e.f. 01.06.2015 for deduction of tax which provides as under:

Notwithstanding anything contained in this Act, the trustees of the Employees' Provident Fund Scheme, 1952, framed under section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees, shall, in a case where the accumulated balance due to an employee participating in a recognised provident fund is includible in his total income owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, at the time of payment of the accumulated balance due to the employee, deduct income-tax thereon at the rate of 10%.

However, no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payment to the payee is less than ₹ 30,000.

Rate of TDS if PAN is not provided [Second proviso to section 192A]: Any person entitled to receive any amount on which tax is deductible under this section shall furnish his Permanent Account Number to the person responsible for deducting such tax, failing which tax shall be deducted at the maximum marginal rate.

58. Rationalisation of provisions relating to deduction of tax on interest (other than interest on securities) [Section 194A] [W.e.f. 1-6-2015]

The following amendments have been made in section 194A relating to deduction of tax on interest other than interest on securities:

1. Co-operative banks to deduct TDS on time deposits if interest exceeds ₹ 10,000 [Section 194A(3)(v) w.e.f. 01.06.2015]

Section 194A(1) read with section 194A(3)(i) of the Act provide for deduction of tax on interest (other than interest on securities) over a specified threshold, i.e. ₹ 10,000 for interest payment by banks, co-operative society engaged in banking business (co-operative bank) and post office and ₹5,000 for payment of interest by other persons.

There is no difference in the functioning of the co-operative banks and other commercial banks, the Finance Act, 2006 and Finance Act, 2007 amended the provisions of the Act to provide for co-operative

banks a taxation regime which is similar to that for the other commercial banks. However, section 194A(3)(v) of the Act provides a general exemption from making tax deduction from payment of interest by all co-operative societies to its members, the co-operative banks tried to avail this exemption by making their depositors as members of different categories. This has led to dispute as to whether the co-operative banks, for which the specific provisions of tax deduction exist in the form of section 194A(1), section 194A(3)(i)(b) and section 194A(3)(viia)(b) of the Act, can take the benefit of general exemption provided to all co-operative societies from deduction of tax on payment of interest to members. There is no rationale for treating the co-operative banks differently from other commercial banks in the matter of deduction of tax and allowing them to avail the exemption meant for smaller credit co-operative societies formed for the benefit of small number of members.

In view of the above, the Act has amended the provisions of the section 194A of the Act to expressly provide from the prospective date of 1st June, 2015 that the exemption provided from deduction of tax from payment of interest to members by a co-operative society under section 194A(3)(v) of the Act shall not apply to the payment of interest on time deposits by the co-operative banks to its members.

However, the existing exemption provided under section 194A(3)(viia)(a) of the Act to primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank from deduction of tax in respect of interest paid on deposit shall continue to apply. Therefore, these co-operative credit societies/banks referred to in said clause (viia)(a) would not be required to deduct tax on interest payment to depositors even after the above amendment. Further, the existing exemption provided under section 194A(3)(v) of the Act from deduction of tax from interest paid by a cooperative society to another co-operative society shall continue to apply to the co-operative bank and, therefore, a co-operative bank shall not be required to deduct tax from the payment of interest on time deposit to a depositor, being a co-operative society.

2. Definition of time deposits amended [Explanation 1 under section 194A(3) w.e.f. 01.06.15]

The existing definition of "time deposits" provided in the section 194A of the Act **excludes** recurring deposit from its scope. Therefore, payment of interest on recurring deposits by banking company or co-operative bank is currently not subject to TDS. The recurring deposit is also made for a fixed tenure and, therefore, the same is akin to time deposit. The Act has therefore, amended the definition of 'time deposits' so as to **include** recurring deposits within its scope for the purposes of deduction of tax under section 194A of the Act. However, the existing threshold limit of ₹ 10,000 for non-deduction of tax shall also be applicable in case of interest payment on recurring deposits to safeguard interests of small depositors.

3. Tax on time deposits to be deducted bank wise instead of branch wise [Second proviso to section 194A(3)(i) inserted w.e.f. 01.06.2015]

Currently, provisions of proviso to section 194A(3)(i) of the Act provide that the interest income for the purpose of deduction of tax by the banking company or the co-operative bank or the public company shall be computed with reference to **a branch of these entities.** As currently, most of these entities are computerised and follow core banking solutions for crediting interest, there is no rationale for continuing branch wise calculation of interest by the entities who have adopted core banking solutions. The Act has therefore amended the provisions of section 194A of the Act to provide that the computation of interest income for the purposes of deduction of tax under section 194A of the Act should be made **with reference to the income credited or paid by the banking company or the co-operative bank or the public company which has adopted core banking solutions.**

4. Tax on interest on compensation amount of Motor Accident Claim to be deducted at the time of payment instead of accrual basis [Section 194A(3)(ix) & (ixa)]

Under section 194A(3)(ix) of the Act, tax is not required to be deducted from the interest credited or paid on the compensation amount awarded by the Motor Accident Claim Tribunal if the amount of such interest credited or paid during a financial year does not exceed ₹ 50,000. Finance (No. 2) Act, 2009 amended the provisions of section 56 of the Act as well as substituted section 145A of the Act to, inter alia, provide that interest income received on compensation or enhanced compensation shall be deemed to be the

income of the year in which the same has been received. However, the existing provisions of section 194A of the Act provides for deduction of tax from interest paid or credited on compensation, whichever is earlier. Section 145A(b) of the Act provides an exception to method of accounting contained in section 145 of the Act and mandates for taxation of interest on compensation on receipt basis only. Therefore, deduction of tax on such interest on mercantile/accrual basis results into undue hardship and mismatch.

The Act has therefore, amended the provisions of section 194A of the Income-tax Act, 1961 to provide that deduction of tax under section 194A of the Act from interest payment on the compensation amount awarded by the Motor Accident Claim Tribunal compensation shall be made only at the time of payment, if the amount of such payment or aggregate amount of such payments during a financial year exceeds ₹ 50,000.

In other words, no tax shall be deducted at source from interest on compensation amount awarded by Motor Accident Claim Tribunal in the following cases:

(a) If such interest is credited during the financial year,

(b) If such interest or aggregate of such interest or paid during the financial year does not exceed ₹ 50,000.

59. Clarification regarding deduction of tax from payments made to transporters [Section 194C] [W.e.f. 1-6-2015]

Under the existing provisions of section 194C of the Act payment to contractors is subject to tax deduction at source (TDS) at the rate of 1% in case the payee is an individual or Hindu undivided family and at the rate of 2% in case of other payees if such payment exceeds ₹30,000 or aggregate of such payment in a financial year exceeds ₹75,000. Prior to 01.10.2009, section 194C of the Act provided for exemption from TDS to an individual transporter who did not own more than two goods carriage at any time during the previous year. Subsequently, Finance (No. 2) Act, 2009 substituted section 194C of the Act with effect from 01.10.2009, which inter alia provided for non- deduction of tax from payments made to the contractor during the course of plying, hiring and leasing goods carriage if the contractor furnishes his Permanent Account Number (PAN) to the payer.

The memorandum explaining the provisions of Finance (No. 2) Bill, 2009 indicates that the intention was to exempt only small transport operators (as defined in section 44AE of the Act) from the purview of TDS on furnishing of Permanent Account Number (PAN). Thus, the intention was to reduce the compliance burden on the small transporters. However, the current language of section 194C(6) of the Act does not convey the desired intention and as a result all transporters, irrespective of their size, are claiming exemption from TDS under the existing provisions of section 194C(6) of the Act on furnishing of PAN.

As there is no rationale for exempting payment to all transporters, irrespective of their size, from the purview of TDS, the Act has amended the provisions of section 194C of the Act to expressly provide that the relaxation under section 194C(6) of the Act from non-deduction of tax shall only be applicable to the payment in the nature of transport charges (whether paid by a person engaged in the business of transport or otherwise) made to an contractor who is engaged in the business of transport i.e. plying, hiring or leasing goods carriage and who is eligible to compute income as per the provisions of section 44AE of the Act (i.e. a person who is not owning more than 10 goods carriage at any time during the previous year) and who has also furnished a declaration to this effect along with his PAN.

60. Amendment to section 194-I

Section 194-I has been amended with effect from June 1, 2015. A proviso has been inserted to provide that no deduction shall be made under section 194-I where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in section 10(23FCA), owned directly by such business trust.

61. Amendment to section 194LBA

Section 194LBA is applicable if a business trust distributes any income referred to in section 115UA [being of the nature referred to in section 10(23FC] to its unit holder. In order to provide pass through to the rental

income arising to real estate investment trust from real estate property directly held by it, the scope of section 194LBA has been modified. The amended provisions are applicable from June 1, 2015. Under the modified version, real estate investment trust shall deduct tax at source on rental income allowed to be passed through. In case of resident unit holder, tax shall be deducted at the rate of 10 per cent under section 194LBA and in case of distribution to non-resident unit holder, the tax shall be deducted at rate in force as applicable for deduction of tax on payment to the non-resident of any sum chargeable to tax [i.e., at 30 per cent (+SC+EC+SHEC) if the recipient is a non-resident (not being a foreign company) or at 40 per cent (+SC+EC+SHEC) if the recipient is a foreign company].

62. Tax deduction from income in respect of units of investment fund [Sec. 194LBB]

Section 194LBB has been inserted with effect from June 1, 2015. Provisions of this section are given below –

Time of tax deduction - Tax deduction is applicable if a business trust distributes any income referred to in section 115UB [not being business income of the nature referred to in section 10(23FBB)] to its unit holders. Tax is deductible at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier.

Rate of TDS - Tax is deductible at the rate of 10 per cent. If the recipient does not have PAN, tax is deductible at the rate of 20 per cent.

Lower TDS certificate - Provisions of section 197 or section 197A are not applicable.

63. Extension of eligible period of concessional tax rate under section 194LD

The existing provisions of section 194LD provide for lower withholding tax at the rate of 5 per cent in case of interest payable at any time on or after June 1, 2013 but before June 1, 2015 to foreign institutional investors and qualified foreign investors on their investments in Government securities and rupee denominated corporate bonds provided the rate of interest does not exceed the rate notified by the Central Government in this regard.

The limitation date of the eligibility period for benefit of reduced rate of tax available under section 194LC in respect of external commercial borrowings (ECB) has been extended from June 30, 2015 to June 30, 2017 by the Finance (No.2) Act, 2014. On similar lines, section 194LD has been amended to provide that the concessional rate of 5 per cent withholding tax on interest payment under this section will now be available on interest payable up to June 30, 2017.

64. Amendment to section 195(6)

Section 195(6) provides that the person responsible for making payment/credit to a non-resident/ foreign company shall furnish the information relating to payment of any sum in such form and manner as may be prescribed by the Board.

The above provisions of section 195(6) have been amended with effect from June 1, 2015. The amended provisions provide that the person responsible for paying to a non-resident/foreign company, any sum (whether or not chargeable under the provisions of this Act in the hands of recipient) shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.

65. Amendment to section 200

Sub-section (2A) has been inserted in section 200 with effect from June 1, 2015. It provides that in case of an office of the Government, where TDS has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer/Treasury Officer/Cheque Drawing and Disbursing Officer/any other person, who is responsible for crediting TDS to the credit of the Central Government, shall deliver to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.

66. Amendment to section 200A

Section 200A provides for processing of TDS statements for determining the amount payable or refundable to the deductor. However, as section 234E was inserted after the insertion of section 200A, the existing provisions of section 200A do not provide for determination of fee payable under section 234E at the time of processing of TDS statements.

Therefore, the above provision has been amended with effect from June 1, 2015 so as to enable computation of fee payable under section 234E at the time of processing of TDS statement under section 200A.

67. Rationalisation of provisions relating to Tax Deduction at Source (TDS) and Tax Collection at Source (TCS) [Section 197A, 200, 200A, 206CB] [W.e.f. 1-6-2015]

The following amendments have been made to rationalise the provisions relating to TDS & TCS:

Fee payable under section 234E to be included for determination of amount payable/refundable while processing of TDS statement [Section 200A]: Finance (No. 2) Act, 2009 inserted section 200A in the Act which provides for processing of TDS statements for determining the amount payable or refundable to the deductor. However, as section 234E was inserted after the insertion of section 200A in the Act. The existing provisions of section 200A of the Act does not provide for determination of fee payable under section 234E of the Act at the time of processing of TDS statements. The Act has therefore, amended the provisions of section 200A of the Act so as to enable computation of fee payable under section 234E of the Act at the time of processing of TDS statement under section 200A of the Act.

Enabling of filing of Form 15G/15H for payment made under life insurance policy [Section 197A] [W.e.f. 1-6-2015]

The Finance (No. 2) Act, 2014, inserted section 194DA in the Act with effect from 01.10.2014 to provide for deduction of tax at source at the rate of 2% from payments made under life insurance policy, which are chargeable to tax. It has been further provided that no deduction shall be made if the aggregate amount of payment during a financial year is less than ₹1,00,000. In spite of providing high threshold for deduction of tax under this section, there may be cases where the tax payable on recipient's total income, including the payment made under life insurance, will be nil.

Similarly, newly inserted section 192A provides for deduction of tax at source at the rate of 10% from payment of accumulated balance due to an employee from recognized provident fund. It has been further provided that no deduction shall be made if the aggregate amount of payment during a financial year **is less than ₹ 30,000.** In this case also tax payable on recipient's total income, including the payment made from recognised provident fund may be nil.

The existing provisions of section 197A of the Act inter alia provide that tax shall not be deducted, if the recipient of the certain payment on which tax is deductible furnishes to the payer a self-declaration in prescribed Form No. 15G/15H declaring that the tax on his estimated total income of the relevant previous year would be nil. The Act has amended section 197A(1A) and (1C) for making the recipients of payments referred to in section 192A and 194DA also eligible for filing self-declaration in Form No. 15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

68. Relaxing the requirement of obtaining TAN for certain deductors [Section 203A] [W.e.f. 1-6-2015]

Under the provisions of section 203A of the Act, every person deducting tax (deductor) or collecting tax (collector) is required to obtain Tax Deduction and Collection Account Number (TAN) and quote the same for reporting of tax deduction/collection to the Income-tax Department. However, currently, for reporting of tax deducted from payment over a specified threshold made for acquisition of immovable property (other than rural agricultural land) from a resident transferor under section 194-IA of the Act, the deductor is not required to obtain and quote TAN and he is allowed to report the tax deducted by quoting his Permanent Account Number (PAN).

The obtaining of TAN creates a compliance burden for those individuals or Hindu Undivided Family (HUF) who are not liable for audit under section 44AB of the Act. The quoting of TAN for reporting of Tax Deducted

at Source (TDS) is a procedural matter and the same result can also be achieved in certain cases by mandating quoting of PAN especially for the transactions which are likely to be one time transaction such as single transaction of acquisition of immovable property from non-resident by an individual or HUF on which tax is deductible under section 195 of the Act.

To reduce the compliance burden of these types of deductors, the Act has inserted sub-section (3) to section 203A to provide as under:

The provisions of this section (section 203A) shall not apply to such person, as may be notified by the Central Government in this behalf.

In other words, the requirement of obtaining and quoting of TAN under section 203A of the Act shall not apply to the notified deductors or collectors.

69. Amendment to section 206C

Sub-section (3A) has been inserted in section 206C with effect from June 1, 2015. It provides that in case of an office of the Government, where TCS has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer/Treasury Officer/Cheque Drawing and Disbursing Officer/any other person, who is responsible for crediting TCS to the credit of the Central Government, shall deliver to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.

Further, sub-section (3B) has been inserted with effect from June 1, 2015. It provides that person collecting tax at source may also deliver to the prescribed authority, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the quarterly statement.

70. Processing of quarterly TCS statements [Sec. 206CB]

Currently, there does not exist any provision in the Act to enable processing of the TCS statement filed by the collector as available for processing of TDS statement. The mechanism of TCS statement is similar to TDS statement. Section 206CB has been inserted (with effect from June 1, 2015) to provide for processing of TCS statements on the line of existing provisions for processing of TDS statement contained in section 200A. This provision also incorporates the mechanism for computation of fee payable under section 234E.

Intimation - After processing of TCS statement, an intimation is generated specifying the amount payable or refundable. This intimation generated after processing of TCS statement will be (i) subject to rectification under section 154; (ii) appealable under section 246A; and (iii) deemed as notice of demand under section 156.

71. Interest for late payment of amount due as specified in TCS intimation [Sec. 220]

As the intimation generated after processing of TCS statement shall be deemed as a notice of demand under section 156, the failure to pay the tax specified in the intimation shall attract levy of interest as per the provisions of section 220(2). However, section 206C(7) also contains provisions for levy of interest for non-payment of tax specified in the intimation to be issued. To remove the possibility of charging interest on the same amount for the same period of default both under section 206C(7) and section 220(2), section 220 has been amended. The amended section 220 provides that where interest is charged for any period under section 206C(7) on the tax amount specified in the intimation, then no interest shall be charged under section 220(2) on the same amount for the same period.

72. Amendment to section 234B

The following amendments have been made to the scheme of section 234B with effect from June 1, 2015-

- The existing provisions contained in section 234B(3) provide that where the total income is increased on reassessment under section 147/153A, the assessee shall be liable for interest at the rate of 1 per cent on the amount of increase in total income. This interest is presently calculated for the period commencing

from date of determination of total income under section 143(1) or on regular assessment and ending on the date of reassessment under section 147/153A.

Interest is charged under section 234B on the principle that the amount of tax determined on the total income [whether determined in intimation under section 143(1) or assessment or reassessment under section 143(3)/147/153A] was the taxpayer's true liability right from the beginning and it was with reference to that amount the advance tax should have been paid within the prescribed due date. Accordingly, section 234B(3) has been amended to provide that the period for which the interest is to be computed will begin from the first day of the assessment year and end on the date of determination of total income under section 147 or section 153A.

- A new sub-section (2A) has been inserted to provide that where an application for settlement is made under section 245C(1), the assessee shall be liable to pay simple interest at the rate of 1 per cent for every month (or part of a month) comprised in the period commencing on the first day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax. Further, where as a result of an order of the Settlement Commission under section 245D(4) for any assessment year, the amount of total income disclosed in the application under section 245C(1) is increased, the assessee shall be liable to pay simple interest at the rate of 1 per cent for every month (or part of a month) comprised in the period commencing on the first day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under section 245C(1).

Where, as a result of a rectification order under section 245D(6B), the amount on which interest was payable under the above provisions has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly.

73. Settlement Commission

Provisions regulating settlement of cases have been amended with effect from June 1, 2015 as follows -

- An assessee can make an application to the Settlement Commission at any stage of a "case" relating to him. "Case" is defined as any proceeding for assessment/reassessment which may be pending before an Assessing Officer on the date on which an application is made. The proceeding for assessment or reassessment under section 147 is deemed to commence from the date of issue of notice under section 148. Issue relating to escapement of income is often involved in more than one assessment year. In such a case the assessee becomes eligible to approach Settlement Commission only for the assessment year for which notice under section 148 has been issued. Therefore, to take the proceeding for all other assessment years where there is escapement, the assessee becomes eligible only after notice under section 148 has been issued for all such assessment years.

In order to obviate the need for issue of notice in all such assessment years for commencement of pendency, Explanation (i) to section 245A(b) has been amended. After the amendment, a proceeding for assessment or reassessment or recomputation under section 147 shall be deemed to have commenced—

a. from the date on which a notice under section 148 is issued for any assessment year;

b. from the date of issuance of such notice referred to in sub-clause (a), for any other assessment year or assessment years for which a notice under section 148 has not been issued but such notice could have been issued on such date, if the return of income for the other assessment year or assessment years has been furnished under section 139 or in response to a notice under section 142.

In other words, where a notice under section 148 is issued for any assessment year, the assessee can approach Settlement Commission for other assessment years as well (for which notice could have been issued on such date) even if notice under section 148 for such other assessment years has not been issued. However, a return of income for such other assessment years should have been furnished under section 139 or in response to notice under section 142.

- The existing provision contained in the Explanation (iv) to section 245A(b) provides that a proceeding for any assessment year [other than the proceedings of assessment or reassessment referred to in the Explanation (i)/(iii)/(iiia)] shall be deemed to have commenced from the first day of the assessment year and concluded on the date on which the assessment is made. This provision has been amended to provide that a proceeding for any assessment year [other than the proceedings of assessment or reassessment referred to in the Explanation (i)/(iii)/(iiia)] shall be deemed to have commenced from the date on which a return of income is furnished under section 139 or in response to notice under section 142 and concluded on the date on which the assessment is made or on the expiry of 2 years from the end of relevant assessment year, in a case where no assessment is made.
- The existing provision contained in section 245D(6B) provides that the Settlement Commission may, at any time within a period of 6 months from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed under section 245D(4).

There is no provision for additional time where the assessee or the Commissioner files an application for rectification towards the end of the limitation period. Accordingly, the above provision has been amended to provide that the Settlement Commission may, with a view to rectifying any mistake apparent from the record, amend any order passed by it -

a. at any time within a period of 6 months from the end of month in which the order was passed;

b. at any time within the period of 6 months from the end of the month in which an application for rectification has been made by the Principal Commissioner or the Commissioner or the applicant, as the case may be.

Moreover, no application for rectification shall be made by the Principal Commissioner or the Commissioner or the applicant after the expiry of 6 months from the end of the month in which an order under section 245D(4) is passed by the Settlement Commission.

- The existing provision contained in section 245H(1) provides that the Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, immunity from prosecution.

  As immunity is provided from prosecution by the Settlement Commission, section 245H(1) has been amended so as to provide that the Settlement Commission while granting immunity to any person shall record the reasons in writing in the order passed by it.
- The existing provision contained in section 245HA(1) provides for abatement of proceedings in different situations. This section has been amended to provide that where in respect of any application made under section 245C, an order under section 245D(4) has been passed without providing the terms of settlement the proceedings before the Settlement Commission shall abate on the day on which such order was passed.
- The existing provision contained in section 245K provides that where an application of a person has been allowed to be proceeded with under section 245D(1), then such person shall not be subsequently entitled to make an application before Settlement Commission. It further provides that in certain situations the person shall not be entitled to apply for settlement before Settlement Commission.

The restriction is presently applicable to a person, who makes the application under section 245C for settlement. Therefore, an individual who has approached the Settlement Commission once can subsequently approach again through an entity controlled by him. This defeats the purpose of restricting the opportunity of approaching the Settlement Commission only once for any person. Accordingly, section 245K has been modified to provide that any person related to the person who has already approached the Settlement

Commission once, also cannot approach the Settlement Commission subsequently. The "related person" is explained below -

Person who has approached the Settlement Commission	'Related persons" who cannot approach Settlement Commission subsequently
1. Where such person is an individual	Any company in which such person holds more than 50 per cent of the shares or voting power at any time, or any firm or association of persons or body of individuals in which such person is entitled to more than 50 per cent of the profits at any time, or any Hindu undivided family in which such person is a karta.
2. Where such person is a company	Any individual who held more than 50 per cent of the shares or voting power in such company at any time before the date of application before the Settlement Commission by such person.
3. Where such person is a firm or association of persons or body of individuals	Any individual who was entitled to more than 50 per cent of the profits in such firm, association of persons or body of individuals, at any time before the date of application before the Settlement Commission by such person
4. Where such person is an Hindu undivided family	The karta of that Hindu undivided family.

74. Amendment to section 245-0

With effect from April 1, 2015, a person shall be qualified for appointment as law Member from the Indian Legal Service, if he is an Additional Secretary to the Government of India or if he is qualified to be an Additional Secretary to the Government of India.

75. Amendment to section 246A

Section 246A has been amended with effect from June 1, 2015. After the amendment, the intimation generated after processing of TCS quarterly statements will be appealable within the parameters of section 246A.

76. Orders passed under section 10(23C)(vi)/(via) made appealable before ITAT [Sec. 253]

Section 10(23C)(vi) provides that any income received by a person on behalf of any university or other educational institution existing solely for educational purposes and not for purpose of profit, is not liable to tax. Likewise, section, 10(23C)(via) provides that any income received by a person on behalf of any hospital or other institution for treatment of persons suffering from illness or mental defectiveness or treatment of persons during convalescence or persons requiring medical attention, existing solely for philanthropic purposes and not for the purpose of profit, is not liable for tax. However, exemption is available under these provisions only if the educational institute or the hospital is approved by the prescribed authority.

In the above cases, if the prescribed authority refuses to grant approval (which can have significant financial implications for the educational or medical institution), the order of prescribed authority is not appealable before ITAT under the existing provisions of section 253(1). Therefore, section 253(1) has been amended with effect from June 1, 2015. Under the amended provisions an assessee aggrieved by the order passed by the prescribed authority under section 10(23C)(vi)/(via) may appeal to the Appellate Tribunal.

77. Raising of the income-limit in the cases that may be decided by single member bench of ITAT [Sec. 255]

The existing provisions of section 255(3) provides that single member bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed ₹ 5 lakh. With effect from June 1, 2015, the monetary limit of ₹ 5 lakh has been increased to ₹ 15 lakh.

78. Revision of order that is erroneous in so far as it is prejudicial to the interests of revenue [Sec. 263]

If the Principal Commissioner or Commissioner considers that any order passed by the Assessing Officer is "erroneous in so far as it is prejudicial to the interests of the revenue", he may, after giving the assessee an opportunity of being heard and after making an enquiry, pass an order modifying the assessment made by the Assessing Officer or cancelling the assessment and directing fresh assessment.

Amendment - The interpretation of expression "erroneous in so far as it is prejudicial to the interests of the revenue" has been a contentious one. In order to provide clarity on the issue, Explanation 2 has been inserted in section 263(1) with effect from June 1, 2015. This Explanation provides that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

a. the order is passed without making inquiries or verification which should have been made;

b. the order is passed allowing any relief without inquiring into the claim;

c. the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

d. the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

79. Mode of taking or accepting certain loans, deposits and specified sums and mode of repayment of loans or deposits and specified advances [Sees. 269SS and 269T]

In order to curb generation of black money by way of dealings in cash in immovable property transactions, sections 269SS and 269T have been amended with effect from June 1,2015. After the amendment, no person shall accept from any person any loan or deposit or any sum of money, whether as advance or otherwise, in relation to transfer of an immovable property otherwise than by an account-payee cheque/draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is ₹ 20,000 or more. Likewise, no person shall repay any loan or deposit made with it or any specified advance received by it, otherwise than by an account-payee cheque/draft or by electronic clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is ₹ 20,000 or more. The specified advance shall mean any sum of money in the nature of an advance, by whatever name called, in relation to transfer of an immovable property whether or not the transfer takes place.

Consequential amendments have been made to sections 271D and 271E to provide penalty for failure to comply with the amended provisions of section 269SS and 269T, respectively.

80. Amount of tax sought to be evaded for the purpose of concealment penalty under section 271(1)(c)

Under the existing provision contained in section 271(1)(c) penalty for concealment of income or furnishing inaccurate particulars of income is levied on the "amount of tax sought to be evaded", which has been defined, inter alia, as the difference between the tax due on the income assessed and the tax which would have been chargeable had such total income been reduced by the amount of concealed income.

Concealment of income where tax is payable under MAT - Problems have arisen in the computation of amount of tax sought to be evaded where the concealment of income or furnishing inaccurate particulars of income occurs in the computation of income under provisions of minimum alternate tax (MAT)/alternate minimum tax (AMT) under sections 115JB and 115JC and also under general provisions (i.e., computation of income ignoring MAT/AMT). Courts have held that penalty under section 271(1)(c) cannot be levied in cases where the concealment of income occurs under general provisions and the tax is paid under the provisions of MAT/AMT under sections 115JB and 115JC – CIT v. Aleo Manali Hydro Power (P.) Ltd. [2013] 38 taxmann.com 288 (All.), CIT v. Jindal Polyester & Steel Ltd [2014] 52 taxmann.com 259 (All.).

Is there any revenue loss if tax is payable under MAT/AMT but concealment occurs under general provisions - Tax paid under the provisions of section 115JB or 115JC over and above the tax liability arising under general provisions is available as MAT/AMT credit for set off against future tax liability. Understatement of income and the tax liability thereon under general provisions results in larger amount of such credit becoming available to the assessee for set off in future years. If it is not checked, it will ultimately result in revenue loss in future. Therefore, where concealment of income, as computed under the general provisions, has taken place, penalty under section 271(1)(c) should be leviable even if the tax liability of the assessee for the year has been determined under provisions of MAT/AMT.

Amendment - Accordingly, section 271(1)(c) has been amended from the assessment year 2016-17. The amended version provides that the amount of tax sought to be evaded shall be the summation of tax sought to be evaded under the general provisions and the tax sought to be evaded under the provisions of MAT/ AMT under sections 115JB and 115JC. If, however, amount of concealment of income on any issue is considered both under the general provisions and provisions of MAT/AMT then such amount shall not be considered in computing tax sought to be evaded under provisions of MAT/AMT. Further, in a case where the provisions of MAT/AMT are not applicable, the computation of tax sought to be evaded under the provisions of MAT/AMT shall be ignored.

New definition of "tax sought to be evaded" - To make the above calculations, "tax sought to be evaded" shall be determined in accordance with the following formula -

Tax sought to be evaded = (A-B) + (C-D)	
A =	Amount of tax on the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (hereinafter referred to as "general provisions"
B =	Amount of tax that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished
C =	Amount of tax on the total income assessed as per the provisions contained in section 115JB or section 115JC
D =	Amount of tax that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished.

The following points should be noted -

1. Where on any issue concealed income is considered both under MAT/AMT provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under Item D.

2. In a case where the provisions contained in section 115JB or section 115JC are not applicable, Item (C- D) in the formula shall be ignored.

3. Where in any case the amount of concealed income has the effect of reducing the loss declared in the return or converting that loss into income, the amount of tax sought to be evaded shall be determined in accordance with the above formula with the modification that the amount to be determined for Item (A - B) in the formula shall be the amount of tax that would have been chargeable on the income in respect of which particulars have been concealed or inaccurate particulars have been furnished had such income been the total income.

Example:

The following information is noted from the records of X Ltd. for the assessment year 2016-17 -

	General provisions ₹	MAT ₹
Income/book profit as per return of income	6,00,000	14,00,000
Add: Addition on estimate basis (not representing concealed income)	50,000	Nil
Add: Amount of concealed income (as per assessment order)	40,000	Nil
Net income/book profit (as per assessment order)	6,90,000	14,00,000
Tax liability/MAT	2,13,210	2,66,770

Tax payable as per assessment order is ₹ 2,66,770. What is tax sought to be evaded for the purpose of concealment penalty under section 271(1)(c)?

Solution:

Tax sought to be evaded will be calculated as follows -

	₹
A = Normal tax on ₹ 6,90,000	2,13,210
B = Normal tax on (₹ 6,90,000 - ₹ 40,000)	2,00,850
C = MAT on ₹ 14,00,000	2,66,770
D = MAT on (₹ 14,00,000 - nit)	2,66,770
Tax sought to be evaded = (A-B) + (C-D)	12,360

Example:

The following information is noted from the records of X Ltd. for the assessment year 2016-17:

	General provisions ₹	MAT ₹
Income/book profit as per return of income	7,00,000	16,00,000
Add: Addition on estimate basis (not representing concealed income)	10,000	Nil
Add: Amount of concealed income (sale to A Ltd. not recorded in books of account as discovered by the Assessing Officer) (as per assessment order)	30,000	30,000
Add: Amount of concealed income (being deliberate attempt to conceal income by claiming higher deduction under section 35, even no explanation is offered) (as per assessment order)	70,000	Nil
Add: Deferred tax (being deliberate attempt by X Ltd. to declare lower book profit by not adding deferred tax which appeared on the debit side or profit and loss account) (as per assessment order)	Nil	80,000
Net income/book profit (as per assessment order)	8,10,000	17,10,000
Tax liability/MAT	2,50,290	3,25,840

Tax payable as per assessment order is ₹ 3,25,840. What is tax sought to be evaded for the purpose of concealment penalty under section 271(1)(c)?

Solution:

Tax sought to be evaded will be calculated as follows -

	₹
A = Normal tax on ₹ 8,10,000	2,50,290
B = Normal tax on (₹ 8,10,000 - ₹ 30,000 - ₹ 70,000)	2,19,390
C = MAT on ₹ 17,10,000	3,25,840
D = MAT on (₹ 17,10,000 - ₹ 80,000) (₹ 30,000 will not be reduced as it is also considered for computing normal income)	3,10,597
Tax sought to be evaded = (A- B) + (C - D)	46,143

Example:

The following information is noted from the records of X Ltd. for the assessment year 2016-17 –

	General provisions ₹	MAT ₹
Income/book profit as per return of income	(-) 6,00,000	17,00,000
Add: Addition on estimate basis (not representing concealed income)	5,000	Nil
Add: Amount of concealed income (sale to A Ltd. not recorded in books of account as discovered by the Assessing Officer) (as per assessment order)	15,000	15,000
Add: Amount of concealed income (being deliberate attempt to conceal income by claiming higher deduction under section 35, even no explanation is offered) (as per assessment order)	7,50,000	Nil
Add: Deferred tax (being deliberate attempt by X Ltd. to declare lower book profit by not adding deferred tax which appeared on the debit side or profit and loss account) (as per assessment order)	Nil	45,000
Net income/book profit (as per assessment order)	1,70,000	17,60,000
Tax liability/MAT	52,530	3,35,368

Tax as per assessment order is ₹ 3,35,368. What is tax sought to be evaded for the purpose of concealment penalty under section 271(1)(c)?

Solution:

Tax sought to be evaded is calculated on the basis of the following formula -

Tax sought to be evaded = (A-B) + (C-D)

This formula is generally followed. If, however, by adding concealed income loss declared in the return of income is reduced or loss declared in the return of income is converted into income, the above formula will be modified. (A-B) in the above formula will be tax that would have been chargeable on the income in respect of which particulars have been concealed. There is no modification in (C- D). In this example, loss declared in the return of income is converted into income (because of addition of concealed income). Consequently, (A-B) will be replaced by tax on concealed income (i.e., tax on ₹ 7,65,000 which comes to ₹ 2,36,385).

Tax sought to be evaded will be calculated as follows -

	₹
A -B = As calculated above	2,36,385
C = MAT on ₹ 17,60,000	3,35,368
D = MAT on (₹ 17,60,000 - ₹ 45,000) (₹ 15,000 will not be reduced as it is also considered for computing normal income)	3,26,793
Tax sought to be evaded = (A - B) + (C- D)	2,44,960

81. Amendments to sections 271D and 271E

Section 271D provides that if a person accepts any loan or deposit in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so accepted. Likewise, section 271E provides that if a person repays any loan or deposit referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so repaid. These two sections have been amended with effect from June 1, 2015 to incorporate the reference of "specified sum" in section 271D and "specified advance" in section 271E consequent to the modification in sections 269SS and 269T. "Specified advance" means any sum of money in the nature of an advance, by whatever name called, in relation to transfer of an immovable property whether or not the transfer takes place.

82. Penalty for failure to furnish statement by an eligible investment fund [Sec. 271 FAB]

Section 271FAB has been inserted with effect from the assessment year 2016-17. It provides that if any eligible investment fund which is required to furnish a statement or any information and document under section 9A(5) fails to furnish such statement or information and the document within 90 days from the end of the previous year, the concerned income-tax authority may direct that such fund shall pay, by way of penalty, a sum equal to ₹ 5 lakh.

83. Penalty for failure to furnish information or documents under section 285A [Sec. 271GA]

Section 271GA has been inserted with effect from the assessment year 2016-17. It provides that if any Indian concern which is required to furnish any information or document under section 285A, fails to do so, the Income-tax authority, as may be prescribed in the said section 285A, may direct that such Indian concern shall pay, by way of penalty -

a. a sum equal to 2 per cent of the value of the transaction, in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;

b. a sum of ₹ 5 lakh in any other case.

84. Penalty for failure to furnish information or furnishing inaccurate information under section 195(6) [Sec. 271-I]

Section 271-I has been inserted with effect from June 1, 2015. It provides that if a person, who is required to furnish information under section 195(6), fails to furnish such information; or furnishes inaccurate information, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ₹ 1 lakh.

85. Amendment to section 272A

Section 272A has been amended with effect from June 1, 2015 on the following lines -

1. If any person fails to deliver (or cause to be delivered) a statement within the time as may be prescribed under section 200(2A) or section 206C(3A), then such person shall pay, by way of penalty, a sum of ₹ 100 for every day of such default.

2. The above penalty shall not exceed the amount of tax deductible or tax collectible, as the case may be.

86. Amendment to section 273B

Section 273B provides for non-levy of penalty under various sections enumerated in the said section, if the assessee is able to show existence of reasonable cause for the failure for which penalty is leviable.

- This section has been amended with effect from the assessment year 2016-17 so as to include the reference of new section 271FAB relating to penalty for failure to furnish statement or information or document by an eligible investment fund and new section 271GA relating to penalty for failure to furnish information or document under section 285A.
- Further, section 273B has been amended with effect from June 1, 2015 so as to include the reference of new section 271-I.

87. Furnishing of information or document by an Indian concern [Sec. 285A]

Section 285A has been inserted with effect from the assessment year 2016-17. It provides that where any share or interest in a company or entity registered or incorporated outside India derives, directly or indirectly, its value substantially from the assets located in India as referred to in the Explanation 5 to section 9(1)(i), and such company or, as the case may be, entity holds such assets in India through or in an Indian concern, then, any such Indian concern shall, for the purposes of determination of income accruing or arising in India, under section 9(1)(i), furnish within the prescribed period to the prescribed income-tax authority the relevant information or document, in such manner and form as is prescribed in this behalf.

88. Amendment to section 288

Section 288 has been amended (with effect from June 1, 2015).

Certain chartered accountants not to give reports/certificates - The following chartered accountants will not be eligible to furnish audit reports and certificates under different provisions of the Income-tax Act. However, these persons can attend income-tax proceeding before income-tax authorities and ITAT as authorised representative on behalf of the assessee.

In the case of a corporate-assessee - In the case of a company, the person [who is not eligible for appointment as an auditor of the said company in accordance with the provisions of section 141(3) of the Companies Act, 2013], will not be eligible to furnish audit reports and different certificates under different provisions of the Income-tax Act. Under section 141(3) of the Companies Act, the following persons are eligible for appointment as an auditor of a company, namely—

1. A body corporate other than a LLP.
2. An officer or employee of the company.
3. A person who is a partner, or who is in the employment, of an officer or employee of the company.
4. A person who, or his relative or partner—
    i. is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company (the relative may hold security or interest in the company of fa« value not exceeding ₹ 1 lakh),
    ii. is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of suclholding company, in excess of ₹ 5 lakh,
    iii. has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, for exceeding ₹ 1 lakh.

5. A person or a firm who, whether directly or indirectly, has business relationship with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company of such nature as may be prescribed [i. e., any commercial purpose not being (a) professional services permitted to be rendered by an auditor under Chartered Accountants Act or under Companies Act, (b) commercial transactions under ordinary course of business at arm's length price like sale of products/ services to the Chartered Accountant as customer].
6. A person whose relative is a director or is in the employment of the company as a director or key managerial personnel.
7. A person who is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment holding appointment as auditor of more than 20 companies.
8. A person who has been convicted by a court of an offence involving fraud and a period of 10 years has not elapsed from the date of such conviction.
9. Any person whose subsidiary or associate company or any other form of entity, is engaged as on the date of appointment in consulting and specialised services as provided in section 144 of the Companies Act.

In the case of a non-corporate assessee - In the case of an assessee (not being a company) the following chartered accountants will not be eligible to furnish audit reports and different certificates under different provisions of the Income-tax Act -

1. The assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family.
2. In case of the assessee, being a trust or institution, any person referred to in section 13(3)(a)/(b)/(c) and (cc).
3. In case of any person [other than persons referred to in (1) and (2) above], the person who is competent to verify the return under section 139 in accordance with the provisions of section 140.
4. Any relative of any of the persons referred to in (1), (2) and (3) above.
5. An officer or employee of the assessee.
6. An individual who is a partner, or who is in the employment, of an officer or employee of the assessee.
7. An individual who, or his relative or partner—
    i. is holding any security of, or interest in, the assessee (the relative may hold security or interest in the company of face value not exceeding ₹ 1 lakh),
    ii. ii is indebted to the assessee in excess of ₹ 1 lakh,
    iii. Hi has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee (the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding ₹ 1 lakh).
8. A person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed.
9. A person who has been convicted by a court of an offence involving fraud and a period of 10 years has not elapsed from the date of such conviction.

Meaning of relative - For the purpose of section 288, relative in relation to an individual means -

a. spouse of the individual;

b. brother or sister of the individual;

c. brother or sister of the spouse of the individual;

d. any lineal ascendant or descendant of the individual;

e. any lineal ascendant or descendant of the spouse of the individual;

f. spouse of a person referred to in (b), (c), (d) or (e) (supra);

g. any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.

Example:

X is a chartered accountant in practice in Mumbai. On June 5, 2015, he holds appointments as a statutory auditor of 21 companies. On June 6, 2015, he wants to sign and upload the following reports/certificates –

1. Tax audit report in Form Nos. 3CA and 3CD pertaining to A Ltd. for the assessment year 2015-16 (professional fees: ₹ 1,80,000).
2. Report in Form No. 3CEA under section 50B(3) relating to computation of capital gain in the case of slump sale made by B & Co. (a partnership firm) during the previous year 2014-15 (professional fees : ₹ 30,000).
3. Audit report section 80-IA(7) for C Ltd. for the assessment year 2015-16 (professional fees : ₹ 5,000).
4. Tax audit under section 44AB for D (D is a sole proprietor having turnover of ₹ 5.5 crore) for the assessment year 2015-16 (professional fees : ₹ 1,05,000).

Solution:

X holds appointment as a statutory auditor of more than 20 companies on June 6, 2015. He will have to vacate the office of the statutory auditor of one of the companies. Till he vacates the office of the statutory auditor of one of the companies, he cannot sign and upload any report/certificate pertaining to a company. However, there is no such limitation for report/certificate pertaining to a person other than a company. Consequently, X is not competent to sign and upload audit reports pertaining to A Ltd. and C Ltd. on June 6, 2015. Slump sale report for B & Co. and tax audit report of D can be signed and uploaded on June 6, 2015.

Convicted person not eligible to act as authorised representative - Any person convicted by a court of an offence involving fraud shall not be eligible to act as authorised representative for a period of 10 years from the date of such conviction.

89. Board to notify rules for giving foreign tax credit [Sec. 295]

Section 91 provides for relief in respect of income-tax on the income which is taxed in India as well as in the country with which there is no Double Taxation Avoidance Agreement (DTAA). It provides that an Indian resident is entitled to a deduction from the Indian income-tax of a sum calculated on such doubly taxed income, at the Indian rate of tax or the rate of tax of said country, whichever is lower. In cases of countries with which India has entered into an agreement for the purposes of avoidance of double taxation under section 90 or section 90A, a relief in respect of income-tax on doubly taxed income is available as per the respective DTAAs.

The Income-tax Act does not provide the manner for granting credit of taxes paid in any country outside India. To provide this, section 295(2) has been amended with effect from June 1, 2015. The amended version provides that CBDT may make rules to provide the procedure for granting relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90, or under section 90A, or under section 91, against the income-tax payable under the Act.

90. Abolition of levy of wealth-tax under Wealth-tax Act, 1957

Levy of wealth tax under the Wealth-tax Act has been abolished with effect from the assessment year 2016-17.

91. Amendment to the Finance (No. 2) Act, 2004 pertaining to securities transaction tax

The Finance (No. 2) Act, 2004 has been amended with effect from June 1, 2015 to provide that securities transaction tax (STT) shall be levied on sale of such units of business trust which are acquired in lieu of shares of SPV, under an initial offer at the time of listing of units of business trust on similar lines as in the case of sale of unlisted equity shares under an IPO.

It shall be payable by seller at the rate of 0.2 per cent and collected by the lead merchant banker appointed by the business trust in respect of an initial offer.

Changes made by Finance (No. 2) Act, 2015

Meaning of Cost Inflation Index changed [Clause (v) of Explanation to section 48] [W.e.f. A.Y. 2016-17]

The existing provisions contained in section 48 prescribe the mode of computation of income chargeable under the head "Capital gains". Clause (v) of the Explanation to the said section defines the term "Cost Inflation Index" (CII) which in relation to a previous year means such index as may be notified by the Government having regard to 75% of average rise in the Consumer Price Index (CPI) for urban non-manual employees (UNME) for the immediately preceding previous year to such previous year.

The release of CPI for UNME has been discontinued. Accordingly, the Act has amended the said clause (v) of the Explanation to section 48 to provide that "Cost Inflation Index" in relation to a previous year means such index as may be notified by the Central Government having regard to 75% of average rise in the Consumer Price Index (Urban) for the immediately preceding previous year to such previous year.

Study Note - 2 : The Source of Income Tax Law

(1) The following two rows no. 1 & 4 has been revised for better understanding of page no. 2.4

Assessee – Foreign Companies	Rate of Tax	Surcharge
Royalty received from Indian Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after March 31st, 1961, but before April 1st, 1976, or fees for rendering technical service received from Government or an Indian Concern in pursuance of an agreement made by it with the Government or the Indian Concern after February 29, 1964 and where such agreement has, in either case been approved by the Central Government	Total Income × 50% + EC@ 2% + SHEC @ 1%.	Surcharge @ 2% if the total income exceeds ₹1 crore and @5% if the total income exceeds ₹10 crore.
For Co-operative Societies	For First ₹ 10,000 @ 10% For Next ₹ 1,000 + ₹ 10,000 @ 20% For the Balance ₹ 3,000 + @ 30% on balance amount EC @ 2% and SHEC @ 1% are applicable.	Surcharge @12% if total income exceeds ₹1 crore.

Study Note - 4 : Income from Salaries

(2) The row no. 7 has been amended of page no. 4.7

Allowance	Nature of Allowance	Exemption as specified in Rule 2BB
Transport Allowance	Transport allowance is granted to an employee to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty.	It is exempt up to ₹ 1,600 per month. For handicapped person, exemption upto ₹ 3,200 per month.

(3) The point no. (ii) & (v) of second para i.e. "Notified Pension Scheme" has been revised for better understanding in page no. 4.13

(ii) Such contribution is deductible (to the extent of 10 percent of the salary of the employee) or 10% of the gross total income in case of any other individual under section 80CCD.

(v) The aggregate amount of deduction under section 80C, 80CCC and 80CCD(1) cannot exceed ₹1,50,000. For contribution made by Employee/Assessee u/s 80CCD(1B), further deduction of ₹50,000 is available in addition to the overall ceiling limit of ₹ 1,50,000.

(4) Point No. 12 has been revised for better understanding of page no. 7.10

12. Deemed cost of acquisition

(a) Cost to the previous owner u/s 49(1): Where the capital asset or intangible asset of a firm or a sole proprietary concern succeeded by company, the cost of acquisition of the asset shall be deemed to be cost for which the previous owner of the property acquired it, in the following cases:

(i) on any distribution of assets on the total or partial partition of a Hindu undivided family;

(ii) under a gift or will;

(iii) (a) by succession, inheritance or devolution, or

(b) on any distribution of assets on the dissolution of a firm, body of individuals, or other association of persons, where such dissolution had taken place at any time before the 1st day of April, 1987, or

(c) on any distribution of assets on the liquidation of a company, or

(d) under a transfer to a revocable or an irrevocable trust, or

(e) under any such transfer as is referred to in clause (iv) or clause (v) or clause (vi) or clause (via) **[**or clause (viaa) or clause (vica) or clause (vicb)**]** or clause (xiii) or clause (xiiib) or clause (xiv) of section 47;

(iv) such assessee being a Hindu undivided family, by the mode referred to in sub-section (2) of section 64 at any time after the 31st day of December, 1969,

the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be.

Explanation.—In this sub-section the expression "previous owner of the property" in relation to any capital asset owned by an assessee means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in clause (i) or clause (ii) or clause (iii) or clause (iv) of this sub-section.

(b) Cost share of Amalgamated Company u/s 49(2): Where the capital asset being a share or shares in an amalgamated company which is an Indian company became the property of the assessee in consideration of a transfer referred to in clause (vii) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the amalgamating company.

(c) Cost of acquisition in case of shares/debentures acquired on conversion of debentures u/s 49(2A): Where the capital asset, being a share or debenture of a company, became the property of the assessee in consideration of a transfer referred to in clause (x) or clause (xa) of section 47, the cost of acquisition of the asset to the assessee shall be deemed to be that part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.

(d) Cost of acquisition of shares, debentures or warrants u/s 49(2AA): Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (vi) of clause (2) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause.

(e) Section 49(2AA): Where the capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008, became the property of the assessee on conversion as referred to in clause (xiiib) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the company immediately before its conversion.

(f) Cost of acquisition of specified security or sweat equity shares u/s 49(2AB) read with Sec. 115WC(1)(ba): Where the capital gain arises from the transfer of specified security or sweat equity shares, the

cost of acquisition of such security or shares shall be the fair market value which has been taken into account while computing the value of fringe benefits under clause (ba) of sub-section (1) of section 115WC.

(g) Following sub-section (2ABB) shall be inserted after sub-section (2AB) of section 49 by the Finance Act, 2015, w.e.f. 1-4-2016 :

Where the capital asset, being share or shares of a company, is acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in clause (b) of sub-section (1) of section 115AC held by such assessee, the cost of acquisition of the share or shares shall be the price of such share or shares prevailing on any recognised stock exchange on the date on which a request for such redemption was made.

Explanation.—For the purposes of this sub-section, "recognised stock exchange" shall have the meaning assigned to it in clause (ii) of the Explanation 1 to sub-section (5) of section 43.

(h) Section 49(2AC): Where the capital asset, being a unit of a business trust, became the property of the assessee in consideration of a transfer as referred to in clause (xvii) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share referred to in the said clause.

(i) Following sub-section (2AD) shall be inserted after sub-section (2AC) of section 49 by the Finance Act, 2015, w.e.f. 1-4-2016 :

Where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in clause (xviii)of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund.

(j) Cost of acquisition of resulting company's shares on demerger u/s 49(2C): The cost of acquisition of the shares in the resulting company shall be the amount which bears to the cost of acquisition of shares held by the assessee in the demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.

$$\text{Cost of acquisition of Demerged Company's Shares} \times \frac{\text{Net Book Value of assets transfered to Resulting Company}}{\text{Net Worth of the Demerged Company before demerger}}$$

Net Worth of demerged company = Paid up Share Capital and General Reserve as per books before demerger.

(k) Cost of acquisition of demerged company's shares after demerger u/s 49(2D): The cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived at under sub-section (2C).

(l) Business reorganization of Co-operative Bank u/s 49(2E): The provisions of sub-section (2), sub-section (2C) and sub-section (2D) shall, as far as may be, also apply in relation to business reorganisation of a co-operative bank as referred to in section 44DB.

Explanation.— For the purposes of this section, "net worth" shall mean the aggregate of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.

(m) Cost of acquisition to transferee company where section 47A is applicable u/s 49(3): Notwithstanding anything contained in sub-section (1), where the capital gain arising from the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 47 is deemed to be income chargeable under the head "Capital gains" by virtue of the provisions contained in section 47A, the cost of acquisition of such asset to the transferee-company shall be the cost for which such asset was acquired by it.

(n) Section 49(4): Where the capital gain arises from the transfer of a property, the value of which has been subject to income-tax under clause (vii) or clause (viia) of sub-section (2) of section 56, the cost of acquisition of such property shall be deemed to be the value which has been taken into account for the purposes of the said clause (vii) or clause (viia).

(5) Insertion of explanation clause in section 2(42A) in the last para of page no. 7.12

Period of holding of units of consolidated scheme of mutual funds [Explanation 1 to section 2(42A)] [W.e.f. A.Y. 2016-17]

"In the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in section 47(xviii), there shall be **included** the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee".

(6) There is a correction in last column of 1st row of last para i.e. "Short Term Capital Gains" should be replaced by "Long Term Capital Gains" of page no. 7.15.

(7) The below illustration has been revised for better understanding of page no. 7.37

Illustration 23 : ABC Ltd. purchased a building for an industrial undertaking on 1.1.09 for ₹5 lacs. Prior to this the company had taken this building on rent for the last 3 years and was using it for its industrial activities. There is no other building in the block. This property was compulsorily acquired by the State Government on 16.7.15 and a compensation of ₹ 7 lacs was given to the company on 31.3.16. The company purchased another building for shifting its Industrial undertaking for ₹ 5 lacs on 20th November 2016. Compute the Capital Gain for the Assessment Year 2016-17. Rate of Dep. of Building 10%.

Solution :

Computation of Capital Gains for the A.Y. 2016-17

Particulars	₹
Less : **Cost of Acquisition**	7,00,000
WDV as on 1.4.2015	2,52,434
Short Term Capital Gains	4,47,566
Less : **Exemption u/s 54D**	
Cost of Building purchased ₹ 5 lacs	
or the Short Term Capital Gains ₹ 4,47,566 whichever is less	4,47,566
Taxable Short Term Capital Gains	Nil

Working :	
W.D.V as on 1.4.15:	
Purchase price (08-09)	5,00,000
Less : Dep. for 2008-09 (less than 180 days)	
Rt. of Dep. @ 50% of 10% = 5% on 5,00,000	25,000
	4,75,000
Less : Dep. for 2009-10 @ 10%	47,500
	4,27,500
Less : Dep. for 2009-11 @ 10%	42,750
	3,84,750
Less : Dep. for 2010-12 @ 10%	38,475
	3,46,275
Less : Dep. for 2011-13 @ 10%	34,628
	3,11,647
Less : Dep. for 2012-14 @ 10%	31,165
	2,80,482
Less : Dep. for 2013-15 @ 10%	28,048
W.D.V. as on 1.4.15	2,52,434

Study Note – 8 : Income from Other Sources

(8) After amendment, the entire para has been changed for better understanding of page no. 8.10.

METHOD OF ACCOUNTING [Sec. 145]

(1) Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (2), be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.

(2) The Central Government may notify in the Official Gazette from time to time **[income computation and disclosure standards]** to be followed by any class of assessees or in respect of any class of income.

(3) Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) [has not been regularly followed by the assessee, or income has not been computed in accordance with the standards notified under sub-section (2)], the Assessing Officer may make an assessment in the manner provided in section 144.

Study Note – 11 : Deduction in Computing Total Income

(9) The para 1 of page no. 11.7 has been amended and revised

IN RESPECT OF CONTRIBUTION TO PENSION SCHEME OF CENTRAL GOVERNMENT [SEC. 80CCD]

1	Eligible Assessee	Individual
2	Condition	Investment or application of funds during the Previous Year
3	Maximum Deduction	Up to 10% of his salary or gross total Income subject to maximum of ₹1,50,000 u/s 80CCD(i)
4	Special Provisions	Withdrawal of deductions for certain premature exit from certain investments or application of funds

(10) The para 3 of page no. 11.7 has been revised for better understanding

Where any amount paid or deposited by the assessee has been allowed as a deduction under sub-Section (1) or sub-Section (1B).

(a) No rebate with reference to such amount shall be allowed under Section 88 for any Assessment Year ending before the 1st day of April, 2006;

(b) No deduction with reference to such amount shall be allowed under Section 80C for any Assessment Year beginning on or after the 1st day of April, 2006.

(11) The para 4 of page no. 11.7 has been revised for better understanding

Tax benefits for New Pension System - extended also to "any employee or self-employed", and tax treatment of savings under this system as "exempt-exempt-taxed" [Section 10(44), 115-O,197A and 80CCD W.r.e.f. A.Y. 2009-10]

New Pension System has been extended to employee as well as self- employed Individual.

Further, in the case of an employee of Central Government or of any other employer, the deduction of employees' contribution shall be limited to 10% of his salary. Whereas in the case self-employed persons, it shall be limited to 10% of his Gross Total Income in the Previous Year.

For the purposes of the said Section the assessee shall be deemed not to have received any amount in the Previous Year if such amount is used for purchasing an annuity plan in the same Previous Year.

(12) Last para of page no. 11.8 has been amended & revised for better understanding

Essential conditions for claiming deduction under this section: Deduction is permissible, under this section, only to an individual or HUF.

Where the assessee is an individual, the sum referred to in sub-section (1) shall be the aggregate of the following, namely:—

(a) the whole of the amount paid to effect or to keep in force an insurance on the health of the assessee or his family or any contribution made to the Central Government Health Scheme or such other scheme as may be notified by the Central Government in this behalf or any payment made on account of preventive health check-up of the assessee or his family as does not exceed in the aggregate ₹ 25,000; **and**

(b) the whole of the amount paid to effect or to keep in force an insurance on the health of the parent or parents of the assessee or any payment made on account of preventive health check-up of the parent or parents of the assessee as does not exceed in the aggregate ₹25,000.

However, where the amounts referred to in clauses (a) and (b) above are paid on account of preventive health check-up, the deduction for such amount shall be allowed to the extent it does not exceed in the aggregate ₹ 5,000.

Following clauses (c) and (d) shall be inserted after clause (b) of sub-section (2) of section 80D by the Finance Act, 2015, w.e.f. 1-4-2016.

Deduction on account of medical expenditure incurred (instead of sum paid to effect any insurance of the health) to be allowed in case of very senior citizen;

(c) the whole of the amount paid on account of medical expenditure incurred on the health of the assessee or any member of his family as does not exceed in the aggregate ₹ 30,000; **and**

(d) the whole of the amount paid on account of medical expenditure incurred on the health of any parent of the assessee, as does not exceed in the aggregate ₹ 30,000:

Provided that the amount referred to in clause (c) or clause (d) is paid in respect of a very senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person.

Provided further that the aggregate of the sum specified under clause (a) and clause (c) or the aggregate of the sum specified under clause (b) and clause (d) shall not ₹ 30,000.

Explanation.—For the purposes of clause (a), "family" means the spouse and dependant children of the assessee.

Where the amounts referred to in clauses (a) and (b) of sub-section (2) are paid on account of preventive health check-up, the deduction for such amounts shall be allowed to the extent it does not exceed in the aggregate five thousand rupees.

For the purposes of deduction under sub-section (1), the payment shall be made by—

(i) any mode, including cash, in respect of any sum paid on account of preventive health check-up;

(ii) any mode other than cash in all other cases not falling under clause (i).

Following sub-section (3) shall be substituted for the existing sub-section (3) of section 80D by the Finance Act, 2015, w.e.f. 1-4-2016 :

Where the assessee is a Hindu undivided family, the sum referred to in sub-section (1), shall be the aggregate of the following, namely:—

(a) whole of the amount paid to effect or to keep in force an insurance on the health of any member of that Hindu undivided family as does not exceed in the aggregate ₹ 25,000; and

(b) the whole of the amount paid on account of medical expenditure incurred on the health of any member of the Hindu undivided family as does not exceed in the aggregate ₹30,000.

Provided that the amount referred to in clause (b) is paid in respect of a very senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person.

Provided further that the aggregate of the sum specified under clause (a) and clause (b) shall not exceed ₹ 30,000.

Additional deduction of ₹ 5,000: Where the sum specified in the above para of quantum of deduction is paid to effect or keep in force an insurance on the health of any person specified therein, and who is a senior citizen, an additional deduction of ₹ 5,000 shall be allowed.

(13) Old Illustration no. 8 of study note 11 has been deleted and accordingly numbers of the subsequent sums has been changed.

Study Note – 14 : Minimum Alternate Tax (MAT) and Alternate Minimum Tax (AMT)

(14) Calculation of entire Book profits of para 3 has been amended and revised for better understanding of page no. 14.1

"**Book Profit"** means the net profit as shown in the Profit and Loss Account, as increased by –

(a) the amount of income-tax paid or payable, and the provision therefore; or

(b) the amounts carried to any reserves, by whatever name called, other than a reserve specified under section 33AC; or

(c) the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities; or

(d) the amount by way of provision for losses of subsidiary companies; or

(e) the amount or amounts of dividends paid or proposed ; or

(f) the amount or amounts of expenditure relatable to any income to which section 10 *(other than the provisions contained in clause (38) thereof) or* section 11 *or* section 12 *apply; or*

Following clauses (fa), (fb) and (fc) shall be inserted after clause (f) in Explanation 1 below sub-section (2) of section 115JB by the Finance Act, 2015, w.e.f. 1-4-2016 :

(fa) the amount or amounts of expenditure relatable to, income, being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86; or

(fb) the amount or amounts of expenditure relatable to income accruing or arising to an assessee, being a foreign company, from,—

(A) the capital gains arising on transactions in securities; or

(B) the interest, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,

if the income-tax payable thereon in accordance with the provisions of this Act, other than the provisions of this Chapter, it is a rate less than the rate specified in sub-section (1); or

(fc) the amount representing notional loss on transfer of a capital asset, being share or a special purpose vehicle to a business trust in exchange of units allotted by the trust referred to in clause (xvii) of section 47 *or the amount representing notional loss resulting from any change in carrying amount of said units or the amount of loss on transfer of units referred to in clause (xvii)* ofsection 47; or

(g) the amount of depreciation,

(h) the amount of deferred tax and the provision therefor,

(i) the amount or amounts set aside as provision for diminution in the value of any asset,

(j) the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset,

Following clause (k) shall be inserted after clause (j) in Explanation 1 below sub-section (2) of section 115JB by the Finance Act, 2015, w.e.f. 1-4-2016:

(k) the amount of gain on transfer of units referred to in clause (xvii) of section 47 *computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit or loss account, as the case may be;*

if any amount referred to in clauses (a) to (i) is debited to the profit and loss account or if any amount referred to in clause (j) is not credited to the profit and loss account, and as reduced by,—

(i) the amount withdrawn from any reserve or provision (excluding a reserve created before the 1st day of April, 1997 otherwise than by way of a debit to the profit and loss account), if any such amount is credited to the profit and loss account.

Provided that where this section is applicable to an assessee in any previous year, the amount withdrawn from reserves created or provisions made in a previous year relevant to the assessment year commencing on or after the 1st day of April, 1997 shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) under this Explanation or Explanation below the second proviso to section 115JA, as the case may be; or

(ii) the amount of income to which any of the provisions of section 10 *(other than the provisions contained in clause (38) thereof) or* section 11 *or* section 12 *apply, if any such amount is credited to the profit and loss account; or*

(iia) the amount of depreciation debited to the profit and loss account (excluding the depreciation on account of revaluation of assets); or

(iib) the amount withdrawn from revaluation reserve and credited to the profit and loss account, to the extent it does not exceed the amount of depreciation on account of revaluation of assets referred to in clause (iia); or

Following clauses (iic), (iid), (iie) and (iif) shall be inserted after clause (iib) in Explanation 1 below sub-section (2) of section 115JB by the Finance Act, 2015, w.e.f. 1-4-2016 :

(iic) the amount of income, being the share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86, if any, such amount is credited to the profit and loss account; or

(iid) the amount of income accruing or arising to assessee, being a foreign company, from,—

(A) the capital gains arising on transactions in securities; or

(B) the interest, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,

if such income is credited to the profit and loss account and the income-tax payable thereon in accordance with the provisions of this Act, other than the provisions of this Chapter, is at a rate less than the rate specified in sub-section (1); or

(iie) the amount representing,—

(A) notional gain on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in clause (xvii) of section 47; or

(B) notional gain resulting from any change in carrying amount of said units; or

(C) gain on transfer of units referred to in clause (xvii) of section 47,

if any, credited to the profit and loss account; or

(iif) the amount of loss on transfer of units referred to in clause (xvii) of section 47 *computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit or loss account, as the case may be;*

(iii) the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account.

Explanation.—For the purposes of this clause,—

(a) the loss shall not include depreciation;

(b) the provisions of this clause shall not apply if the amount of loss brought forward or unabsorbed depreciation is nil; or

(iv) to (vi) **[***]Omitted**

(vii) the amount of profits of sick industrial company for the assessment year commencing on and from the assessment year relevant to the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) and ending with the assessment year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Explanation.—For the purposes of this clause, "net worth" shall have the meaning assigned to it in clause (ga) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986); or

(viii) the amount of deferred tax, if any such amount is credited to the profit and loss account.

Explanation 2.—For the purposes of clause (a) of Explanation 1, the amount of income-tax shall include—

(i) any tax on distributed profits under section 115-O *or on distributed income under* section 115R;

(ii) any interest charged under this Act;

(iii) surcharge, if any, as levied by the Central Acts from time to time;

(iv) Education Cess on income-tax, if any, as levied by the Central Acts from time to time; and

(v) Secondary and Higher Education Cess on income-tax, if any, as levied by the Central Acts from time to time.

Explanation 3.—For the removal of doubts, it is hereby clarified that for the purposes of this section, the assessee, being a company to which the proviso to sub-section (2) of section 211 of the Companies Act, 1956 (1 of 1956) is applicable, has, for an assessment year commencing on or before the 1st day of April, 2012, an option to prepare its profit and loss account for the relevant previous year either in accordance with the provisions of Part II and Part III of Schedule VI to the Companies Act, 1956 or in accordance with the provisions of the Act governing such company.

Following Explanation 4 shall be inserted after Explanation 3 to sub-section (2) of section 115JB by the Finance Act, 2015, w.e.f. 1-4-2016:

Explanation 4.—For the purposes of sub-section (2), the expression "securities" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

(3) Nothing contained in sub-section (1) shall affect the determination of the amounts in relation to the relevant previous year to be carried forward to the subsequent year or years under the provisions of sub-section (2) of section 32 *or sub-section (3) of* section 32A *or clause (ii) of sub-section (1) of* section 72 *or* section 73 *or* section 74 *or sub-section (3) of* section 74A.

(4) Every company to which this section applies, shall furnish a report in the prescribed form from an accountant as defined in the Explanation below sub-section (2) of section 288, certifying that the book profit has been computed in accordance with the provisions of this section along with the return of income filed under sub-section (1) of section 139 *or along with the return of income furnished in response to a notice under clause (*i) of sub-section (1) of section 142.

(5) Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee, being a company, mentioned in this section.

(5A) The provisions of this section shall not apply to any income accruing or arising to a company from life insurance business referred to in section 115B.

(6) The provisions of this section shall not apply to the income accrued or arising on or after the 1st day of April, 2005 from any business carried on, or services rendered, by an entrepreneur or a Developer, in a Unit or Special Economic Zone, as the case may be.

Provided that the provisions of this sub-section shall cease to have effect in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2012.

Provided that the provisions of this sub-section shall cease to have effect in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2012.

Study Note – 15 : Return of Income

(15) The point no. 15.1.9 has been amended and subsequently revised for better understanding of page no. 15.5.

15.1.9 Return of Income of Research Associations etc. [Section 139(4C)]

Every—

(a) research association referred to in clause (21) of section 10;

(b) news agency referred to in clause (22B) of section 10;

(c) association or institution referred to in clause (23A) of section 10;

(d) institution referred to in clause (23B) of section 10;

(e) fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (iiiab) or sub-clause (iiiad) or sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (iiiac) or sub-clause (iiiae) or sub-clause (via) of clause (23C) of section 10;

(ea) Mutual Fund referred to in clause (23D) of section 10;

(eb) securitisation trust referred to in clause (23DA) of section 10;

(ec) venture capital company or venture capital fund referred to in clause (23FB) of section 10;

(f) trade union referred to in sub-clause (a) or association referred to in sub-clause (b) of clause (24) of section 10;

(g) body or authority or Board or Trust or Commission (by whatever name called) referred to in clause (46) of section 10;

(h) infrastructure debt fund referred to in clause (47) of section 10,

shall, if the total income in respect of which such research association, news agency, association or institution, fund or trust or university or other educational institution or any hospital or other medical institution or trade union or body or authority or Board or Trust or Commission or infrastructure debt fund [or Mutual Fund or securitisation trust or venture capital company or venture capital fund] is assessable, without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).

Study Note – 16 : Assessment Procedure

(16) The section 153C has been amended and accordingly given in full for your better understanding of page no.16.13.

Assessment of income of any other person [Section 153C]

(1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,—

(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or

(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,

a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A.

Provided that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to sub-section (1) of section 153Ashall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person :

Provided further that the Central Government may by rules made by it and published in the Official Gazette, specify the class or classes of cases in respect of such other person, in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made except in cases where any assessment or reassessment has abated.

(2) Where books of account or documents or assets seized or requisitioned as referred to in sub-section (1) has or have been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A and in respect of such assessment year—

(a) no return of income has been furnished by such other person and no notice under sub-section (1) of section 142 has been issued to him, or

(b) a return of income has been furnished by such other person but no notice under sub-section (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired, or

(c) assessment or reassessment, if any, has been made,

before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person of such assessment year in the manner provided in section 153A.

Study Note – 18 : Grievances Redressal Procedure

(17) Section 246A has been amended and also revised for better understanding of page no. 18.5.

18.3.1 Appealable orders before Commissioner (Appeals) [Section 246A]

(1) Any assessee or any deductor or any collector aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against—

(a) an order passed by a Joint Commissioner under clause (ii) of sub-section (3) of section 115VP or an order against the assessee where the assessee denies his liability to be assessed under this Act or an intimation under sub-section (1) or sub-section (1B) of section 143 or sub-section (1) of section 200A or sub-section (1) of section 206CB, where the assessee or the deductor or the collector]objects to the making of adjustments, or any order of assessment under sub-section (3) of section 143 except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sub-section (12) of section 144BA or section 144, to the income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(aa) an order of assessment under sub-section (3) of section 115WE or section 115WF, where the assessee, being an employer objects to the value of fringe benefits assessed;

(ab) an order of assessment or reassessment under section 115WG;

(b) an order of assessment, reassessment or recomputation under section 147 except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sub-section (12) of section 144BA or section 150;

(ba) an order of assessment or reassessment under section 153A except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sub-section (12) of section 144BA;

(bb) an order of assessment or reassessment under sub-section (3) of section 92CD;

(c) an order made under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections [except an order referred to in sub-section (12) of section 144BA;

(d) an order made under section 163 treating the assessee as the agent of a non-resident;

(e) an order made under sub-section (2) or sub-section (3) of section 170;

(f) an order made under section 171;

(g) an order made under clause (b) of sub-section (1) or under sub-section (2) or sub-section (3) or sub-section (5) of section 185 in respect of an assessment for the assessment year commencing on or before the 1st day of April, 1992;

(h) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186 in respect of any assessment for the assessment year commencing on or before the 1st day of April, 1992 or any earlier assessment year;

(ha) an order made under section 201;

(hb) an order made under sub-section (6A) of section 206C;

(i) an order made under section 237;

(j) an order imposing a penalty under—

(A) section 221; or

(B) section 271, section 271A, section 271AAA, section 271AAB, section 271F, section 271FB, section 272AA or section 272BB;

(C) section 272, section 272B or section 273, as they stood immediately before the 1st day of April, 1989, in respect of an assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment years;

(ja) an order of imposing or enhancing penalty under sub-section (1A) of section 275;

(k) an order of assessment made by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of January, 1997;

(l) an order imposing a penalty under sub-section (2) of section 158BFA;

(m) an order imposing a penalty under section 271B or section 271BB;

(n) an order made by a Deputy Commissioner imposing a penalty under section 271C, section 271CA, section 271D or section 271E;

(o) an order made by a Deputy Commissioner or a Deputy Director imposing a penalty under section 272A;

(p) an order made by a Deputy Commissioner imposing a penalty under section 272AA;

(q) an order imposing a penalty under Chapter XXI;

(r) an order made by an Assessing Officer other than a Deputy Commissioner under the provisions of this Act in the case of such person or class of persons, as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

Explanation.—For the purposes of this sub-section, where on or after the 1st day of October, 1998, the post of Deputy Commissioner has been redesignated as Joint Commissioner and the post of Deputy Director has been redesignated as Joint Director, the references in this sub-section for "Deputy Commissioner" and "Deputy Director" shall be substituted by "Joint Commissioner" and "Joint Director" respectively.

(1A) Every appeal filed by an assessee in default against an order under section 201 on or after the 1st day of October, 1998 but before the 1st day of June, 2000 shall be deemed to have been filed under this section.

(1B) Every appeal filed by an assessee in default against an order under sub-section (6A) of section 206C on or after the 1st day of April, 2007 but before the 1st day of June, 2007 shall be deemed to have been filed under this section.

(2) Notwithstanding anything contained in sub-section (1) of section 246, every appeal under this Act which is pending immediately before the appointed day, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeals and which is so pending shall stand transferred on that date to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was on that day.

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be reopened or that he be re-heard.

Explanation.— For the purposes of this section, "appointed day" means the day appointed by the Central Government by notification in the Official Gazette.

(18) Section 253 has been amended and also revised for better understanding in page no. 18.10.

18.3.7 Appeals to the Appellate Tribunal [Section 253]

(1) Any assessee aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order—

(a) an order passed by a Deputy Commissioner (Appeals) before the 1st day of October, 1998 or, as the case may be, a Commissioner (Appeals) under section 154, section 250, section 271, section 271Aor section 272A; or

(b) an order passed by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995, but before the 1st day of January, 1997; or

(ba) an order passed by an Assessing Officer under sub-section (1) of section 115VZC; or

(c) an order passed by a Principal Commissioner or Commissioner under section 12AA or under clause (vi) of sub-section (5) of section 80G or under section 263 or under section 271 or under section 272A or an order passed by him under section 154 amending his order under section 263 or an order passed by a Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General or a Principal Director or Director under section 272A; or

(d) an order passed by an Assessing Officer under sub-section (3), of section 143 or section 147 or section 153A or section 153C in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order;

Following clause (e) shall be inserted after clause (d) of sub-section (1) of section 253 by the Finance Act, 2013, w.e.f. 1-4-2016 :

(e) an order passed by an Assessing Officer under sub-section (3) of section 143 or section 147 or section 153A or section 153C with the approval of the Principal Commissioner or Commissioner as referred to in sub-section (12) of section 144BA or an order passed under section 154 or section 155 in respect of such order;

(f) an order passed by the prescribed authority under sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.

(2) The Principal Commissioner or Commissioner may, if he objects to any order passed by a Deputy Commissioner (Appeals) before the 1st day of October, 1998 or, as the case may be, a Commissioner (Appeals) under section 154 or section 250, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

(2A) The Principal Commissioner or] Commissioner may, if he objects to any direction issued by the Dispute Resolution Panel under sub-section (5) of section 144C in respect of any objection filed on or after the 1st day of July, 2012, by the assessee under sub-section (2) of section 144C in pursuance of which the Assessing Officer has passed an order completing the assessment or reassessment, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Principal Commissioner or Commissioner, as the case may be.

Provided that in respect of any appeal under clause (b) of sub-section (1), this sub-section shall have effect as if for the words "sixty days", the words "thirty days" had been substituted.

(3A) Every appeal under sub-section (2A) shall be filed within sixty days of the date on which the order sought to be appealed against is passed by the Assessing Officer in pursuance of the directions of the Dispute Resolution Panel under sub-section (5) of section 144C.

(4) The Assessing Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) or the Assessing Officer in pursuance of the directions of the Dispute Resolution Panel has been preferred under sub-section (1) or sub-section (2) or sub-section (2A) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof; within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Assessing Officer (in pursuance of the directions of the Dispute Resolution Panel) or Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3) or sub-section (3A).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, in the case of an appeal made, on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto, be accompanied by a fee of,—

(a) Where the total income is ≤ ₹1,00,000	Fee ₹ 500
(b) Where the total income is > ₹1,00,000 ≤₹2,00,000	Fee ₹ 1,500
(c) Where the total income is > ₹2,00,000	Fee of 1% of the assessed income (Maximum of ₹ 10,000)
(d) Where the subject matter of an appeal is not covered under (a), (b) and (c) above	Fee ₹ 500
(e) Application for stay of demand	Fee ₹ 500

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub- section (4).

Study Note – 19 : Interest

(19) Section 234B has been amended and also revised for better understanding of page no. 19.3.

19.1.5 For default in paying Advance Tax [Section 234B]

(1) Subject to the other provisions of this section, where, in any financial year, an assessee who is liable to pay advance tax under section 208 has failed to pay such tax or, where the advance tax paid by such assessee under the provisions of section 210 is less than ninety per cent of the assessed tax, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period from the 1st day of April next following such financial year to the date of determination of total income under sub-section (1) of section 143 and where a regular assessment is made, to the date of such regular assessment, on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.

Explanation 1.—In this section, "assessed tax" means the tax on the total income determined under sub-section (1) of section 143 and where a regular assessment is made, the tax on the total income determined under such regular assessment as reduced by the amount of,—

(i) any tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

(ii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;

(iii) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;

(iv) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and

(v) any tax credit allowed to be set off in accordance with the provisions of section 115JAA or section 115JD.

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

Explanation 3.—In Explanation 1 and in sub-section (3) "tax on the total income determined under sub-section (1) of section 143" shall not include the additional income-tax, if any, payable under section 143.

(2) Where, before the date of determination of total income under sub-section (1) of section 143 or completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

(i) interest shall be calculated in accordance with the foregoing provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section;

(ii) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

(2A)(a) Where an application under sub-section (1) of section 245C for any assessment year has been made, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section.

(b) Where as a result of an order of the Settlement Commission under sub-section (4) of section 245D for any assessment year, the amount of total income disclosed in the application under sub-section (1) of section 245C is increased, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under sub-section (1) of section 245C.

(c) Where, as a result of an order under sub-section (6B) of section 245D, the amount on which interest was payable under clause (b) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly.

(3) Where, as a result of an order of reassessment or recomputation under section 147 or section 153A, the amount on which interest was payable in respect of shortfall in payment of advance tax for any financial year under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April next following such financial year and ending on the date of the reassessment

or recomputation under section 147 or section 153A, on the amount by which the tax on the total income determined on the basis of the reassessment or recomputation exceeds the tax on the total income determined under sub-section (1) of section 143 or on the basis of the regular assessment as referred to in sub-section (1), as the case may be.

(4) Where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which interest was payable under sub-section (1) or sub-section (3) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

Study Note – 20 : Advance Payment of Tax

(20) Section 220 has been amended and also been revised for better understanding of page no. 20.1.

20.2.1 Procedure for Payment of Tax under a Demand Notice Issued U/S 156

1. Due date for payment of tax [Section 220(1)]: Any amount of tax other than Advance Tax specified as payable in a notice of demand u/s 156 or u/s 143(1) or u/s 200A(1) or u/s 206CB(1) shall be paid within 30 days.

2. Reduction of time limit: If the Assessing Officer has any reason to believe that it would be detrimental to revenue if the full period of 30 days as aforesaid is allowed, he may, with the previous approval of the Joint Commissioner, direct that the sum is to be paid within any period less than 30 days.

3. Extension of time limit: The Assessing Officer may extend the time on the basis of an application made by the Assessee to pay the tax demanded u/s 156(1) or the deductor or the collector under sub-section (1) of section 143 or sub-section (1) of section 200A or sub-section (1) of section 206CB or allow payments by installments subject to conditions as he may think fit to impose.

Study Note – 21 : Collection and Recovery of Tax

(21) Section 220 has been amended and also been revised for better understanding of page no. 21.1.

21.1 WHEN TAX PAYABLE AND WHEN DEMAND IN DEFAULT [SECTION 220]

(1) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 156 shall be paid within thirty days of the service of the notice at the place and to the person mentioned in the notice.

Provided that, where the Assessing Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty days aforesaid is allowed, he may, with the previous approval of the Joint Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty days aforesaid, as may be specified by him in the notice of demand.

(1A) Where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said

notice of demand, then, such demand shall be deemed to be valid till the disposal of the appeal by the last appellate authority or disposal of the proceedings, as the case may be, and any such notice of demand shall have the effect as specified in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964 (11 of 1964).

(2) If the amount specified in any notice of demand under section 156 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at one per cent for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid.

Provided that, where as a result of an order under section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

Provided further that where as a result of an order under sections specified in the first proviso, the amount on which interest was payable under this section had been reduced and subsequently as a result of an order under said sections or section 263, the amount on which interest was payable under this section is increased, the assessee shall be liable to pay interest under sub-section (2) from the day immediately following the end of the period mentioned in the first notice of demand, referred to in sub-section (1) and ending with the day on which the amount is paid.

Provided also that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent for every month or part of a month.

(2A) Notwithstanding anything contained in sub-section (2), the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may reduce or waive the amount of interest paid or payable by an assessee under the said sub-section if he is satisfied that—

(i) payment of such amount has caused or would cause genuine hardship to the assessee ;

(ii) default in the payment of the amount on which interest has been paid or was payable under the said sub-section was due to circumstances beyond the control of the assessee ; and

(iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(2B) Notwithstanding anything contained in sub-section (2), where interest is charged under sub-section (1A) of section 201 on the amount of tax specified in the intimation issued under sub-section (1) of section 200A for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period.

(2C) Notwithstanding anything contained in sub-section (2), where interest is charged under sub-section (7) of section 206C on the amount of tax specified in the intimation issued under sub-section (1) of section 206CB for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period.

(3) Without prejudice to the provisions contained in sub-section (2), on an application made by the assessee before the expiry of the due date under sub-section (1), the Assessing Officer may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice the assessee shall be deemed to be in default.

(5) If, in a case where payment by instalments is allowed under sub-section (3), the assessee commits defaults in paying any one of the instalments within the time fixed under that sub-section, the assessee

shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(6) Where an assessee has presented an appeal under section 246 or section 246A the Assessing Officer may, in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, as long as such appeal remains undisposed of.

(7) Where an assessee has been assessed in respect of income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India, the Assessing Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which, by reason of such prohibition or restriction, cannot be brought into India, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

Explanation.—For the purposes of this section, income shall be deemed to have been brought into India if it has been utilised or could have been utilised for the purposes of any expenditure actually incurred by the assessee outside India or if the income, whether capitalised or not, has been brought into India in any form.

Study Note – 22 : Deduction and Collection of Tax at Source

(22) Section 200A has been amended and also been revised for better understanding of page no. 22.12.

22.1.7 Processing of statements of tax deducted at source [Section 200A]

(1) Where a statement of tax deduction at source or a correction statement has been made by a person deducting any sum (hereafter referred to in this section as deductor) under section 200, such statement shall be processed in the following manner, namely:—

(a) the sums deductible under this Chapter shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the statement; or

(ii) an incorrect claim, apparent from any information in the statement;

(b) the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement;

(c) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(d) the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee;

(e) an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and

(f) the amount of refund due to the deductor in pursuance of the determination under clause (d) shall be granted to the deductor.

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the statement is filed.

Explanation.—For the purposes of this sub-section, "an incorrect claim apparent from any information in the statement" shall mean a claim, on the basis of an entry, in the statement—

(i) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(ii) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of this Act.

(2) For the purposes of processing of statements under sub-section (1), the Board may make a scheme for centralised processing of statements of tax deducted at source to expeditiously determine the tax payable by, or the refund due to, the deductor as required under the said sub-section.

Study Note – 25 : Settlement of Cases

(23) Point no. 25.1.1 of page no. 25.1 has been revised for better understading

25.1.1 Meaning of Case [Section 245A(b)]

"Case" means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 245C is made.

Explanation.— For the purposes of this clause—

(i) a proceeding for assessment or reassessment or recomputation under section 147 shall be deemed to have commenced—

(a) from the date on which a notice under section 148 is issued for any assessment year;

(b) from the date of issuance of the notice referred to in sub-clause (a), for any other assessment year or assessment years for which a notice under section 148 has not been issued, but such notice could have been issued on such date, if the return of income for the other assessment year or assessment years has been furnished under section 139 or in response to a notice under section 142;

(ii) a proceeding for making fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment shall be deemed to have commenced from the date on which such order, setting aside or cancelling an assessment was passed;

(iii) a proceeding for assessment or reassessment for any of the assessment years, referred to in clause (b) of sub-section (1) of section 153A in case of a person referred to in section 153A or section 153C, shall be deemed to have commenced on the date of issue of notice initiating such proceeding and concluded on the date on which the assessment is made;

(iv) a proceeding for assessment for any assessment year, other than the proceedings of assessment or reassessment referred to in clause (i) or clause (iii) or clause (iiia), shall be deemed to have commenced from the date on which the return of income for that assessment year is furnished under section 139 or in response to a notice served under section 142 and concluded on the date on which the assessment is made; or on the expiry of two years from the end of relevant assessment year, in case where no assessment is made.

(24) Point no. 25.1.18 of page no. 25.10 has been amended and also revised for easy understanding

25.1.18 Bar on subsequent application for settlement in certain cases [Section 245K]

(1) Where—

(i) an order of settlement passed under sub-section (4) of section 245D provides for the imposition of a penalty on the person who made the application under section 245C for settlement, on the ground of concealment of particulars of his income; or

(ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter XXII in relation to that case; or

(iii) the case of such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June, 2002,

then, he or any person related to such person (herein referred to as related person) shall not be entitled to apply for settlement under section 245C in relation to any other matter.

(2) Where a person has made an application under section 245C on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 245D, such person or any related person shall not be subsequently entitled to make an application under section 245C.

Study Note – 28 : Wealth Tax

(25) Levy of Wealth Tax under the Wealth Tax Act has been abolished with effect from the Assessment Year 2016-2017.

Study Note – 29 : Taxation of International Transactions

(26) Step 6 of page no. 29.17 has been revised for understanding.

Power of Board to make Safe Harbour Rules [Section 92CB]

The determination of arm's length price under section 92C or section 92CA shall be subject to safe harbor rules.

Further as per section 92CB(2), the Board may, for the purposes of section 92CB(1), make rules for safe harbor.

Explanation.- For the purposes of this section, "safe harbour" means circumstances in which the income-tax authorities shall accept the transfer price declared by the assessee.

Safe hourbour rules for international transactions have since been notified by the CBDT by Notification No. 73/2013, dated 18-9-2013 which contain rules 10TA to 10TG.

Paper - 8

COST ACCOUNTING & FINANCIAL MANAGEMENT

Supplementary Material on
Cost Accounting & Financial Management
Paper 8

Study Material 1: General Purpose Cost Statement

(1) Last para of page no. 1.1 has been revised to give effect of Companies Act, 2013.

"In India, prior to independence, there were a few Cost Accountants, and they were qualified mainly from I.C.M.A. (now CIMA) London. During the Second World War, the need for developing the profession in the country was felt, and the leadership of forming an Indian Institute was taken by some members of Defence Services employed at Kolkata. However, with the enactment of the Cost and Works Accountants of India Act, 1959, the Institute of Cost and Works Accountants of India (Now called as Institute of Cost Accountants of India) was established at Kolkata. The profession assumed further importance in 1968 when the Government of India introduced Cost Audit under section 148 of the Companies Act, 2013."

(2) Last row of the table of page no. 1.4 has been revised to give effect of Companies Act, 2013.

(m) These accounts are kept in such away to meet the requirements of Companies Act as per Sec 128 & Income Tax Act Sec 44AA.	(m) Generally Cost Accounts are kept voluntarily to meet the requirements of the management, only in some industries Cost Accounting records are kept as per the Companies Act.

(3) Add the following table relating to applicable of new Cost Accounting Standards with the existing table of page no. 1.27

CAS No.	Title	Objectives
CAS 16	Depreciation and Amortisation	To bring uniformity and consistency in the principles and methods of determining the Depreciation and Amortisation with reasonable accuracy.
CAS 17	Interest and Financing Charges.	To bring uniformity and consistency in the principles, methods of determining and assigning the Interest and Financing Charges with reasonable accuracy.
CAS 18	Research and Development Costs	To bring uniformity and consistency in the principles and methods of determining the Research, and Development Costs with reasonable accuracy and presentation of the same.
CAS 19	Joint Costs	To bring uniformity and consistency in the principles and methods of determining the Joint Costs.
CAS 20	Cost Accounting Standard on Royalty and Technical Know-How Fee	To bring uniformity and consistency in the principles and methods of determining the amount of Royalty and Technical Know-how Fee with reasonable accuracy.
CAS 21	Cost Accounting Standard on Quality Control	To bring uniformity, consistency in the principles, methods of determining and assigning Quality Control cost with reasonable accuracy.
CAS 22	Cost Accounting Standard on Manufacturing Cost	To bring uniformity and consistency in the principles and methods of determining the Manufacturing Cost of excisable goods

(4) The 1st Para of page no. 1.28 has been revised to give effect of Companies Act, 2013.
The standard is to be followed by an enterprise, whether covered under section 128 of the Companies Act, 2013 or not, to classify cost in order to prepare Cost Statement on uniform basis to make it relevant and understandable for effective cost management.

(5) CAS 2 has been revised of page no. 1.28
CAS -2: Capacity Determination

This standard deals with the principles and methods of determining the capacity of a manufacturing facility of an entity. Capacity is determined for assignment of overheads to cost objects. Principles of assignment of overheads have been stipulated in Cost Accounting Standard – 3 (Revised 2011) on Overheads. This standard deals with the principles and methods of classification and determination of capacity of a plant of an entity for ascertainment of the cost of product, and the presentation and disclosure in cost statements.

Objective

The objective of this standard is to bring uniformity and consistency in the principles and methods of determination of capacity with reasonable accuracy.

Scope

This standard shall be applied to the Cost Statements, including those requiring attestation, which require determination of capacity for assignment of overheads.

Determinants of Capacity: Installed capacity is determined based on the following factors :-

(a) Manufacturers' Technical specifications.

(b) Capacities of individual or interrelated production centres.

(c) Operational constraints / capacity of critical machines.

(d) Number of shifts.

Normal capacity shall be determined vis-a-vis installed capacity after carrying out following adjustments:

(i) Holidays, normal shut down days and normal idle time,

(ii) Normal time lost in batch change over,
(iii) Time lost due to preventive maintenance and normal break downs of equipments,

(iv) Loss in efficiency due to ageing of the equipment,

(v) Number of shifts.

(6) Scope of CAS 13 or first para of page no. 1.33 has been revised

Scope

The standard should be applied to the preparation & presentation Cost Statements, which require classification, measurement and assignment, of Cost of Service Cost Centres including those requiring attestation. It excludes Utilities and Repairs & Maintenance Services dealt with in CAS-8 and CAS-12 respectively.

(7) New applicable CAS 16 to 22 has been inserted at the end of the chapter of the page no. 1.33.

CAS -16 : Cost Accounting Standard on Depreciation and Amortisation

This standard deals with the principles and methods of determining Depreciation and Amortisation Cost.
This standard deals with the principles and methods of measurement and assignment of Depreciation and Amortisation for determination of the cost of product or service, and the presentation and disclosure in cost statements.

Objective :

The objective of this standard is to bring uniformity and consistency in the principles and methods of determining the Depreciation and Amortisation with reasonable accuracy.

Scope :

This standard shall be applied to cost statements which require measurement, assignment, presentation and disclosure of Depreciation and Amortisation, including those requiring attestation.

CAS-17 : Cost Accounting Standard on Interest and Financing Charges

This standard deals with the principles and methods of determining Interest and Financing Changes.
This standard deals with the principles and methods of classification, measurement and assignment of Interest and Financing Charges.

Objective

The objective of this standard is to bring uniformity and consistency in the principles ,methods of determining and assigning the Interest and Financing Charges with reasonable accuracy.

Scope

This standard should be applied to cost statements which require classification, measurement, assignment, presentation and disclosure of Interest and Financing Charges including those requiring attestation. This standard does not deal with costs relating to risk management through derivatives.

CAS -18 : Cost Accounting Standard on Research and Development Costs

This standard deals with the principles and methods of determining Research and Development Cost.
This standard deals with the principles and methods of determining the Research, and Development Costs and their classification, measurement and assignment for determination of the cost of product or service, and the presentation and disclosure in cost statements.

Objective

The objective of this standard is to bring uniformity and consistency in the principles and methods of determining the Research, and Development Costs with reasonable accuracy and presentation of the same.

Scope

This standard should be applied to cost statements that require classification, measurement, assignment, presentation and disclosure of Research, and Development Costs including those requiring attestation.

CAS-19 : Cost Accounting Standard on Joint Costs

This standard deals with the principles and methods of determining Joint Cost.
The standard deals with the principles and methods of measurement and assignment of Joint Costs and the presentation and disclosure in cost statement.

Objective

The objective of this standard is to bring uniformity, consistency in the principles, methods of determining and assigning Joint Costs with reasonable accuracy.

Scope

The standard shall be applied to cost statements which require classification, measurement, assignment, presentation and disclosure of Joint Costs including those requiring attestation.

CAS-20 : Cost Accounting Standard on Royalty And Technical Know-How Fee

This standard deals with the principles and methods of determining the amount of Royalty and Technical Know-how Fee.
This standard deals with the principles and methods of classification, measurement and assignment of the amount of Royalty and Technical Know-how Fee, for determination of the cost of product or service, and their presentation and disclosure in cost statements.

Objective

The objective of this standard is to bring uniformity and consistency in the principles and methods of determining the amount of Royalty and Technical Know-how Fee with reasonable accuracy.

Scope

This standard should be applied to cost statements, which require classification, measurement, assignment, presentation and disclosure of the amount of Royalty and Technical Know-how Fee including those requiring attestation.

CAS-21 : Cost Accounting Standard on Quality Control

The standard deals with the principles and methods of measurement and assignment of Quality Control cost and the presentation and disclosure in cost statement.

Objective

The objective of this standard is to bring uniformity, consistency in the principles, methods of determining and assigning Quality Control cost with reasonable accuracy.

Scope

The standards shall be applied to cost statements which require classification, measurement, assignment, presentation and disclosure of Quality Control cost including those requiring attestation.

CAS – 22 : Cost Accounting Standard on Manufacturing Cost

This standard deals with the principles and methods of determining the Manufacturing Cost of excisable goods.
This standard deals with the principles and methods of classification, measurement and assignment for determination of the Manufacturing Cost of excisable goods and the presentation and disclosure in cost statements.

Objective

The objective of this standard is to bring uniformity and consistency in the principles and methods of determining the Manufacturing Cost of excisable goods.

Scope

This standard should be applied to cost statements which require classification, measurement, assignment, presentation and disclosure of Manufacturing Cost of excisable goods.

(8) Para relating to "Valuation of Material Receipts" has been revised for better understanding of page no. 2.19:

Valuation of Material Receipts:

Principles of valuation of receipt of materials as per CAS-6 are as follows:-

(a) The material receipt should be valued at purchase price including duties and taxes, freight inwards, insurance and other expenditure directly attributable to procurement (net of trade discounts, rebates, taxes and duties refundable) that can be quantified with reasonable accuracy at the time of acquisition.

(b) Finance costs incurred in connection with the acquisition of materials shall not form part of the

material cost.

(c) Self manufactured item shall be valued including the direct material, direct labour, direct expenses, factory overheads, share of administrative overheads relating to the production but excluding share of other administrative overheads, finance cost and marketing overheads. In case of captive consumption, valuation shall be in accordance with Cost Accounting Standard-4.

(d) Spares which are specific to an item of equipment shall not be taken into inventory, but shall be capitalized with cost of specific equipment. Cost of Capital spares and / or insurance spares, whether procured with the equipment or subsequently, shall be amortized over a period, not exceeding the useful life of the equipment.

(e) Normal loss or spoilage of material prior to reaching the factory or at places where the services are provided shall be absorbed in the cost of balance materials net of amounts recoverable from suppliers, insurers, carriers or recoveries from disposal.

(f) Losses due to shrinkage or evaporation and gain due to elongation or absorption or moisture ...etc before the material is received is absorbed in material cost to the extent they are normal, with corresponding adjustment in quantity.

(g) The foreign exchange component of imported material cost is converted at the rate on the date of transaction (material / service recording in books of accounts). Any subsequent change in the exchange rate till payment or otherwise shall not form part of the material cost.

(h) Any demurrage or detention charges, or penalty levied by transport or other authorities shall not form part of the cost of materials.

(i) Subsidy/grant/incentive and any such payment received / receivable with respect to any material shall be reduced from cost for ascertainment of the cost of the cost object to which such amounts are related.

(9) First para of page no. 2.20 has been revised for better understanding:
Valuation of Material Issues:

Principles of valuation of issue of materials as per CAS-6 are as follows:-

(a) Issues shall be valued using appropriate assumptions on cost flow such as FIFO, LIFO, and Weighted average rate. The method of valuation shall be followed on a consistent basis.

(b) Where materials are accounted at standard cost, the price variances related to materials shall be treated as part of material cost.

(c) Any abnormal cost shall be excluded from the material cost.

(d) Wherever the material cost includes the transportation costs, determination of transportation cost shall be based on CAS-5, i.e. Equalized Transportation Costs.

(e) Material cost may include imputed costs not considered in Financial Accounts.

(f) Self manufactured components and sub-assemblies item shall be valued including the direct material, direct labour, direct expenses, factory overheads, share of administrative overheads relating to the production but excluding share of other administrative overheads, finance cost and marketing overheads. In case of captive consumption, the valuation shall be in accordance with Cost Accounting Standard-4.

(g) The material cost of normal scrap / defectives which are rejects shall be included in the material cost of goods manufactured. The material cost of actual scrap / defectives, not exceeding the normal shall be adjusted in the material cost of good production. Material cost of abnormal scrap/ defectives should not be included in material cost but treated as loss after giving credit to the realisable value of such scrap / defetives.

(10) Point no. (f) has been revised of page no. 2.57

(f) Any subsidy, grant, incentive or any such received or receivable with respect to any employee cost shall be reduced from ascertainment of Cost of the cost project to which such amounts are related.

(11) Illustration no. 59 has been revised of page no. 2.99
Illustration 59:

Measurement of Employee Cost (with special items)

Gross pay ₹10,30,000 (including cost of idle time hours paid to employee ₹25,000); Accommodation provided to employee free of cost [this accommodation is owned by employer, depreciation of accommodation ₹1,00,000, maintenance charges of the accommodation ₹90,000, municipal tax paid for this accommodation ₹3,000], Employer's Contribution to P.F. ₹1,00,000 (including a penalty of ₹2,000 for violation of PF rules), Employee's Contribution to P.F. ₹75,000. Compute the Employee cost.

Solution:

Computation of Employee Cost

	Particulars	Amount (₹)
	Gross Pay (net of cost of idle time) =[10,30,000 (-) 25,000]	10,05,000
Add	Cost of accommodation provided by employer = Depreciation (+) Municipal Tax paid (+) maintenance charges = 1,00,000 + 90,000 + 3,000 = 1,93,000	1,93,000
Add	Employer's Contribution to PF excluding penalty paid to PF authorities [1,00,000 (-) 2,000]	98,000
	Employee Cost	12,96,000

Note:

(i) Assumed that the entire accommodation is exclusively used by the employee. Hence, cost of accommodation provided includes all related expenses/costs, since these are identifiable /traceable to the cost centre.

(ii) Cost of idle time hours is assumed as abnormal. Since it is already included in the gross pay, hence excluded.

(iii) Penalty paid to PF authorities is not a normal cost. Since, it is included in the amount of contribution, it is excluded.

(12) Please read the sections of Companies Act, 1956 with corresponding sections of Companies Act, 2013, if any.