



CMA Students Newsletter

Vol.6: July 31,2013

(1) On Direct Taxation - some special issues

(a) Capital Gains in case of inheritance

(i) A transfer of capital asset under a gift or will, is exempted u/s 47(iii)

(ii) Holding period - to ascertain whether the capital asset is long-term or short-term, shall be calculated from the date of ownership of the original holder.

(iii) For the purpose of availing the benefit of indexation, the year, in which such capital asset was transferred to the assessee (in this case the beneficiary), shall be considered. This means, that indexation shall not be taken on the basis of year of acquisition, until the transfer was made during the same previous year. [CIT vs. Manjula J Shah (2012), 204 Taxman 691, Bombay High Court]

(iv) By virtue of Sec.55(3), where the cost for which the previous owner acquired the property cannot be ascertained, the cost of acquisition to the previous owner, means the fair market value on the date on which the capital asset became the property of the previous owner.

Example: CD acquired a property by way of gift from his father in the previous year 1985-86, when its FMV was ₹ 7 lacs. His father, since deceased, had acquired the property during 1977-78 for Rs.5.5 lacs. FMV 81-82 for ₹ 5 lacs. This property was subsequently sold by him for Rs. 25 lacs during the year 2012-13. Is there any capital gain chargeable in the hands of CD?

Solution : Computation of tax liability shall be guided by the following parameters:

(i) Since the property was acquired prior to 1.4.81, the assessee has the option to choose, FMV as on 1.4.81 or original cost, whichever is higher. [Sec.55(2)]

(ii) Cost of acquisition u/s 48 shall be read with sec.49(1). Cost to the previous owner shall be deemed to be cost in the hands of the current owner, where the capital becomes the property of the current owner, under any mode of transfer, which also includes inheritance, succession or devolution.

(iii) Since the cost of acquisition both on the date of acquisition as well as FMV on as 1.4.81 is ascertained, hence, resort to Sec.55(3) is not taken.

Computation of Capital Gains A.Y : 2013-14

Particulars	₹
Consideration for Transfer	25,00,000
Less : Indexed Cost of Acquisition [5,50,000 × 852/133]	35,23,308
Long Term Capital Loss	10,23,308

This loss can be carried forward for adjustment only against LTCG arising within the next 8 assessment years immediately succeeding the assessment year in which the loss was first computed.

In this case, the loss can be carried forward for adjustment/set-off within the assessment year 2021-22.

(b) Capital Gains on Sale of Property at less than Government Value. [Sec. 50C]

1. **Nature of Asset:** Land or Building or both

2. **Consideration for transfer:** Amount is less than the value adopted or assessed by the State Government Authority (referred to as the "Stamp Valuation Authority for the purpose of payment of stamp duty.)

3. **Value to be adopted for Capital Gains:** Value adopted by the Stamp Valuation Authority.

Provisions for deemed valuation of immovable property in certain cases of Transfer [Section 50C] [W.e.f. A.Y. 2010-11] — Further, new Explanation 2 has been inserted to section 50C(2) so as to clarify the meaning of the term 'assessable'.

Explanation 2 — For the purposes of this section, the expression "assessable" means the price which the stamp valuation authority would have, notwithstanding anything to the contrary contained in any other law for the time being in force, adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty'.

Example:

Mr. Sen owns a piece of land situated in Kolkata which was acquired on 1st March, 1984 at a cost of ₹29,000, the value adopted by stamp duty authority at that time was ₹40,000. On 31st March, 2013, the piece of land is transferred for ₹4,50,000. Calculate the amount of capital gains in the following situations:

- The value adopted by Stamp Duty Authority is ₹6,00,000 and Mr. Sen did not dispute it.
- The Value adopted by the Stamp Duty Authority is ₹6,50,000 and on appeal made by Mr. Sen under the Stamp Act stamp duty valuation has been reduced to ₹5,50,000 by the High Court.
- The value adopted by the Stamp Duty Authority is ₹6,25,000. Mr. Sen does not challenge it under the Stamp Act but he claimed before the Assessing Officer that ₹6,25,000 is more than the fair market value of the land. On reference of the Assessing Officer, The Valuation Officer adopted the value of ₹5,75,000 as fair market value.
- The Valuation Officer adopt the value of ₹6,95,000 in the case of (c).

Solution:

Situation	(a) ₹	(b) ₹	(c) ₹	(d) ₹
Full Value of Consideration	6,00,000	5,50,000	5,75,000	6,25,000
Less: Indexed cost of acquisition [29,000 x 852/116]	2,13,000	2,13,000	2,13,000	2,13,000
Long Term Capital Gains	3,87,000	3,37,000	3,62,000	4,12,000

(c) Terminal Depreciation [Sec. 32(1)(iii)] and Balancing Charge

Terminal Depreciation (i.e. Loss on Transfer) & Balancing Charge (i.e. Gain on Transfer)

- Applicable for any undertaking engaged in generation or generation and distribution of power;
- It must be a depreciable asset, on which depreciation is claimed on straight line basis;
- Such depreciable asset is sold, discarded, demolished or destroyed in a previous year, If there arises:
 - Loss on Sale = Terminal Depreciation
 - Gain on Sale = Balancing Charge

To Calculate Terminal Depreciation:

- Calculate Written Down Value of the depreciable asset on the first day of the previous year in which such asset is sold, discarded, demolished or destroyed.
- Ascertain Net Sale Consideration.
If value as per (1) > value as per (2) = Loss = Terminal Depreciation

Note:



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- (i) Sale Consideration is money payable to the tax payer in respect of such depreciable asset (+) Scrap Value, if any
- (ii) Net Sale Consideration = Sale Consideration (-) Expenses on Transfer;
- (iii) Sale consideration is the actual money, received or receivable in cash or by cheque or draft;
- (iv) It excludes any other thing or benefit which can be measured and converted in terms of money;
- (v) If the asset is sold or discarded, etc, in the previous year in which it is first put to use, any loss on transfer of that asset shall be treated as capital loss and not as terminal depreciation;
- (vi) The asset must be used by the assessee for the purpose of business or profession, at least for some considerable time period during the previous year, in which the transfer/sale takes place;
- (vii) Terminal depreciation can only be allowed, if the asset is completely written off from the books of accounts.

Balancing Charge u/s 41(2) and Capital Gain u/s 50A:

If value as per (2) > value as per (1) = Gain = Balancing Charge

NC > WDV = Balancing Charge

If (i) NC > OC = Capital Gain

(ii) OC < WDV = Balancing Charge

Where, NC = Net Sale Consideration; OC = Original Cost;
WDV = Written Down Value

Example

CH Power Projects is a power generating unit. On 1.4.2010, it purchased a plant of ₹ 50,00,000, eligible for depreciation @15% on SLM. Compute balancing charge or terminal depreciation assuming the plant is sold on 21.4.2012 for : (A) ₹ 33,00,000 (B) ₹ 47,00,000 (C) ₹ 55,00,000

Solution : Computation of Terminal Depreciation or Balancing Charge & Capital Gain

Particulars	A (₹)	B (₹)	C (₹)
W.D.V. as on 1.4.2012	35,00,000	35,00,000	35,00,000
Less: Sale Proceeds	33,00,000	47,00,000	55,00,000
Balance	2,00,000	(12,00,000)	(20,00,000)
Terminal depreciation	2,00,000	NIL	NIL
Balancing charge	NIL	12,00,000	15,00,000
Short term capital Gain	NIL	NIL	5,00,000

Computation of Depreciation:	
	(₹)
Original cost	50,00,000
Less: Depreciation for the year 2010-11	7,50,000
WDV as on 1.4.2011	42,50,000
Less : Depreciation for the year 2011-2012	7,50,000
WDV as on 1.4.2012	35,00,000

(2) On Indirect Taxation

(a) Rule 3(7): CENVAT Credit on purchases from EOU/EHTP/STP

- ❖ Goods removed from a 100% Export Oriented Unit to Domestic Tariff Area are liable to pay excise duty.

❖ As per Rule 17 of Central Excise Rules, 2002 goods shall be removed from a 100% Export Oriented Unit to Domestic Tariff Area under an invoice by following the procedure specified in rule 11 of CENVAT Credit Rules, 2004, and the duty leviable on such goods shall be paid by utilizing the CENVAT credit or by crediting the duty payable to the account of the Central Government in the manner specified in rule 8 of the Central Excise Rules, 2002 [CCEx. & Cus. v Suresh Synthetics (2007) (SC)].

❖ As per present law, duty on clearances of goods to DTA from 100% EOU will be equal to 50% of basic customs duty, countervailing duty under section 3(1) of the Customs Tariff Act, 1975 plus special additional duty under section 3(5) of Customs Tariff Act, 1975, if applicable (i.e. VAT exempted), and Cess as applicable.

Example : M/s X Ltd (a unit of 100% EOU) sold goods to M/s A Ltd. for ₹ 20 lacs. BCD @10%, CVD 16% and Spl. CVD @4% (VAT exempted) are applicable.

Find the total duty of excise. How much CENVAT Credit allowed to M/s A Ltd.

Solution:

Particulars	Value in ₹	Workings
Assessable value	20,00,000	
Add: Basic Customs Duty 10%	1,00,000	20,00,000 X 10% X 50%
Balance	21,00,000	
Add: CVD @16%	3,36,000	21,00,000 X 16%
Balance	24,36,000	
Add: 2% CESS	8,720	4,36,000 X 2%
Add: 1% SAH CESS	4,360	4,36,000 X 1%
Balance	24,49,080	
Add: SPL. CVD 4%	97,963	24,49,080 X 4%
Value of import	25,47,043	

CENVAT Credit allowed is ₹ 4,33,963 (i.e. CVD + Spl. CVD)

(b) Reversal of CENVAT Credit

Rule 3(5) Removal of Goods as such

When inputs or capital goods, on which CENVAT credit has been taken, are removed as such from the factory, or premises of the provider of output service, the manufacturer of the final products or provider of output service, as the case may be, shall pay an amount equal to the credit availed in respect of such inputs or capital goods and such removal shall be made under the cover of an invoice referred to in rule 9 of the CENVAT Credit Rules, 2004.

Exceptions:

- (a) CENVAT credit not required to be reversed if input goods or capital goods removed outside the premises of the provider of output service for providing the output service;
- (b) CENVAT credit shall not be required to be reversed where any inputs are removed outside the factory for providing free warranty for final products.

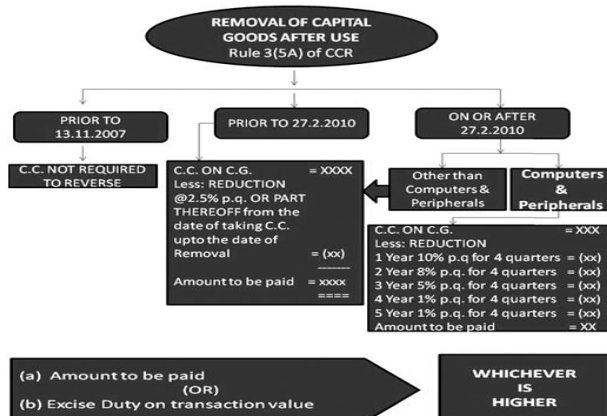
Rule 3(5A) Removal of Capital goods after use (w.e.f. 1-4 -2012)

If the capital goods, on which CENVAT credit has been taken, are removed after being used, whether as capital goods or as scrap or waste, the manufacturer or provider of output services, shall pay as follows:

- (a) an amount equal to the CENVAT Credit taken on the said capital goods reduce by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of taking the CENVAT Credit or



- (b) equal to excise duty payable on transaction value (i.e. Sale value)
(c) WHICHEVER IS HIGHER



Rule 3(6): The buyer can avail CENVAT credit of the amount paid:
The buyer can avail CENVAT credit of the amount paid on removal of the capital goods.

Rule 3(5B): CENVAT credit to be reversed/ paid
Any inputs or capital goods before being put to use, are written off fully or partly or any provision is made in books of account to write off fully or partially, the manufacturer or service provider is required to pay fully an amount equal to CENVAT credit taken in respect of such inputs or capital goods (w.e.f. 1-3- 2011).

Partial reversal - Examples

Example 1:
M/s DPS & Co., a partnership firm, received a sum of ₹ 50 lakhs for temporary supply of manpower to PQR Ltd. State the persons liable to pay service tax and amount of tax payable by them.

Solution:
Value of taxable service - ₹ 50 lakhs x 100/112.36 = ₹ 44.50 lakhs.
Service tax - ₹ 44.50 x 12.36% = ₹5.50 lakhs.
In this case, the service relating to supply of manpower is provided by partnership firm to a company.
Hence the person liable to pay service tax are as follows:
Service receiver i.e PQR Ltd. - ₹5.50 lakhs x 75% = ₹4.12lakhs
Service provider i.e M/s DPS - ₹5.50 lakhs x 25% = ₹1.38 lakhs.

Example 2:
Jalan & co., a proprietary firm provides service relating to security of building to D & Co., a partnership firm, for ₹ 30 lakhs. State the persons liable to pay service tax and amount of tax payable by them.

Solution:
In this situation, the security services are provided by an individual to partnership firm hence the person liable to pay service tax is service provider i.e Jalan & Co.
Service tax payable = ₹30 lakhs x 12.36% = ₹ 3.708 lakhs.

(c) Reverse Charge - The New Way....

Service receiver is liable to pay service tax instead of service provider is termed as reverse charge. In certain cases, recipients or other specified persons of the specified taxable services are liable to pay service tax and hence, they are required to register compulsory irrespective of the turnover limit. Moreover, the exemption limit of ₹ 10 lakhs is not applicable to recipient of services were liable to pay service tax.

Reverse Charge (RC)?

Every person providing a taxable service is required to pay service tax at the prescribed rate. However in certain cases the service recipient is made liable to pay service tax on the services received. Since the person receiving services is made liable to pay service tax, the mechanism of collection of such tax is called as reverse charge (RCM).

This concept is set out in service tax law by virtue of section 68(2) by empowering the Central Government to notify services positively on which the said RCM would apply. To support this the person liable to pay service tax as defined in rule 2(1)(d) of the Service Tax Rules, 1994 also includes service recipients. Such a concept was in place even before introduction of the new scheme of negative based taxation. However, in addition to the concept of reverse charge a new concept of joint charge (recipient and provider of services liable to pay tax) is also introduced.

Joint Charge Mechanism (JCM)

Under the concept of joint charge, for one service the service provider as well as service receiver are made liable for payment of service tax to the extent notified. This liability is independent of the other person's liability. In other words the failure to comply with the provisions by one person on his part would not impact the compliance requirement of other person and vice versa.

The specified taxable services are as follows:

- (i) **Insurance Services:** General Insurance Services or Life Insurance Services provided by the insurance agents to the insurance company. Hence, the insurance company being recipient of service is liable to pay service tax. However, an option to pay service tax at a rate other than standard rate (i.e. 12%) is given an insurer carrying on life insurance business. Life insurance company collects premium which covers risk plus savings has option to pay service tax @ 3% 1ST YEAR AND SUBSEQUENTLY @1.5% on PREMIUM (w.e.f. 1-4-2012). CENVAT Credit Fully Allowed on Inputs, Capital Goods and Input Services.
- However, such option shall not be available in cases where
 - the entire premium paid by the policy holder is only towards risk cover in life insurance; or
 - the part of the premium payable towards risk cover in life insurance is shown separately in any of the documents issued by the insurer to the policy holder.
- (ii) **Import of Services:** Services imported from a country outside India, into India for business or commerce. Hence, the importer being recipient of service is liable to pay service tax.
- Example :**

X Ltd an Indian company, imported services from A Ltd of USA for the personal purposes. X Ltd liable to pay service tax in India, since there is no personal service in the case of a body corporate.

- (iii) **GTA Services:** Goods Transport Agency (GTA) services, service tax is payable by the recipient of services either by consignor or consignee (namely person who paying freight charges). GTA will be liable only in cases where both consignor and consignee is individual/H U F/unregistered partnership firm (also called as non-specified person).



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Example :

Goods Transport Agency means any person who provides service in relation to transport of goods by road and issues consignment note.

Consignment Note means a document, issued by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage.

Contents of Consignment Note:

- Name of the consignor or consignee
- Registration number of the goods carriage (i.e. vehicle registration number)
- Details of goods transported
- Details of the place of origin and destination
- Person liable for paying service tax whether consignor, consignee or the goods transport agency.

The following services are not taxable under the head Goods transport service

- ❖ Transport of eggs, milk, fruits
- ❖ Food grains and pulses,
- ❖ Transport of export goods

Exemption based on amount charged

The gross amount charged on an individual consignment transported in a goods carriage does not exceed ₹ 750 (i.e. Freight collected for transporting small consignment for persons, who paid less than or equal to ₹ 750 for each consignment) or

The gross amount charged on consignments transported in a goods carriage does not exceed ₹ 1,500 (i.e. Freight collected for transporting goods in small vehicles for persons, who paid less than or equal to ₹ 1,500 per trip)

Note: (i) An individual consignment means all goods transported by a goods transport agency by road in a goods carriage for a consignee.

(ii) S.T. is Payable after Claiming an Abatement @ 75%

(iv) Sponsorship services to any body corporate or firm located in Taxable Territory: In case of sponsorship service provided to a body corporate or firm located in India, the body corporate or firm receiving such services will be liable to pay service tax. However, if the recipient of sponsorship service is located outside India, service tax is required to be paid by the service provider and not by the recipient of such sponsorship services.

So far sports event is not taxable for payment of service tax under the head of sponsorship services. However, Budget 2010-11 amended to cover the sponsorship services provided for sports within the Service tax net (w.e.f. Finance Act, 2010).

Example :

Ferrari conducting the Formula 1 races by displaying logo or brand name of various companies. Hence, companies receiving sponsorship services from Ferrari are liable to pay service tax.

Example :

Sponsorship services provided for events like Indian Premier League (IPL) cricket matches, golf and tennis etc., are now taxable services

(v) Services Provided by an Arbitral Tribunal to any business entity located in taxable territory then recipient of service is liable pay service tax (w.e.f. 1-7-2012)

(vi) Legal Consultancy Service: Services provided by an individual advocate or a firm of advocates by way of legal services to any business entity located in the taxable territory, the recipient of such services is liable to pay service tax.

(vii) Support Services by Govt. or Local Authority: Support services provided by Govt. or local authority to a business entity then the liability to pay S.T. is on the business entity.

Support services includes - infrastructural ; Operational ; Administrative; Logistic ; marketing

(viii) Directors Remuneration (Vide NT 45/2012 w.e.f. 7-8-2012): Services provided or agreed to be provided by a director of a company to the company, such company would be liable to pay service tax on remuneration paid to such directors.

Note: No service tax is payable if the director is employee of the company.

List 1 - Service under Full Reverse Charge Mechanism:

S. No	Nature of Service	Description of services	Percentage of Service tax payable by Service Provider	Percentage of Service tax payable by Service Recipient
i.	Goods transport Service	Transport of goods by road	Nil	100%
ii.	Sponsorship Service	Sponsorship service	Nil	100%
iii.	Legal Services	Legal Services by Individual advocate or a firm of advocate including arbitral services.	Nil	100%
iv.	Government Services	Support services by Government or local authority (excluding renting of immovable property and certain other specified services)	Nil	100%
v.	Directors Fees	Services provided or agreed to be provided by a Director of a company to a said company	Nil	100%
vi.	Import of Service	Any taxable service where the Service provider is located in a non taxable territory and service recipient located in a taxable territory	Nil	100%

(ix) Partial Reverse Charge (w.e.f. 1-7-2012)

Partial reverse charge is applicable in relation to service provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers to any person who is not in the similar line of business or supply of manpower for any purpose of service portion in execution of works contract by any individual, Hindu Undivided Family or partnership firm whether registered or not, including association of person, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory, both the service provider and the service recipient to the extent notified under sub-section (2) of section 68 of the act, for each respectively.

The service provider and service recipient will pay the service tax in the following proportion as notified by the Government:



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List 2 - Service under Partial Reverse Charge Mechanism:

S. No.	Nature of Service	Description of services	Percentage of Service tax payable by Service Provider	Percentage of Service tax payable by Service Recipient
i.	Rent-a-cab Service	Hiring of a motor vehicle designed to carry passengers (a) With abatement (i.e. 60%) (b) Without abatement	Nil 60%	100% 40%
ii.	Man power supply Service	Supply of manpower for any service	25%	75%
iii.	Works contract service	Works contract service	50%	50%
iv.	Security Service	Security Service	25%	75%

Partial Reverse Charge is not Applicable in the following cases:

Service Provider	Recipient of Service
Company or body corporate	Individual or partnership firm or body corporate or any other person
Renting of motor vehicle designed to carry passengers by Individual / firm / HUF/AOP	Any person who is in the same business of carry in passengers (i.e. sub-contract)

(3) On Audit - Standards on Internal Audit

The Framework for Standards on Internal Audit comprises four components viz., the Code of Conduct, the Competence Framework, the Body of Standards and the Technical Guidance.

Purpose of SIA

- ❖ To provide standards for quality of services during an internal audit
- ❖ To codify the best practices in internal audit services

Scope of SIA

- ❖ The SIA shall apply whenever an internal audit is carried out.
- ❖ The SIA(s) are mandatory from the respective date(s) mentioned in the SIA(s). However, any limitation in the applicability of a specific Standard shall be made clear in the Standard.
- ❖ The mandatory status of a Standard on Internal Audit implies that while carrying out an internal audit, it shall be the duty of the members of the Institute to ensure that the SIAs are followed.
- ❖ If, for any reason, a member has not been able to perform all or any of such activities, as mentioned in accordance with the SIAs, his report should draw attention to the material departures therefrom.

List of Standards on Internal Audit ('SIA')

- SIA 1:** Planning an Internal Audit
- SIA 2:** Basic Principles Governing Internal audit
- SIA 3:** Internal Audit Documentation
- SIA 4:** Reporting
- SIA 5:** Sampling
- SIA 6:** Analytical Procedure
- SIA 7:** Quality Assurance in Internal Audit
- SIA 8:** Terms of Internal Audit Engagement

SIA 9: Communication with Management

SIA 10: Internal Audit Evidence

SIA 11: Consideration of Fraud in an Internal Audit

SIA 12: Internal Control Evaluation

SIA 13: Enterprise Risk Management

SIA 14: Internal Audit in an Information Technology

SIA 14: Environment

SIA 15: Knowledge of the Entity and its Environment

SIA 16: Using the Work of an Expert

SIA 17: Consideration of Laws and Regulations in an Internal Audit



Word Round Up

R A G U S A O S A H
C O T U A O J T M L
T I M B W Z C E I B
O N T E T E Q E C R
Y U A R B O P L A N
O D O C O R G U Q I
T M M N A E G U S H
A C O P G A N I E Y
A Y I F J I C I G P
C E M E N T E R Y T

Clues:

- a) ICAI has MOU with 5 institutions
- b) Two ministries closely associated with ICAI-CMA
- c) Five 6 letter car brands
- d) 5 Industries for whom cost audit applies

Math Code - Go Figure

Find the value of each symbol by doing the arithmetic. Replace each symbol with the letter which corresponds to its value to find the word.

A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	2	3	4	5	6	7	8	9	10	11	12	13	14
O	P	Q	R	S	T	U	V	W	X	Y	Z		
15	16	17	18	19	20	21	22	23	24	25	26		

- i. $4 * 5 - 1 = \clubsuit$
 ii. $2 * \clubsuit - 13 = \spadesuit$
 iii. $\spadesuit / 5 + 4 = \heartsuit$
 iv. $\heartsuit + \clubsuit / 2 = \spadesuit$
 v. $\spadesuit - \heartsuit * 2 = \heartsuit$
 vi. $\clubsuit + \heartsuit - \spadesuit = \heartsuit$

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Common Proverbs - Fill in the blanks

- a. A ----- is no stronger than its weakest ----
b. Never put off until ----- what you can do -----
c. ----- rush in where ----- fear to tread.
d. Those who ----- in glass ----- should not throw -----
-----,
e. In the ----- of the ----- the one eyed man is -----
f. ----- and the ----- laughs with you, ----- and you -----
-- alone
g. There's many a ---- '----- the --- and lip
h. What the ---- doesn't see, the ----- doesn't grieve
over
i. Where there's a ----- there's a -----
j. The grass is always ----- on the other side of the -----,
k. The ----- does not fall far from the -----
l. You catch more ----- with ----- than with -----