

JUNE/DEC 2026



VERSION 5

CA
BHASKAR
MAGHAM SIR

CMA FINAL

P15: DIRECT TAX LAWS AND INTERNATIONAL TAXATION

Concept Book

PREFACE

This book has been prepared with the objective of providing a comprehensive and conceptually strong understanding of **Direct Taxation** for students appearing in the **CMA Final Examination**. The subject has been presented in a systematic and minimalistic manner, ensuring clarity while covering the syllabus in its entirety.

Each chapter is carefully structured to build a logical progression of concepts, supported by relevant explanations to facilitate effective learning and application. With proper conceptual understanding and disciplined preparation, students can confidently aim for an **80+ score** in Direct Taxation.

This book is intended to serve as a reliable companion for CMA students by simplifying complex provisions and promoting analytical thinking required for examination success.

I express my sincere gratitude to **CA E Srinivas Sir** for his constant motivation, guidance, and encouragement throughout the preparation of this book. I am also thankful to my students, whose questions and feedback have greatly contributed to refining the content.

I dedicate this book to my wife **Priya** and my daughters **Aaraadhya and Jaithri**, whose unwavering support and patience have been a constant source of strength.

I also extend my heartfelt thanks to **Bhavani Arjun, K.C Bhanu Srinivas, Kalyani Valluri** for their valuable assistance and support in the preparation of this material.

For the convenience of students and ease of reference:

- **Main side headings - dark red colour.**
- **Sub-side headings - dark green colour,** and
- **Amendments - pink colour.**

to ensure better readability, quick identification, and focused revision.

M. Bhaskar Rao

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w.e.f 01.04.2025 Equalisation levy concept is not applicable i.e. abolished.

List of amendments – for CMA FINAL June/Dec 2026 Exams

S. No	Section	Covered in	Chapter
1	Sec 115BAC – Rates	Concept book	Basic Concepts
2	Sec 87A – Rebate	Concept book	Basic Concepts
3	Domestic Company – reference year for the purpose Tax rate	Concept book	Basic Concepts
4	Sec 143(1)	Concept book	Assessment Procedures
5	Sec 132 & Sec 132B	Concept book	Search & seizure
6	Block assessment	Concept book	Search & seizure
7	Sec 139(8A): Extension of time limit for filing updated return	Concept book	Updated return
8	Sec 72A & 72AA	Concept book	Business Restructuring
9	Sec 2(14) – Definition of Capital Asset.	Handwritten Notes	Capital Gains
10	Sec 2(22)(e) – Deemed Dividend	Concept book	IFOS
11	Sec 115UA– Business Trust	Concept book	Assessment of various entities
12	Sec 12AB/ (4) – Trust Registration	Concept book	Trust
13	Sec 13(3) – Specified Persons	Concept book	Trust
14	Sec 115V–VZA: Extension of benefits of tonnage tax scheme to inland vessels	Concept book	Liabilities in special cases
15	Sec 115VP – Application for opting Tonnage tax scheme	Concept book	Liabilities in special cases
16	Sec 44BBB	Concept book	Non-Resident
17	Sec 9(1) – Significant Economic Presence	Concept book	Non-Resident
18	Block Transfer Pricing Assessment	Concept book	Transfer Pricing
19	Sec 270AA Sec 271AAB Sec 271C Sec 271CA Sec 271D Sec 271DA Sec 271DB Sec 271E Sec 276BB	Concept book	Penalties & Prosecutions
20	Sec 10(12BA)	Handwritten Notes	Chapter VIA Deductions
21	Sec 80CCA	Handwritten Notes	Chapter VIA Deductions
22	Sec 80CCD	Handwritten Notes	Chapter VIA Deductions

23	Sec 80-IAC	Handwritten Notes	Chapter VIA Deductions
24	Sec 193 Sec 194 Sec 194A Sec 194B Sec 194BB Sec 194D Sec 194G Sec 194H Sec 194I Sec 194J Sec 194K Sec 194LA Sec 194Q Sec 206AB Sec 206CCA Sec 206C Sec 206C(1G) Sec 206C(1H)	Handwritten Notes	TDS & TCS
25	Sec 9A - Simplified Regime for fund managers based in IFSC	Concept book	Amendments
26	Sec 10(4E)	Concept book	Amendments
27	Sec 10(4H)	Concept book	Amendments
28	Sec 10(23FE)	Concept book	Amendments
29	Sec 17(2)(iii) - Specified Employee	Concept book	Amendments
30	Sec 17(2) - Medical facility outside India	Concept book	Amendments
31	Sec 285BAA	Concept book	Amendments

BASIC CONCEPTS

1. Power to Levy Taxes

- The Constitution of India, in **Article 265** lays down that "No tax shall be levied or collected, except by authority of law."
- Constitution of India gives the power to levy and collect taxes, whether direct or indirect, to the Central and State Government.
- Seventh schedule of **Article 246** consists of three lists which gives the power to make laws.



2. Components of income tax law



a) **Income Tax Act 1961:**

- Extends to Whole of India.
- Came in to force on 1st April 1962.
- Contains 298 sections and XIV schedules.
- A section may have
 - ✓ Sub sections
 - ✓ Clauses
 - ✓ Sub- Clauses
 - ✓ Provisos
 - ✓ Explanations

b) **Annual Finance Act:**

- When the Finance Bill is passed by both the houses of the Parliament and gets the assent of the President, it becomes the Finance Act. (**Present Finance Act, 2025**)
- Amendments are made every year to the Income Tax Act, 1961 and other tax laws by the Finance Act.

c) **Income tax rules 1962:**

- CBDT is empowered to make rules.
- For the proper administration of Act CBDT frames rules from time to time.
- Rules are the step-by-step guidelines for implementation of Act.

d) **Circulars and Notifications:**

- **Circulars**
 - ✓ CBDT issues circulars from time to time to clarify doubts regarding scope and meaning of certain provisions.
 - ✓ Department is bound by circulars, whereas for assesses they can take advantage of beneficial circulars.

E.g. Circular No 13 of 2021, given clarity about applicability of TDS on purchase of goods u/s 194Q.

➤ **Notifications:**

- ✓ Will be issued to give effect to the provisions of the Act.
- ✓ With respect to ACT central government will issue notifications.
- ✓ With respect to rules CBDT will issue notifications.
- ✓ Notifications are binding on both Assesses and Dept.

E.g. Notification No 54/2013 dated 15/17/2013 dated, laying down the guidelines & conditions for approval of skill development project u/s 35CCD.

e) **Case laws:**

- ✓ Judgements given by SC & HC are important in order to study income tax law.

3. Sec 4 Charging Section

Every person whose **total income** of the **previous year** exceeds the **maximum amount not chargeable to tax** is an **Assessee** and chargeable to income tax at the **rates** specified in the **finance act** for relevant **assessment year**.

a) **Person (Sec 2(31)):** Includes

- ✓ Individual
- ✓ HUF
- ✓ Firm
- ✓ Company
- ✓ AOP/BOI
- ✓ Local Authority
- ✓ Artificial Judicial person

b) **Total income:**

Particulars	₹
Income from salaries	XXXX
Income from house property	XXXX
Profits and gains from business or profession (PGBP)	XXXX
Capital gains	XXXX
Income from other sources	XXXX
Gross Total income	XXXX
Less: Chapter VIA deductions	(XXX)
Net Total income/ Total income/ Taxable income	XXXX

c) **Previous year: (Sec 3)**

- ✓ The financial year in which you earn the income is called as Previous year.
- ✓ Present **Previous year is 2025-26** (i.e., from 1/4/2025 to 31/3/2026) always 12 months.

Exceptions:

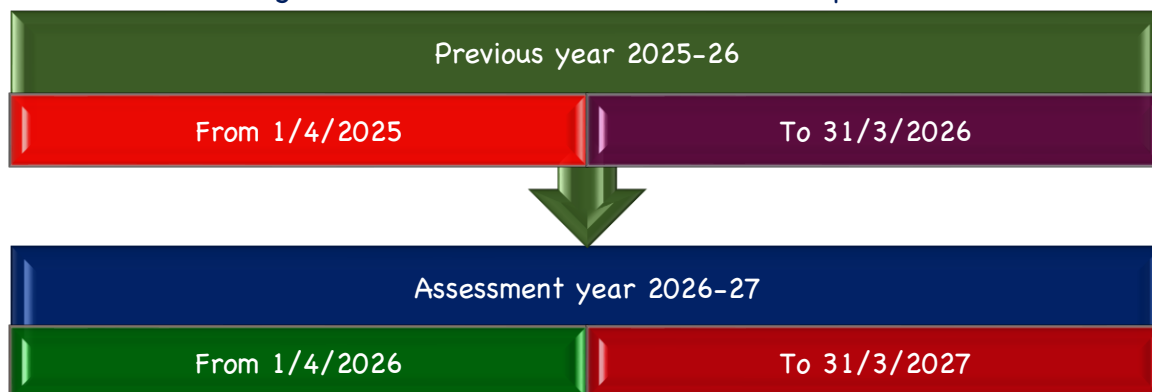
- New business commences from 1/8/25 (i.e. from 1/8/25 to 31/3/26) less than 12 months.
- New source of income starts from 1/9/25 (i.e. from 1/9/25 to 31/3/26) less than 12 months.

d) **Assessment year:**

- ✓ The financial year in which you pay the tax is called Assessment year.
- ✓ Present **Assessment year is 2026-2027** (i.e., from 1/4/2025 to 31/3/2026).

e) General rule:

- ✓ Income earned during the PY on that income tax needs to be paid in the AY.

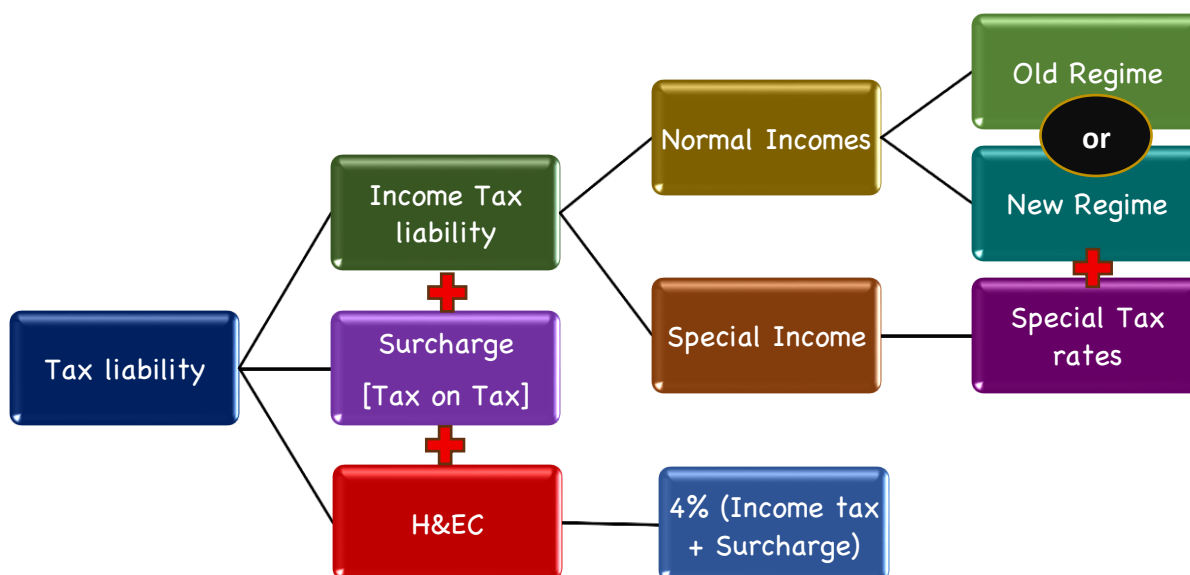
f) Maximum amount not chargeable to tax (Basic Exemption Limit- under old regime)

Person	BEL
Individual (Non-Resident or Resident < 60 years), HUF, AOP/BOI, AJP	2,50,000
Resident individual (>60 years but < 80 years) {Senior citizen}	3,00,000
Resident individual (>80 years) {Very senior/Super senior citizen}	5,00,000
Company, Partners hip firm/LLP, Local authority, Co-operative society	NIL

Basic exemption limit for Individual, HUF, AOP/BOI, AJP under default tax regime u/s 115BAC is 4,00,000.

g) Assesses:

Any person who is required to pay tax (or) any other sum of money under income tax act, 1961 is called as an Assessee.

h) Tax rates:

Direct Taxes – Progressive based

Indirect Taxes – Regressive based

→ Difference between Rich & Poor

→ NO Difference between Rich & Poor

1. Ind / HUF / AOP / BOI / AJP

Ind / HUF / AOP / BOI / AJP

Sec 115BAC (1A) / Default Tax Regime / New Regime
[No need to check age / Residential status]

Normal Tax Rates / Old Regime /
Optional rates

Sec 115BAC (6) Given an option to shift out / Optout
from default tax regime i.e. sec 115BAC(1A).

Income Tax Rates u/s 115BAC		Income Tax Rates under Old/Optional Regime											
0 - 4L	NIL	a. <table><tr><td rowspan="4">Individual (NR/Resident < 60 years), HUF, AOP/BOI, AJP</td><td>0 - 2.5L</td><td>NIL</td></tr><tr><td>2.5L - 5L</td><td>5%</td></tr><tr><td>5L - 10L</td><td>20%</td></tr><tr><td>Above 10L</td><td>30%</td></tr></table>			Individual (NR/Resident < 60 years), HUF, AOP/BOI, AJP	0 - 2.5L	NIL	2.5L - 5L	5%	5L - 10L	20%	Above 10L	30%
Individual (NR/Resident < 60 years), HUF, AOP/BOI, AJP	0 - 2.5L					NIL							
	2.5L - 5L					5%							
	5L - 10L					20%							
	Above 10L				30%								
4L - 8L	5%												
8L - 12L	10%												
12L - 16L	15%												
16L - 20L	20%												
20L - 24L	25%	b. <table><tr><td rowspan="4">Resident Individual (≥ 60y < 80y) [Senior citizen]</td><td>0 - 3L</td><td>NIL</td></tr><tr><td>3L - 5L</td><td>5%</td></tr><tr><td>5L - 10L</td><td>20%</td></tr><tr><td>Above 10L</td><td>30%</td></tr></table>			Resident Individual (≥ 60y < 80y) [Senior citizen]	0 - 3L	NIL	3L - 5L	5%	5L - 10L	20%	Above 10L	30%
Resident Individual (≥ 60y < 80y) [Senior citizen]	0 - 3L					NIL							
	3L - 5L	5%											
	5L - 10L	20%											
	Above 10L	30%											
Above 24L	30%	c. <table><tr><td rowspan="3">Resident Individual (≥ 80y) [Super senior citizen / Very senior citizen]</td><td>0 - 5L</td><td>NIL</td></tr><tr><td>5L - 10L</td><td>20%</td></tr><tr><td>Above 10L</td><td>30%</td></tr></table>			Resident Individual (≥ 80y) [Super senior citizen / Very senior citizen]	0 - 5L	NIL	5L - 10L	20%	Above 10L	30%		
Resident Individual (≥ 80y) [Super senior citizen / Very senior citizen]	0 - 5L	NIL											
	5L - 10L	20%											
	Above 10L	30%											

Surcharge Rates u/s 115BAC: Ind / HUF / AOP / BOI / AJP (other than AOP consisting only companies as members)

Total Income	Surcharge
≤ 50L	-
> 50L ≤ 1 Cr	10% of income tax
> 1Cr ≤ 2 Cr	15% of income tax
> 2 Cr	25% of income tax

Surcharge Rates under Old/Optional Regime: Ind / HUF / AOP / BOI / AJP (other than AOP consisting only companies as members)

Total Income	Surcharge
≤ 50L	-
> 50 L ≤ 1Cr	10% of income tax
> 1 Cr ≤ 2Cr	15% of income tax
> 2Cr ≤ 5Cr	25% of income tax
> 5Cr	37% of income tax

Note: Surcharge rates for AOP consisting only companies as members

Total Income	Surcharge
≤ 50L	NIL
> 50L ≤ 1 Cr	10% of income tax
> 1Cr	15% of income tax

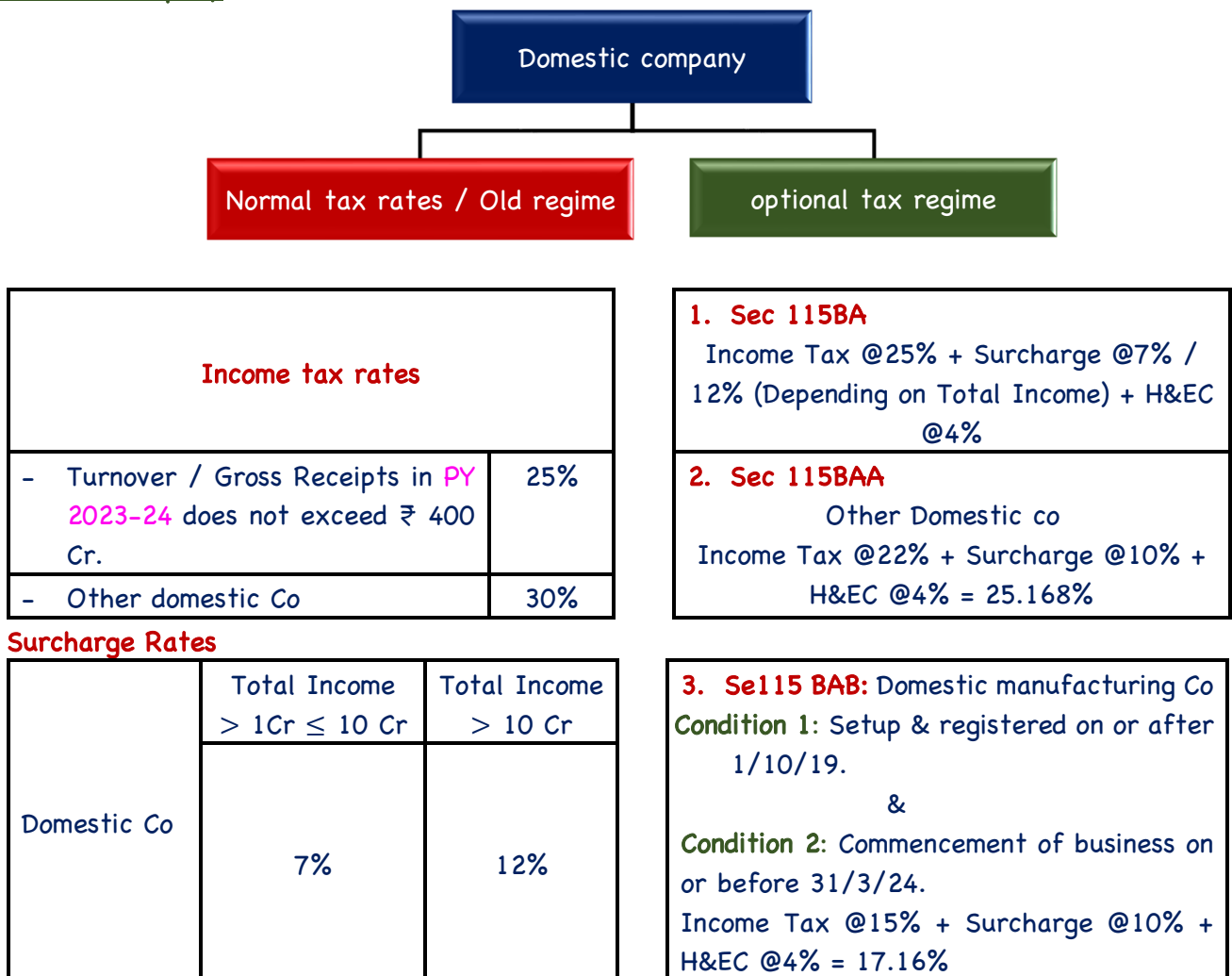
2. P. Firm including LLP / Local Authority

Income tax rate: @ 30%

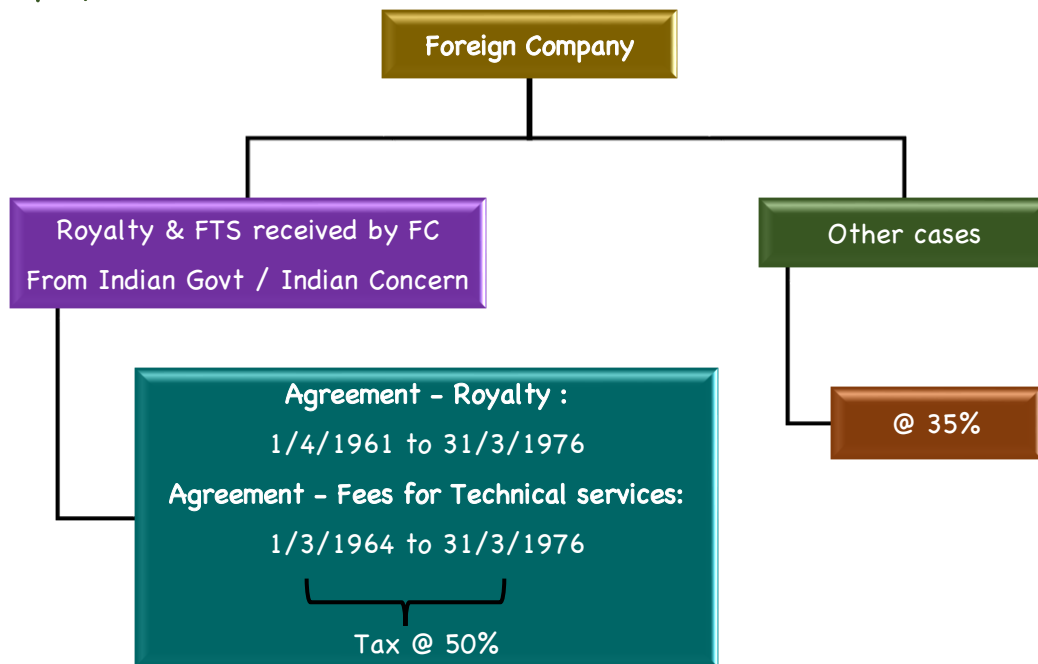
Surcharge rates:

P. Firm / LLP Local Authority	Total Income > 1Cr ≤ 10 Cr	Total Income > 10 Cr
	12%	12%

3. Domestic company

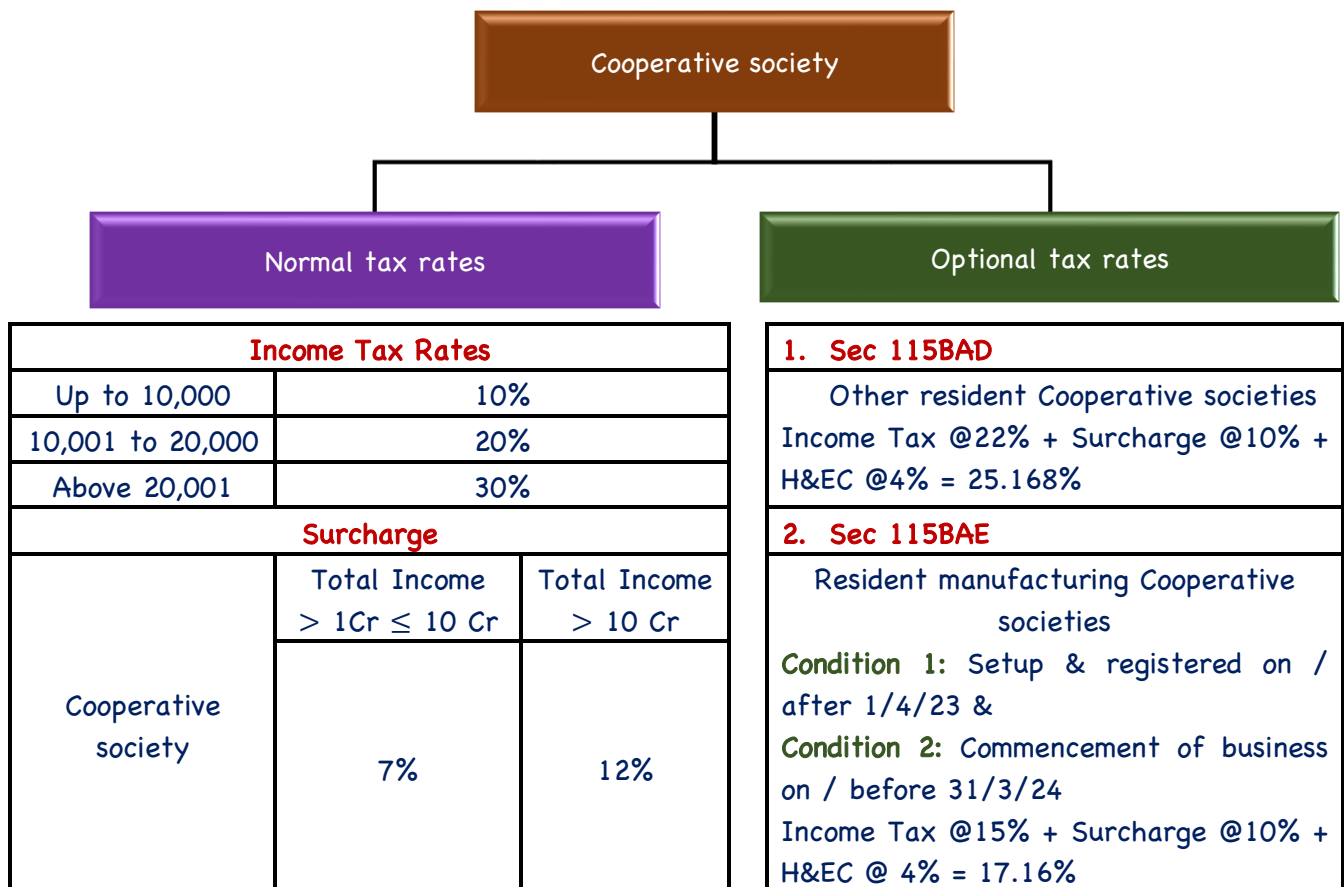


4. Foreign Company



Surcharge	Total Income > 1Cr ≤ 10 Cr	Total Income > 10 Cr
Foreign Company	2%	5%

5. Cooperative Society



i) Special tax rates:

These Rates applicable to all assesses.

Incomes	Tax rate
Long term capital gain u/s 112A	In excess of ₹1,25,000 only taxable @12.5% flat rate
Long term capital gain u/s 112	12.5% flat rate
Short term capital gain u/s 111A	20% flat rate
Lottery income u/s 115BB	30% flat rate
Net winnings from online games u/s 115BBJ	30% flat rate
Undisclosed income u/s 115BBE	Flat Rate 60% + Surcharge 25 % + H&EC 4% Effective Rate i.e. 78%
Income on transfer of Virtual Digital Asset u/s 115BBH	Flat Rate 30% + Surcharge + H&EC

Note: Short term capital gain other than section 111A is taxable at normal tax rates.

4. Rebate [Sec 87A]

Under Old tax Regime	Under New tax Regime
➤ Applicable to Resident Individual, Whose total Income $\leq$ ₹ 5,00,000. ➤ Rebate is tax payable or ₹ 12,500 whichever is less. ➤ No rebate on tax chargeable u/s 112A.	➤ If total income of Resident Individual does not exceed 12,00,000. Rebate is tax payable or ₹ 60,000 whichever is less. ➤ If total income of Resident Individual exceeds 12,00,000. (Under Marginal Relief) ✓ Step 1: Total income (-) 12 lakhs. ✓ Step 2: Compute income-tax liability on total income. ✓ Step 3: If $S_2 > S_1$, rebate under section 87A would be a $(S_2 - S_1)$. ➤ No rebate on tax chargeable by using special tax rates.

Refer Question No 1,2,3
from Workbook

Note: Rebate shall be reduced before adding education cess.

5. Rounding off [Sec 288A & 288B]

The Net total income computed and the tax payable should be rounded off to nearest multiples of 10 Rupee.

6. Maximum Marginal Rate and Average Rate of Tax

- **"Average Rate of tax"** means the rate arrived by dividing the amount of income-tax calculated on the total income, by such total income.
- **"Maximum marginal rate"** means the rate of income-tax (including surcharge on the income-tax, if any) applicable in relation to the highest slab of income in the case of an individual, AOP/ BOI as specified in the Finance Act of the relevant year.

Individual/HUF/AOP/BOI/AJP (Under Old Regime) {30%+37%+4%}	42.744%
Individual/HUF/AOP/BOI/AJP (Under New Regime) {30%+25%+4%}	39%

Firm/LLP/Cooperative Society {30%+12%+4%}	34.944%
Domestic company {25%+12%+4%}/ {30%+12%+4%}	29.12%/34.944%
Foreign company {35%+5%+4%}	38.22%

7. Revenue receipts Vs Capital receipts

➤ Revenue receipts:

- ✓ **Meaning:** income earned by way of utilizing the source of income.
- ✓ **Taxability:** always taxable unless otherwise exempted.

➤ Capital receipts:

- ✓ **Meaning:** income earned by way of sale of the source of income.
- ✓ **Taxability:** always exempted unless otherwise taxable.

8. Computation of marginal relief

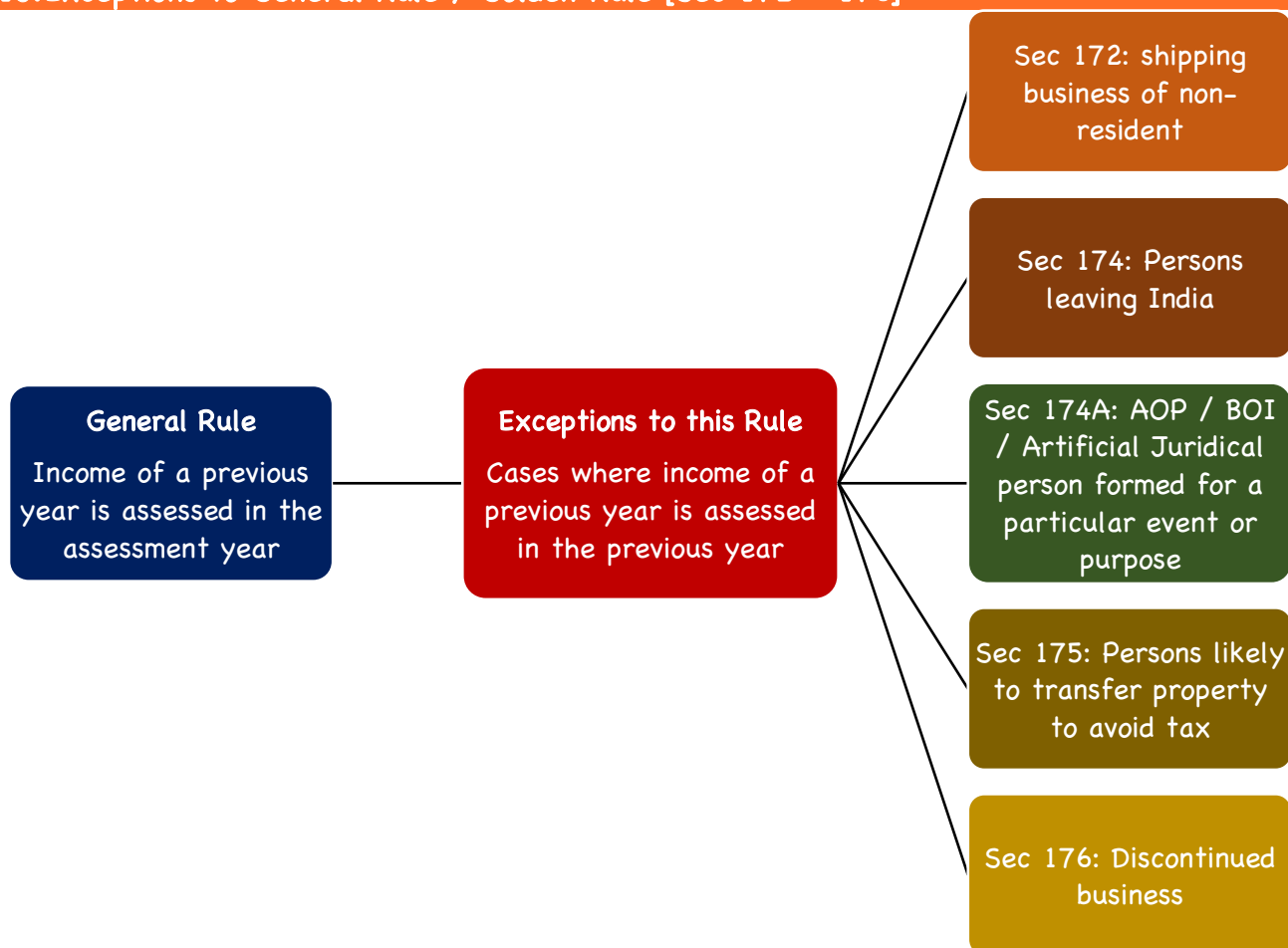
- **Step-1:** Compute the tax on total income (Including applicable surcharge)
- **Step-2:** Compute the tax on 50L/1cr/2cr/5cr/10cr (Including surcharge/Reduce rate of surcharge) + Income over 50L/1cr/2cr/5cr/10cr.
- **Step-3:** Marginal relief: Step 1 (-) Step 2*
- **Step-4:** Tax liability: Step 1 (-) Step 3+ H&E cess (*) If amount as per Step-2 is more than Step-1, then marginal relief is taken as Nil.

Refer Question No 4,5,6
from Workbook

9. Diversion of income Vs Application of income

Diversion of income	Application of income
➤ Diversion refers when there is overriding title at the source from which income is earned.	➤ There is no overriding title in this case.
➤ Obligation on the source of Income.	➤ Obligation on the receipt of Income.
➤ Due to Obligation, the income is diverted at source before it reaches to the Assessee.	➤ The discharge of obligation taken place after the income reaches to the Assessee.
➤ The Income is not included in the income of the Assessee.	➤ Income is included in the income of the Assessee.

10. Exceptions to General Rule / Golden Rule [Sec 172 – 176]

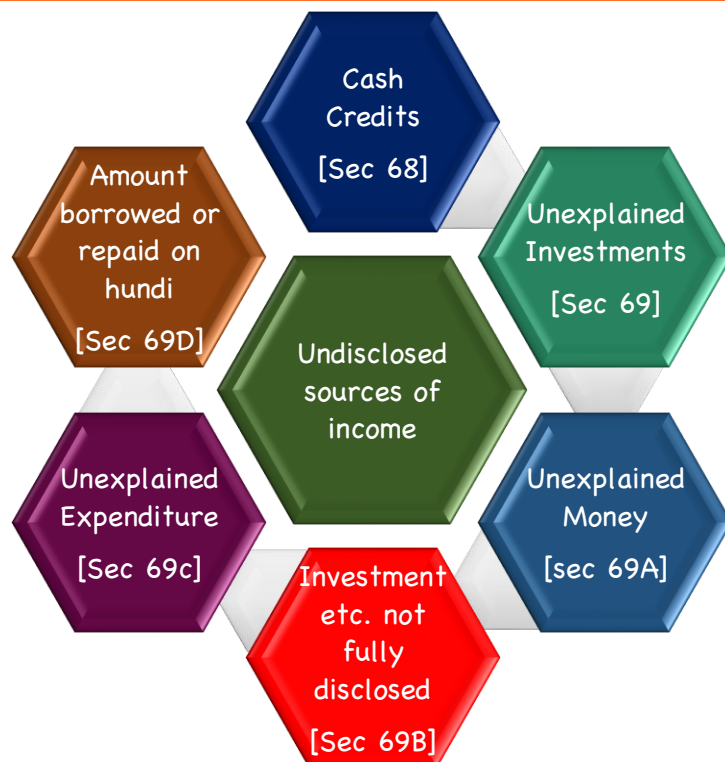


- a) **Non-Resident Shipping Business (Sec.172):** A non-resident, who is carrying shipping business and earns income from carrying goods or passengers in a port in India, will be charged income- tax before the ship is allowed to leave the Indian port.
In this case **7.5% of the amount of freight** etc. shall be deemed to be income on which the tax will be charged. Therefore, tax is chargeable on the income in the same previous year in which it is earned.
- b) **Assessment of Persons Leaving India (Sec.174):** When it appears to the Assessing Officer that any individual may leave India during the current assessment year, with no intention of returning to India, the total income of such individual, from the 1st day of that previous year up to the probable date of his departure shall be chargeable to tax in the same previous year.
- c) **AOP/BOI/Artificial Juridical Person Formed for a Particular Event or Purpose [Section 174A]:** If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that the AOP/BOI is likely to be dissolved in the same year or in the next year, he can make assessment of then come up to the date of dissolution as income of the relevant assessment year.
- d) **Assessment of person trying to dispose assets with a view to avoid tax (Sec.175):**
If it appears to the Assessing Officer, that any person is likely to pledge, dispose, transfer any of his assets with a view to avoid payment of taxes, then the income of such person from the 1st day of that previous year till the date when the Assessing Officer commences proceedings, shall be chargeable to tax in the same previous year.
- e) **Discontinued business (sec.176):** Where any business or profession is discontinued in any previous year, the income from the 1st day of that previous year till the date of such discontinuance, at

the option of the Assessing Officer, can be charged to tax in the previous year itself.

For example, if a business is discontinued on 16.07.2025 then the income for the period 01.04.2025 to 16.07.2025 may be assessed in the P.Y. 2025-26 (itself).

11. Undisclosed sources of income [Sec 68 – 69D]



a) Sec. 68 Cash Credit

- Any sum credited in the books of account of the Assessee; and
- Assessee offers no explanation about the nature and source thereof or the explanation offered by him is not satisfactory in the opinion of the Assessing Officer.

Tax Treatment: The sum so credited may be charged to tax as the income of the Assessee of that previous year.

Note: Where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by such Assessee shall be deemed to be not satisfactory, unless,

- the person in whose name such credit is recorded in the books of such Assessee also offers an explanation about the nature and source of such sum so credited; and
- such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory.

b) Sec. 69 Unexplained investments

- In a previous year the Assessee has made investments which were not recorded in the books of account; and
- Assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not satisfactory in the opinion of the assessing officer.

Tax Treatment: Value of the investment may be deemed to be the income of the Assessee for such previous year.

c) Sec. 69A Unexplained money, etc.

- In a previous year the Assessee is found to be the owner of any money, bullion, jewellery,

or other valuable article;

- Such money, bullion, jewellery, or other valuable article is not recorded in the books of account; and
- The Assessee offers no explanation about the nature and source of acquisition of such assets or the explanation offered by him is not satisfactory in the opinion of the Assessing Officer.

Tax Treatment: The money and the value of such assets may be deemed to be the income of the Assessee for such previous year.

d) Sec. 69B Amount of Investments, etc., not fully disclosed in books of account

- In a previous year the Assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article;
- Assessing Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the Assessee; and
- The Assessee offers no explanation about such excess amount or the offered explanation is not satisfactory in the opinion of the AO.

Tax Treatment: The excess amount may be deemed as income of the Assessee for such previous year.

e) Sec. 69C Unexplained expenditure etc.

- In a previous year an Assessee had incurred any expenditure; and
- Assessee offers no explanation about the source of such expenditure or part thereof or the explanation, if any, offered by him is not satisfactory in the opinion of the Assessing Officer.

Tax Treatment: Amount incurred on such expenditure or part thereof, may be deemed to be the income of the Assessee for such previous year.

f) Sec. 69D Amount borrowed or repaid on hundi

- Any amount is borrowed on a hundi from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque.

Tax Treatment: Amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount for the previous year in which the amount was borrowed or repaid as case may be.

Note:

- For avoiding double taxation, if in any case any amount borrowed on a hundi has been taxed under this section, such person shall not be liable to tax again in respect of such amount on repayment of such amount.
- Amount repaid shall include the amount of interest paid on the amount borrowed.

Refer Question No 7
from Workbook

RETURN OF INCOME

1. Sec 139(1): Filing of Return of Income

Following persons are compulsorily required to file ROI:

- a) **Company, Partnership Firm (including LLP)**
- b) **Other Assessee:** If GTI [before claiming exemption under any section 54 series] exceeds Basic exemption limit.
- c) **Resident Individual (ROR)**
 - ✓ Beneficial Owner of any asset (including Financial Interest) located outside India & Has signing authority in any bank account outside India.
 - ✓ Beneficiary of any asset (including Financial Interest) located outside India.

Note: If Beneficial Owner already includes income from such asset in his ROI, then Beneficiary is not required to file ROI.

Meaning of "beneficial owner" and "beneficiary"

Beneficial Owner	Beneficiary
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.	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.

d) If Any person entered into Special transactions:

- i. Deposited aggregate > ₹1 crore in current A/c of Bank / Co-operative bank; or
- ii. Incurred Foreign Travel Expenditure of > ₹2,00,000 for himself / any other person; or
- iii. Incurred Electricity Expenditure of > ₹1,00,000.
- iv. If his Total Sales / Turnover / Gross Receipts in Business > ₹60,00,000 during the PY; or
- v. If his Gross Receipts in Profession > ₹10,00,000 during the PY; or
- vi. If the aggregate of TDS & TCS during the PY, in the case of the person, is ≥ ₹25,000 (& in case of Resident Senior Citizen ≥ ₹50,000); or
- vii. The deposit in one or more Savings A/c of the person, in aggregate, is ≥ ₹50,00,000 during the PY.

e) Other Entities

- i. **Trust [Section 139(4A)]:** If Total Income before exemption u/s 11 exceeds Basic Exemption Limit.
- ii. **Political Party [Section 139(4B)]:** If Total Income before exemption u/s 13A exceeds Basic Exemption Limit.
- iii. **Research association, News Agencies, Institutions etc. u/s 10 [Section 139(4C)]:** If Total Income before exemption u/s 10 exceeds Basic Exemption Limit.
- iv. **University, College, Institution u/s 35 [Section 139(4D)]:** Mandatory.
- v. **Business Trust [Section 139(4E)]:** Mandatory.
- vi. **Investment Fund [Section 139(4F)]:** Mandatory.

Refer Question No 1 to 5
from Workbook

DUE DATE OF FILING ROI

Assessee who is required to furnish Transfer Pricing Report u/s 92E.	30th Nov of AY
✓ Company. ✓ Audit Requirement under Income Tax Act or any law. ✓ Partner of Firm where accounts are to be audited & Partners of such Firm.	31st Oct of AY
Others	31st July of AY

Note: Section 5A: Apportionment of income between spouses governed by Portuguese Civil Code

This rule applies only when husband and wife are governed by the system of community of property, known under the Portuguese Civil Code of 1860 as "COMMUNIAO DOS BENS", which is in force in Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu.

1. Income under the head "Salaries" [Section 5A (2)]

- ✓ Salary income is taxed in the hands of the spouse who has earned it.
- ✓ It is not shared or divided between husband and wife.

Example

- Husband earns a salary of ₹6,00,000.
- Wife earns no salary.

₹6,00,000 will be included only in the husband's total income, not divided equally.

2. Income under any head of income (other than "Salaries") [Section 5A (1)]

- ✓ Income shall not be assessed as that of such community of property.
- ✓ Income of the husband and wife under each head of income (other than Salaries) shall be apportioned equally between husband and wife.
- ✓ The income so apportioned shall be included separately in the total income of the husband and wife.

2. Consequences for not filing ROI within due date u/s 139(1)

- a) If ROI u/s 139(4A)/(4C) not filed within due date, then Penalty u/s 272A (2) shall be levied - ₹500 for every day during which default continues.
- b) Wilful failure to furnish ROI within due date, then prosecution u/s 276CC (Refer Penalties & Prosecution)
- c) Interest u/s 234A
- d) Required to face best judgement assessment u/s 144
- e) Fees u/s 234F
 - If total income of person does not exceed ₹ 5 lakhs, fees payable shall not exceed ₹1,000.
 - Otherwise, ₹5,000
- f) Assessee can not opt out of default tax regime u/s 115BAC if return not filed within due date.

3. ITR Forms – Return of income

Rule 12 provides the following Forms for filing a return of income for different Assessee:

ITR 1 (SAHAJ)	For Individual having Income from Salaries & Income from House Property (one) & LTCG u/s 112A upto 1,25,000 & Income from Other Sources (Except Casual Income) and his Total Income up to 50 lakhs & Agricultural income up to ₹ 5000. The form is not applicable to a person who: - has assets (including financial interest in any entity) located outside India; - has signing authority in any account located outside India; - has income from any source outside India; - has income to be apportioned in accordance with provisions of section 5A; - is a director in any company; - has held any unlisted equity share at any time during the previous year; - owns more than one house property, the income of which is chargeable under the head "Income from house property"; - has any brought forward loss or loss to be carried forward under any head of income; - is assessable for the whole or any part of the income on which tax has been deducted at source in the hands of a person other than the Assessee; - has claimed any relief u/s 90 or 90A or deduction of tax u/s 91; - has income taxable under section 115BBDA; or - has income of the nature referred to in sec. 115BBE; - has income of the nature specified in sec. 17(2)(vi) on which tax is payable or deductible, as the case may be, u/s 191(2) or 192(1C).
ITR 2	For individual & HUF not having PGBP income.
ITR 3	Ind / HUF/ P. Firm (Other than LLP) having Income under PGBP head
ITR 4 (SUGAM)	Ind (ROR)/ HUF/ P. Firm (Other than LLP) having Income under PGBP head Declared under Presumptive Taxation Provisions and his Total Income up to 50 lakhs & Agricultural income up to ₹ 5000. ITR-4 is not applicable in the case of a person mentioned above (ITR 1), Besides, person who has any brought forward loss or loss to be carried forward under any head of income.
ITR 5	For a person other than Ind, HUF, Company, Person who are filing ITR 7(LLP)
ITR 6	For Companies other than Companies claiming exemption u/s 11.
ITR 7	Persons including companies who required to file return u/s 139(4A)/(4B)/(4C)/(4D)/(4F).
ITR V	Income Tax Return Verification Form [Where the data of the aforesaid Return of Income has been transmitted electronically without digital signature]

Refer Question No 6
from Workbook

4. Mode of furnishing Income-tax Return

Mode of Filing			
Paper Return	Electronic Return With Digital Signature	Transmitting the data in the return electronically And there after submitting the verification of the return in Form ITR-V	Transmitting the data electronically in the return under EVC Code.

Person	Condition	Mode
Company	-	Electronically with digital sign
Political Party	-	
Firm/LLP/Individual/HUF	Audit u/s 44AB required	
Individual	Individual - Age of 80 years or more & who furnishes the return in SAHAJ (ITR-1) or SUGAM (ITR-4)	Any mode
Any other person	-	Any mode other than paper mode

5. 26AS Statement

The following details (on yearly basis) have been provided in 26AS statement:

- Advance tax, Self-Assessment Tax and Regular Assessment Tax paid by the Assessee.
- Details of turnover furnished in GSTR-3B.
- Details of specified financial transaction (SFT).
 - Tax paid through Tax Deducted at Source (TDS) or TCS on behalf of the assessee.
 - Details of TDS for 15G/15H.
 - TDS/TCS defaults.
- Details of Tax Deducted at Source u/s 1941A/1941B/194M/194S (For Seller/Landlord of Property/ Contractors or Professionals/ Seller of Virtual Digital Asset).
- Details of Tax Deducted at Source u/s 1941A/1941B/194M/194S (For Buyer/Tenant of Property /Person making payment to contractors or Professionals/Buyer of Virtual Digital Asset).
- Details of Transactions/Demand Payments under Proviso to sec. 1945(1) as per Form 26QE (For Buyer/Seller of Virtual Digital Assets).
- Refund issued by the CPC-TDS.
- Various income details.

Annual Tax Statement available on TRACES portal will display only TDS/TCS related data. Other details would be available in the AIS (Annual Information Statement) at e-filing portal

6. Functionalities available at e-Filing Portal [www.incometax.gov.in]

Few of the functionalities available at e-filing portal are as follow:

- View Form 26AS/AIS
- View (with download facility) e-Filed Return / Form
- Download pre-filled json
- E-Verify Return
- Generate EVC

- f) Add / Disengage CA
- g) Add / Register as Representative
- h) Filing of Returns
- i) Filing of return in response of notice u/s 139(9)
- j) Aadhar linking
- k) e-Proceedings
- l) Filing of appeal to CIT(Appeals)
- m) Registration or updation of Digital Sign
- n) Refund reissue request
- o) Validation of Bank Account or Demat Account
- p) Profile updation

7. Sec 139(1C): CG May Exempt Class of Person to file ROI

Relaxation from filing of ROI –

- Central Government may by notification specify such class classes of persons who will be exempted from the requirement of filing of return.
- In case of specified senior citizen if following conditions are satisfied:
 - a) Person is resident having 75 years or more.
 - b) They should have only pension income & interest credited to single bank account (specified bank).
 - c) Specified senior citizen needs file a declaration with specified bank.
 - d) If specified bank deducted the TDS u/s 194P on such income.

8. Sec 139(3): Loss Return

ROI is required to be filed up to due date given u/s 139(1) to carry forward following losses of current year:

- a) Business Loss (Speculative/Normal)
- b) Capital Loss
- c) Loss from activity of owning & maintaining race horses
- d) Specified business loss u/s 35AD.

Refer Question No 7 to 10
from Workbook

Note:

- HP Loss & Unabsorbed Depreciation can be c/f even if ROI is filed late.
- Loss can be c/f even if ROI is filed after due date due to genuine reasons & delay is condoned by

Authority	Loss w.e.f from 1.10.24
PCIT or CIT	Up to ₹ 1 crore
CCIT	above ₹ 1 crores but up to ₹ 3 crores
PCCIT	above ₹ 3 crores
CBDT	-

- **Period for which application can be made:** No condonation application for claim of refund/loss shall be entertained beyond five years from the end of the assessment year for which such application/claim is made.
- A condonation application should be disposed of within six months from the end of the month in which the application is received by the competent authority, as far as possible.

Note: However, for the application filed before 1.10.2024, the time period up to which application can be made is six years from the end of the assessment year.

9. Sec 139(4): Belated Return

- ✓ If ROI is not filed within the due date, Belated Return can be filed up to **earlier of**:
 - a) 3 months prior to end of relevant AY i.e., 31st December of AY;
 - or
 - b) Before completion of Assessment
- ✓ However, if an Assessee files a belated return,
 - He would be liable to fee u/s 234F
 - He would be liable to interest u/s 234A
 - Certain profit-based deductions under chapter VIA & u/s 10AA are not available
 - Certain losses of the previous year [as provided in sec. 139(3)] are not allowed to be carried forward.

10. Sec 139(5): Revised Return

If there is any omission or wrong statement in ROI filed u/s 139(1), 139(3) or 139(4), assessee can file Revised Return up to earlier of:

- a) 3 months prior to end of relevant AY i.e., 31st December of AY.
- or
- b) Before completion of Assessment

Note:

- It substitutes original return in all aspects (except date).
- Assessee can revise ROI any no. of times.
- Return filed pursuant to notice u/s 142(1) cannot be revised.
- Revising Original Return can be done only by the way of filing Revised ROI u/s 139(5) and not by filing plain letter or Revised Statement of Income.
- Fresh claim before AO can be made only by filing a revised ROI.
- ROI can be revised even after receiving intimation u/s 143(1) or Refund.

Refer Question No 11,12
from Workbook

11. Sec 139(9): Defective Return

1. Return can be considered defective if
 - a. ROI not filed in prescribed form
 - b. The annexure, statements and columns in the return of income have been duly filled in.
 - c. Proof of Tax Payment not attached with ROI
 - d. Report u/s 44AB not submitted
2. AO shall intimate defect to Assessee and give opportunity to rectify the defect within 15 days or extended time.
3. If Assessee does not rectify the defect, then ROI shall be treated as Invalid [Void ab Initio].

Note: Currently, the Assessee is required to furnish paper-less return. i.e., no documents, proof or report (other than some specified report required to be furnished electronically) is required to be attached with return of income.

12. Sec 139A: Permanent Account Number [PAN]

Following persons are required to apply for allotment of PAN:

- 1) Every person who is assessable to tax [Required to file ROI] – On or before 31st May of the assessment year.
- 2) Every person carrying on B&P & whose Total Turnover / Gross Receipts exceeds or likely to exceed ₹5,00,000 in any PY – Before the end of that financial year.
- 3) Trust – Before the end of that financial year.

- 4) Resident Person (other than Individual) who enters Financial Transactions of aggregate ₹2,50,000 or more & Director / Partner / Principal Officer of such Person - On or before 31st May of the immediately following financial year.

Refer Question No 13, 14
from Workbook

Quoting of PAN is mandatory in:

Transactions specified in rule 114B	Value of transaction
1. Sale or purchase of a motor vehicle (other than two-wheeler).	All such transactions
2. Opening an account [other than a time-deposit referred to at S.No.12 and a Basic Savings Bank Deposit Account] with a bank/co-operative bank.	All such transactions
3. Making an application to a bank/ co-operative bank/any other company or institution, for issue of a credit or debit card.	All such transactions
4. Opening of a demat account.	All such transactions
5. Payment to a hotel or restaurant against a bill or bills at any one time.	Payment in cash of an amount exceeding Rs. 50,000
6. Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time	Payment in cash of an amount exceeding Rs. 50,000
7. Payment to a Mutual Fund for purchase of its units.	Amount exceeding Rs. 50,000
8. Payment to a company or an institution for acquiring debentures/ bonds issued by it.	Amount exceeding Rs. 50,000
9. Payment to the RBI for acquiring bonds issued by it.	Amount exceeding Rs. 50,000
10. Deposit with a bank/co-operative bank.	Deposits in cash exceeding Rs. 50,000 during any one day or exceeding Rs. 2,50,000 during November 9, 2016, and December 30, 2016.
11. Purchase of bank drafts /pay orders/ banker's cheques from a bank/co-operative bank.	Payment in cash for an amount exceeding Rs. 50,000 during any one day
12. A time deposit with bank/co-operative bank/post office /Nidhi /non-banking financial company.	Amount exceeding Rs. 50,000 or aggregating to more than Rs. 5,00,000 during a financial year
13. Payment for one or more pre-paid payment instruments to a bank/ co-operative bank/ any other company or institution.	Payment in cash or by way of a bank draft/pay order/banker's cheque of an amount aggregating to more than Rs. 50,000 in a financial year
14. Payment as life insurance premium to an insurer.	Amount aggregating to more than Rs. 50,000 in a financial year

15. A contract for sale or purchase of securities (other than shares).	Amount exceeding Rs. 1,00,000 per transaction
16. Sale or purchase, by any person, of shares in a company not listed in a recognized stock exchange.	Amount exceeding Rs. 1,00,000 per transaction
17. Sale or purchase of any immovable property.	Amount exceeding Rs. 10,00,000 or valued by stamp valuation authority referred to in section 50C at an amount exceeding Rs. 10,00,000
18. Sale or purchase, by any person, of goods or services of any nature other than those specified at S.No.1 to 17 above.	Amount exceeding Rs. 2,00,000 per transaction
19. Person intends to enter following transactions – at least 7 days before the date on which he intends to enter said transaction. (Rule 114BA) ✓ Cash deposits aggregating ₹20 lakhs or more in a FY, in one or more accounts with bank or co-op bank. ✓ Cash withdrawals aggregating ₹ 20 lakhs or more in a FY, in one or more account with a bank or a co-op bank. ✓ Opening of current account cash credit account with a bank or a co-operative bank.	

13. Sec 139AA: Quoting of Aadhaar Number

Every person is required to quote Aadhaar Number

- a) In the application form for allotment of PAN
- b) In ROI

Note:

- Every person who has been allotted PAN before 01-07-2017, shall intimate his Aadhaar number or ~~Aadhaar Enrolment ID~~ to such authority on or before specified date i.e., 31-03-2022.
- In case of failure to intimate the Aadhaar number, the PAN allotted to the person shall be made inoperative from 01-07-2023.

Fee for default relating to intimation of Aadhaar number [Sec. 234H]: Where a person fails to intimate his Aadhaar number on or before prescribed date, he shall be liable to pay such fee not exceeding ₹ 1,000. After payment of prescribed fee u/s 234H, PAN would become operative within 30 days from the date of intimation of Aadhaar number.

Specified in rules:

- Link between 01/04/2022 till 30/06/22: ₹500
- Link on or after 01/07/2022: ₹ 1000

Non-Applicability:

- 1) Residing in Assam, J&K & Meghalaya.
- 2) Non-Resident.
- 3) Age of 80 years or more at any time during PY.
- 4) Not a citizen of India.

Note: Finance Act, 2024 discontinuing the option to quote the Aadhaar Enrolment ID to prevent potential duplications & misuse.

14. Sec 139B: Tax Return Preparer [TRP]

a. Specified class of people can file their ROI through TRP

b. **What do you mean by Specified Class of People?**

It means any person other than:

- Company.
- Audit requirement under Income Tax Act or any other law.

c. **What do you mean by TRP?**

It means an individual who is authorized to act as TRP by CBDT other than following:

- Chartered Accountant (CA).
- Legal Practitioner.
- Officer of Scheduled Bank.
- Employee of Specified Class of Persons.

Refer Question No 15
from Workbook

15. Sec 140: Verification of Return

In case of	Verified By
✓ Individual ✓ If Individual does not present in India or Mentally Incapacitated.	➤ Himself ➤ Person competent to verify on his behalf
✓ HUF ✓ If Karta does not present in India or Mentally Incapacitated	➤ Karta ➤ Any adult member of HUF
✓ Partnership Firm ✓ If no Managing Partner	➤ Managing Partner ➤ Any Adult Partner
✓ LLP ✓ If no Designated Partner	➤ Designated Partner ➤ Any Partner
✓ Company ✓ If no Managing Director ✓ Company under liquidation ✓ If Corporate Insolvency Resolution Process Application Admitted under IBC ,2016 ✓ Where the management of the company has been taken over by the Central or State Government. ✓ Non-resident company	➤ Managing Director ➤ Any other Director ➤ Liquidator ➤ Insolvency Professional ➤ Principal officer ➤ A person holding a valid power of attorney.
✓ Political Party	➤ CEO
✓ Local Authority	➤ Principal officer
✓ Any Other Person	➤ Person competent to verify

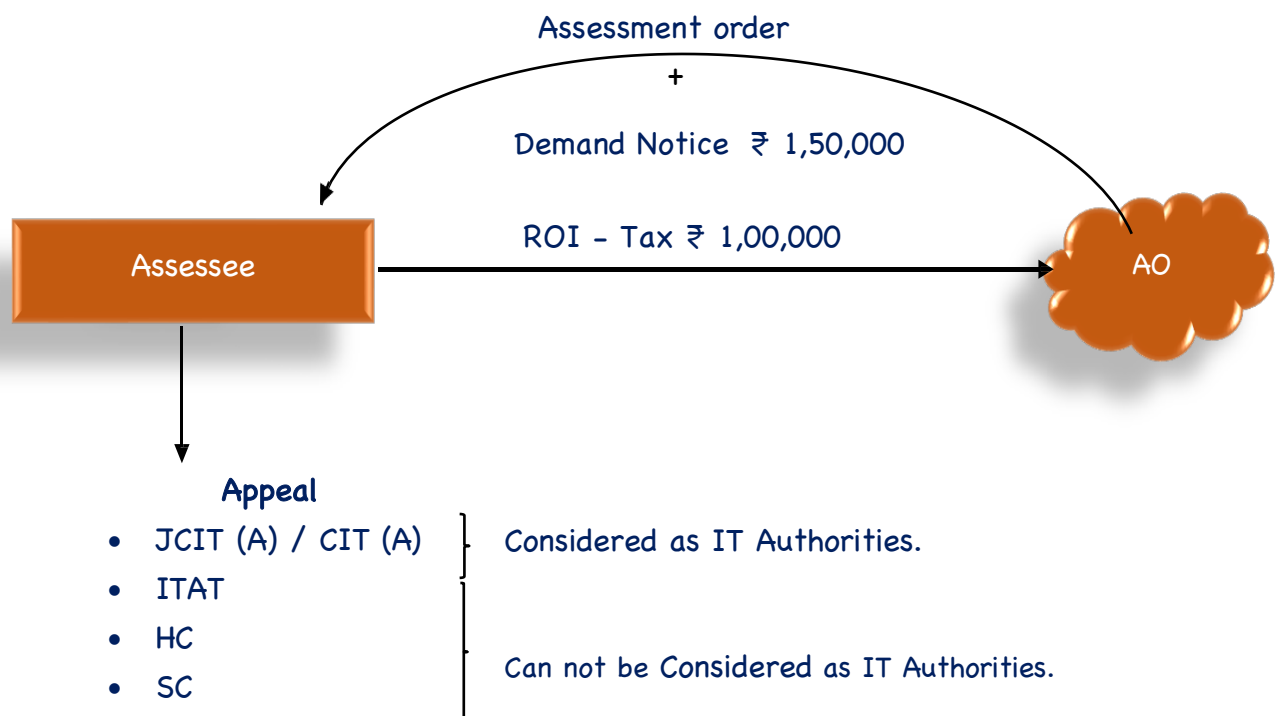
16. Sec 140A: Self-Assessment

- ✓ Assessee is required to pay due Tax before filing of ROI along with Interest & Fees.
- ✓ If there is short payment, then amount paid is first adjusted towards Fees, then Interest & balance towards Tax.

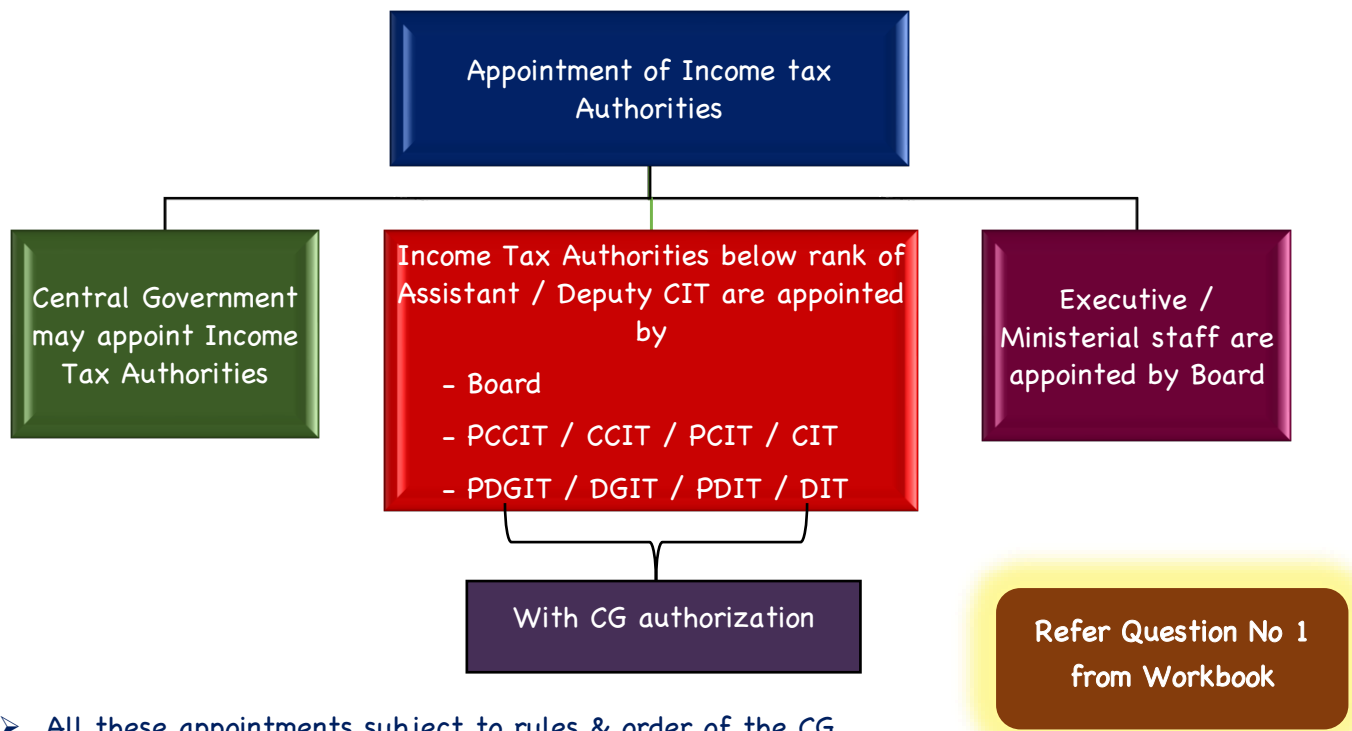
INCOME TAX AUTHORITIES

1. Sec 116: Income Tax Authorities

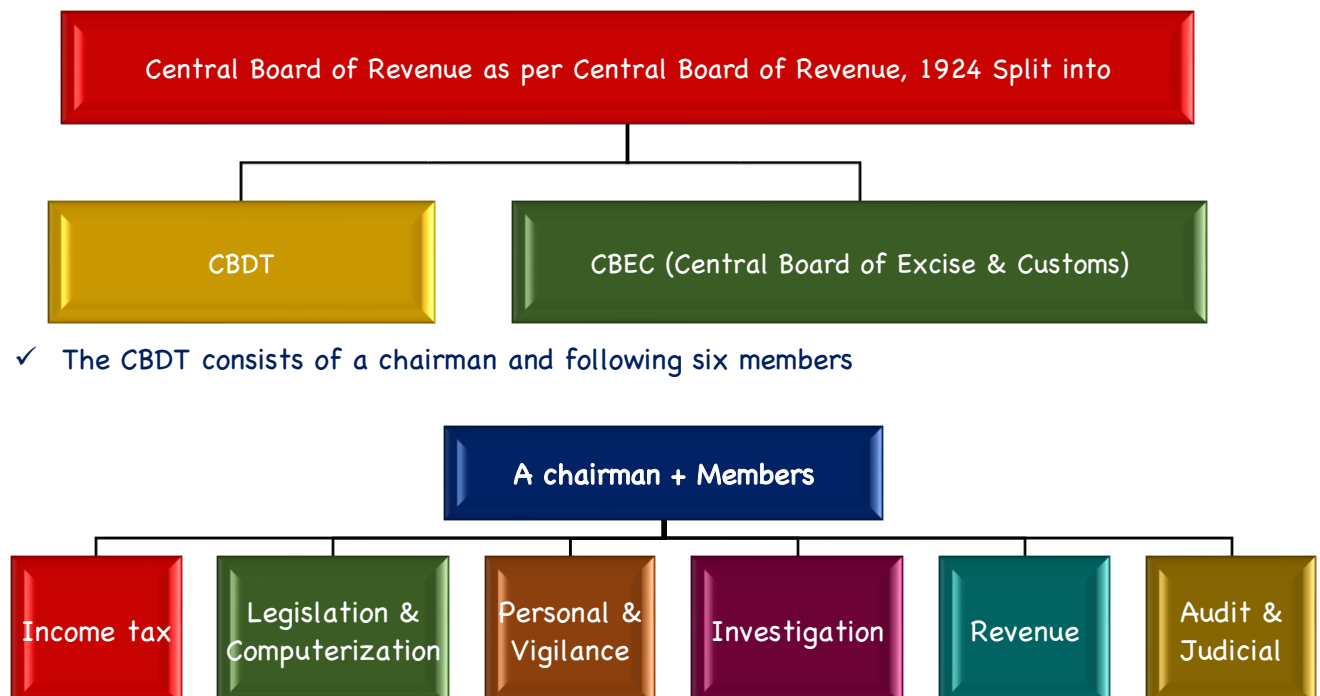
Assessment wing	Investigation wing
Principal Chief Commissioner of Income Tax (PCCIT)	Principal Director General of Income Tax (PDGIT)
Chief Commissioner of Income Tax (CCIT)	Director General of Income Tax (DGIT)
Principal Commissioner of I. Tax (PCIT)	Principal Director of Income Tax (PDIT)
CIT / CIT(A)	DIT
Additional CIT / Additional CIT (A)	Additional DIT
Joint CIT / Joint CIT (A)	Joint DIT
AO Deputy CIT / Deputy CIT (A)	Deputy DIT
Assistant CIT	Assistant DIT
Income Tax Officer (ITO)	
Tax Recovery Officer (TRO)	
Inspector of Income Tax	



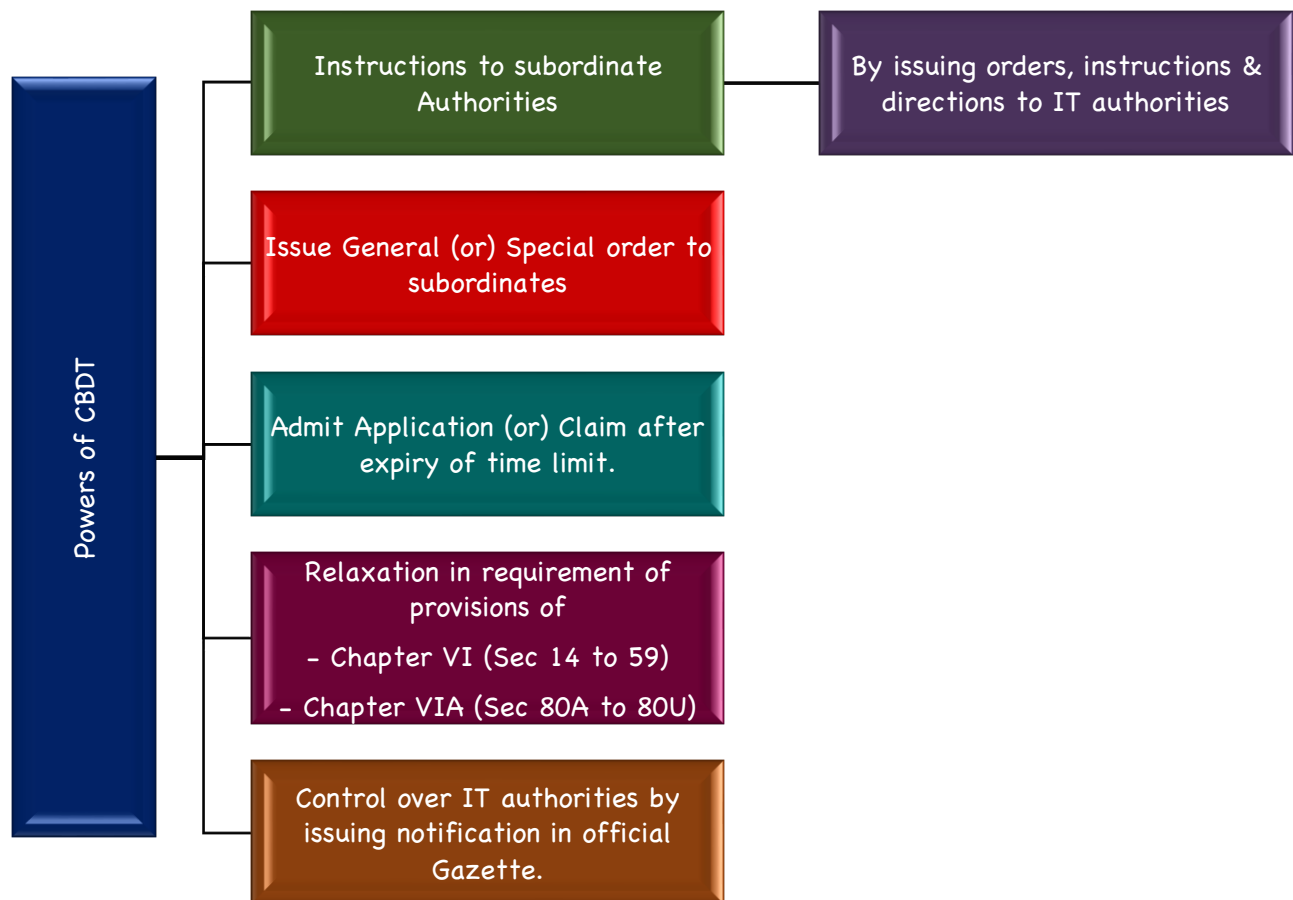
2. Sec 117: Appointment of Income Tax Authorities



3. Central Board of Direct Taxes (CBDT)



4. Sec 119: Powers of CBDT



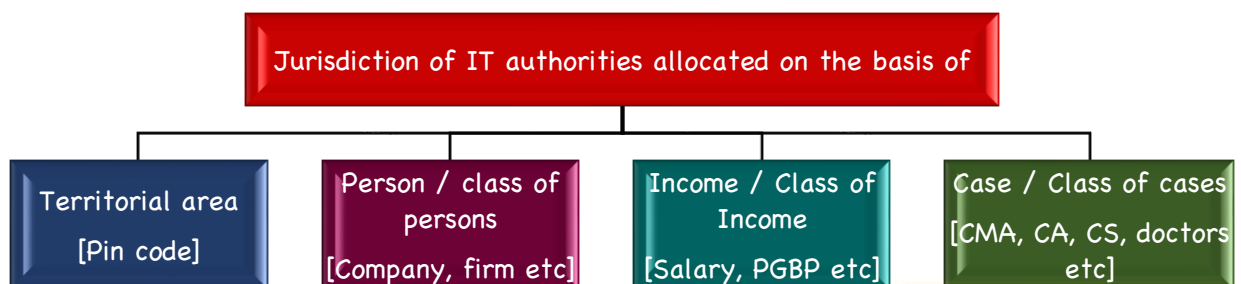
Note: An order, circular, instruction or direction issued u/s 119 cannot override the provisions of the act.

5. Sec 119A: Taxpayers Charter

- ✓ The board shall adopt & declare a taxpayer's charter.
- ✓ The board shall issue such orders, instructions, directions / guidelines to income tax authorities for administration of such charter.

6. Sec 120: Jurisdiction of IT Authorities

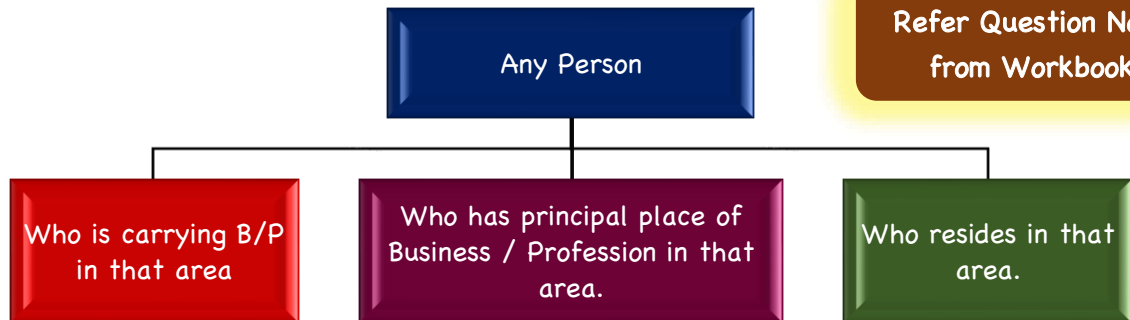
- ✓ Income tax authorities shall exercise all (or) any of powers in accordance with board.



Refer Question No 2
from Workbook

7. Sec 124: Jurisdiction of AO

- ✓ Once jurisdictional area is allocated to AO (based on any mode U/S 120), He can exercise powers in his jurisdiction over any person



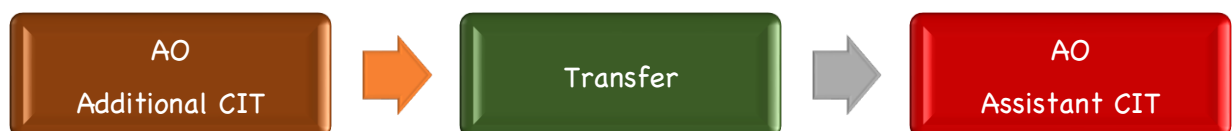
Refer Question No 3
from Workbook

- ✓ In case of dispute over jurisdiction of AO, assessee shall refer to higher authority.
- ✓ **Assessee can challenge jurisdiction of AO within the following time limit:**

Where a return of Income has been filed under section 139(1).	a) One month from the date of service of notice under section 142(1) or 143(2). or b) completion of assessment. whichever is earlier
Where no return of income has been filed.	a) Time allowed by notice under section 142(1) or 148 for filing return of income. or b) Notice under section 144 to show cause why the best judgement assessment should not be made. whichever is earlier
Where search is initiated under section 132 or books of accounts or other documents, or any assets are requisitioned under section 132A.	a) One month from the date on which notice was served under section 153A(1) or 153C(2). or b) completion of assessment. whichever is earlier

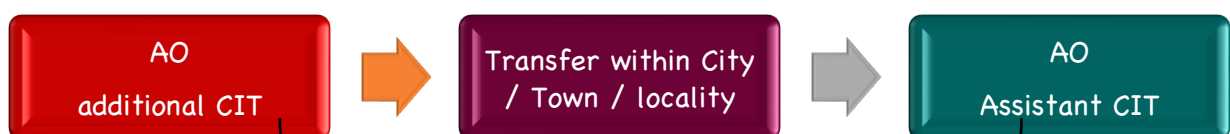
8. Sec 127: Power to Transfer cases

- ✓ With prior approval of PCCIT / CCIT / PCIT / CIT
PDGIT / DGIT



OBH shall be provided to Assessee.

✓



No OBH shall be provided

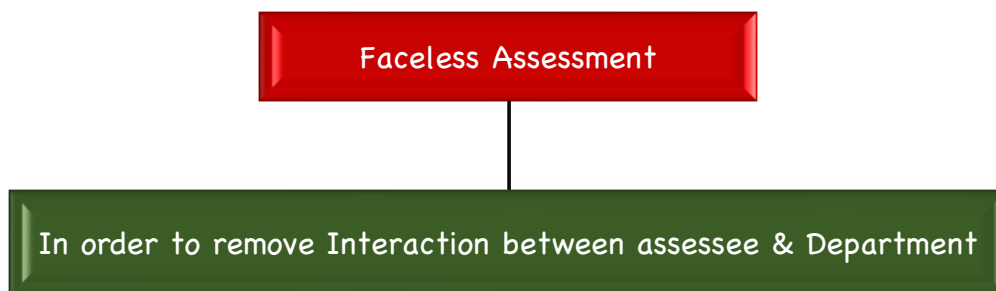
9. Sec 129: Succession of IT Authority

**Opportunity of being heard**

The Assessee may demand that continuation of proceedings as above, the previous proceedings (or) any part of previous proceedings thereof to be reopened before passing any assessment order against him.

Refer Question No 4
from Workbook

10. Sec 130: Faceless Jurisdiction of IT Authority



Sec 130 empowered the CG to notify the scheme for faceless jurisdiction of income tax authorities through "Automated Allocation System" (AAS), in accordance with sec 144B (Faceless assessment).

Under this scheme, the Central Government may provide for:

1. Exercise of powers and performance of functions of income-tax authorities under section 120.
2. Vesting jurisdiction with the Assessing Officer under section 124.
3. Transfer of cases under section 127.
4. Succession of IT Authority under section 129.

The objective of the scheme is to impart greater efficiency, transparency and accountability by:

- i. **Eliminating the interface** between the income-tax authority and the Assessee or any person to the extent technologically feasible.
- ii. **Optimizing utilization** of the resources through economies of scale and functional specialization.
- iii. **Introducing a team-based exercise** of powers and performance of functions by two or more income-tax authorities

ASSESSMENT PROCEDURES

1. Sec 140A: Self-Assessment

- ✓ Assessee is required to pay due Tax before filing of ROI along with Interest & Fees.
- ✓ If there is short payment, then amount paid is first adjusted towards fees, then Interest & balance towards Tax.

2. Sec 142: Inquiry Before Assessment

Sec 142(1): Issue of Notice to Assessee

U/s 142(1) AO collects information from the Assessee.

Return	If Assessee does not file ROI within time u/s 139(1), AO may issue notice requiring him to furnish ROI.	If fails: Best Judgment Assessment u/s 144
Books & Information	For making Assessment, AO can issue notice to → Produce Books & Documents (Maximum 3 years prior to relevant PY). → Furnish information including details of Assets & Liabilities.	If fails: Search u/s 132

Sec 142(2): Inquiry

U/s 142(2) AO collects information from any source.

For obtaining full information in respect of income/loss of any person, The AO make such inquiry.

3. Sec 142(2A) to (2D): Special Audit & Inventory Valuation

- a. AO may at any stage of proceeding can direct Special Audit/inventory valuation having regards to.
 - i. Complexities in Accounts
 - ii. Volume of Accounts
 - iii. Doubts about Correctness of Accounts
 - iv. Multiplicity of Transactions in the Accounts
 - v. specialized nature of business activity of the Assessee
 - vi. In the interest of revenue
- b. Direction can be issued with prior approval of PCCIT/PCIT/CCIT/CIT.
- c. Opportunity of being heard must be given to Assessee before directing.
- d. Direction can be given even if Books of Accounts already audited u/s 44AB or any other law.
- e. Books of Accounts audited by CA & Inventory valued by Cost accountant nominated by PCCIT/PCIT/CCIT/CIT.
- f. If the Assessing Officer orders a special audit or inventory valuation, Then Central Government pays all the expenses, including:
 - Remuneration of the Chartered Accountant (CA) or Cost Accountant
 - Costs of their assistants
 - Any other related expenses

Refer Question No 1
from Workbook

The amount to be paid is decided by Principal Chief Commissioner / Chief Commissioner / Commissioner by following **guidelines (Rule 14B).**

- g. The expenses of, and incidental to, audit (including the remuneration of the accountant, cost accountants, qualified assistants, semi-qualified and other assistants who may be engaged by such

Accountant or Cost Accountant) should not be

- less than ₹ 3,750 and
- not more than ₹ 7,500.

- h. Audit Report/ Inventory valuation report has to be submitted **within time allowed by AO** which can be extended but maximum time shall **not exceed 180 days** from date of direction of Special Audit. This time of 180 days from the date on which the Assessing Officer's direction is received by the Assessee.
- i. The chartered accountant/cost accountant shall submit the report in **Form 6B** to the Assessee.
- j. If Assessee fails to get Special Audit done, then AO can make **Best Judgment Assessment u/s 144** & attracts penalty and prosecution.

Note: Would the assessee be liable to consequences for failure to get the accounts audited if the nominated Chartered Accountant refused to audit the accounts of the assessee?

The Chartered Accountant declined to undertake the audit of the assessee accounts, **then assessee could not be held responsible**. In such a case, there was no default or failure to comply with the direction issued under section 142(2A) on the assessee's part to attract the provisions of section 144.

The best judgement made by the Assessing Officer was **set aside** with the **directions to appoint another Chartered Accountant within one month** to get the accounts audited.

The above ruling is with respect to a special audit refused by a nominated Chartered Accountant. The rationale of the said Apex Court ruling can also be applied in case inventory valuation is refused by the Cost Accountant.

4. Sec 142(3): Opportunity of Being Heard w.r.t 142(2)/142(2A)

An opportunity of being heard must be given to Assessee

- a. In respect of any information gathered on the basis of any inquiry u/s 142(2) or any audit u/s 142(2A).
- and
- b. Proposed to be utilized for the purpose of the assessment.

5. Sec 142A: Reference to Valuation Officer

- a. AO may for purpose of assessment make a **reference to VO** to estimate value of any asset, property or investment.
- b. The VO is required to estimate the value of the asset, property or investment after considering the evidence produced by the Assessee and any other evidence gathered, after giving an **opportunity of being heard** to the Assessee.
- c. If the Assessee does not co-operate with the directions of the Valuation Officer, then he estimates the value of the asset, property or investment to **the best of his judgment**.
- d. VO shall send a copy of Valuation Report to AO & Assessee within **6 months from end of the month** in which reference was made.
- e. AO may consider such report in making the assessment after giving **opportunity of being heard** to the Assessee.

6. Sec 142B: Faceless Inquiry / Valuation

The Central Government is empowered to make faceless inquiry and valuation scheme.

- a. Issuing notice under section 142(1) or
- b. Making inquiry to obtain full information in respect of the income or loss of any person under section 142(2) or
- c. Directing the assessee to get the accounts audited by an accountant or inventory valuation by a cost accountant under section 142(2A) or
- d. Making a reference to the valuation officer to estimate the value of any asset, property or investment under section 142A.

Shall be in a faceless manner, through automated allocation, in accordance with section 144B with reference to making faceless assessment of total income or loss of Assessee.

The objective of the scheme is to impart greater efficiency, transparency and accountability by:

- i. **Eliminating the interface** between the income-tax authority or Valuation Officer and the Assessee or any person to the extent technologically feasible.
- ii. **Optimizing utilization** of the resources through economies of scale and functional specialization.
- iii. **Introducing a team-based** issuance of notice or making of enquiries or issuance of directions or valuation with dynamic jurisdiction.

7. Sec 143(1): Processing of Return /Intimation /Summary Assessment

- a. All returns shall be processed u/s 143(1).
- b. It is a computerized preliminary assessment or processing of adjustments are made in Returned Income
 - Arithmetical Errors
 - Incorrect Claims
 - Items inconsistent with another entry
 - Deduction exceeding limit
 - Information not furnished
 - Any such inconsistency in the return, with respect to the information in the return of any preceding previous year, as may be prescribed.
 - Disallowance of Loss Claim (if ROI of that year is filed after due date)
 - Disallowance of expenditure or increase in income indicated in Audit Report but not considered in computing Total Income in ROI.
 - Disallowance of Deduction u/s 10AA & Chapter VI-A Heading C if ROI is filed after due date.
- c. However, before making any such adjustments, intimation (writing or through electronic mode) has to be given to the assessee requiring him to respond to such adjustments.
- d. If **no response is received within 30 days** of the issue of such intimation, the processing shall be carried out incorporating the adjustments.
- e. Based on the above adjustments, final intimation shall be sent to the Assessee (for Demand / Refund) **within 9 months from end of FY in which ROI was filed.**
- f. An intimation shall also be sent to the Assessee in a case where the **loss declared in the return by the Assessee is adjusted but no tax, interest or fee is payable by, or no refund is due to, him.**

Refer Question No 2
from Workbook

8. Sec 143(3): Scrutiny Assessment/Regular Assessment

- a. Processing of Return u/s 143(1) is necessary even if notice has been issued u/s 143(2).
- b. Issuance of Notice u/s 143(2) is mandatory for Scrutiny Assessment u/s 143(3).

Sec No		Provision
143(2)	Notice of Scrutiny	- For making Scrutiny Assessment, AO is required to serve notice. - It has to be served within 3 months from end of FY in which ROI was filed.
143(3)	Order of Scrutiny Assessment	Based on Material & Evidence furnished by Assessee in response to notice u/s 143(2), AO shall determine the Income / Loss of Assessee along with determination of Tax Payable / Refundable.
	Time Limit for completion of Assessment	Assessment order shall be passed within 12 months from the end of relevant AY.

Note: In case of Institutions etc. u/s 10, AO shall pass order u/s 143(3) without giving exemption u/s 10 only if he is of the view that activities carried out in contravention of provisions and

- He has intimated the CG & higher authorities about contravention.
- Approval granted to such institution has been withdrawn.

Refer Question No 3,4
from Workbook

9. Sec 144: Best Judgement Assessment

- a. AO shall make an Assessment to the best of his judgement & knowledge in following cases:

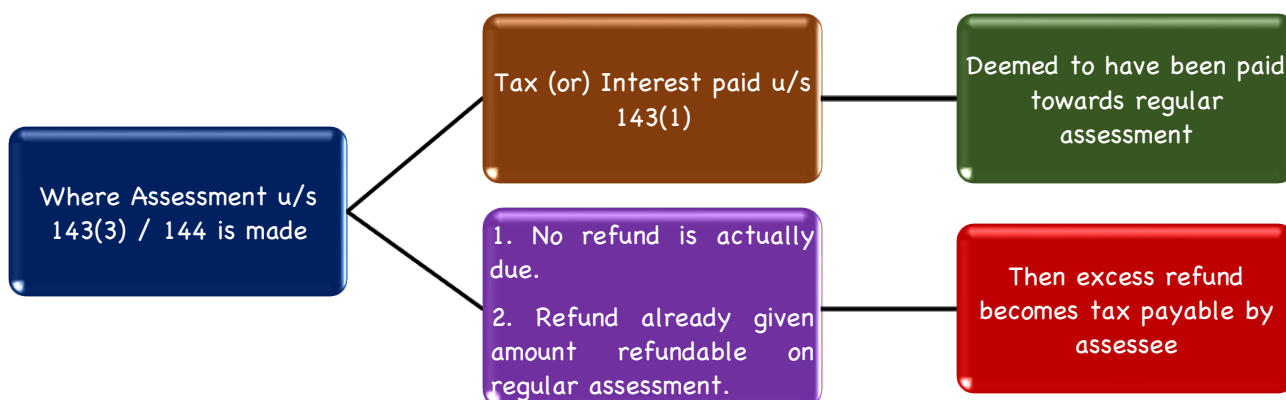
- 1) Failure to furnish ROI u/s 139(1) / 139(4) / 139(5)/ 139(8A)
- 2) Failure to comply with Notice u/s 142(1).
- 3) Failure to comply with Special Audit Directions u/s 142(2A)
- 4) Failure to comply with Notice u/s 143(2).

Note: AO shall issue SCN giving an opportunity to be heard to the Assessee. [Except Point 2]

- b. Discretionary Best Judgement Assessment In following cases also, assessment may be completed as per Section 144

- 1) AO is not satisfied about completeness / correctness of Books & Documents of assessee.
- 2) Correct method of accounting was not followed by assessee.
- 3) ICDS have not been followed by assessee.

- c. **Time Limit for Completion of Assessment u/s 144:** Assessment order shall be passed within 12 months from the end of the relevant AY.



10. Sec 144A: Power of J.C. to Issue Direction

- A Joint Commissioner (J.C.) may his own motion, or any the application of Assessee or on reference made by A.O. call to examine the record of any proceeding in which an assessment is pending.
- It is necessary then J.C may issue directions for the ground of A.O. [AC/DC/ITO] to be enable him to complete the assessment.
- Direction shall be binding on the A.O.
- Direction prejudicial to assessee can be issued only after giving opportunity of being heard.
- No appeal can be filed against direction. Appeal can be filed against assessment order.

Refer Question No 6
from Workbook

11. Sec 144B: Faceless Assessment**ASSESSMENT CENTRES & UNITS:**

- National E-Assessment Centre [NEC]:** Centralized body at Delhi
- Regional E-Assessment Centre [REC]:** Regional Centers
 - Assessment Unit [AU]:** Assessment Function
 - Verification Unit [VU]:** Verification Function
 - Technical Unit [TU]:** Technical Assistance
 - Review Unit [RU]:** Review of Draft Order

PROCEDURE:

- NEC shall serve notice u/s 143(2)/SCN/148 to Assessee; or NEC shall intimate the Assessee for Section 144(3)/144/147.
- NEC shall assign case to any AU in any REC through Automated Allocation System [AAS].
- AU may make request to NEC for

Obtaining information, documents & evidence from Assessee or any other person	NEC will issue notice to Assessee or such other person for submission of information & documents
Conducting Inquiry & Verification by VU	NEC will assign to any VU through AAS
Technical Assistance from TU	NEC will assign to any TU through AAS

- On the basis of Material & Evidence, AU make Draft Assessment Order u/s 143(3) / 144 /147 & send to NEC.
- NEC will provide an opportunity of being heard to Assessee, if variation is harmful to assessee.
- NEC may assign Draft Order to any RU through AAS.
- NEC will finalize Draft Order & send copy of final order to assessee along with Demand / Refund.
- All communication between NEC, REC, AU, VU, TU, RU, Assessee or any other person shall be exclusively by Electronic Mode.
- Personal Hearing is not allowed in NEC, REC or any unit. However, NEC may allow personal hearing through Video Conferencing.
- NEC can transfer the case at any stage to jurisdictional AO.

12. Sec 144C: Reference to Dispute Resolution Panel

Sec 144C provisions shall not apply to any proceedings under **Chapter XIV -B**, i.e. for assessments of search cases.

- To facilitate expeditious resolution of disputes, a panel consisting of **3 Commissioner of Income Tax (CIT)** is constituted.
- Eligible Assessee** who can file objection to DRP

- Non-Resident / Foreign Company
 - Any Person relating to Transfer Pricing Case [If variation arises due to TPO order]
- c) AO shall forward Draft Order to Eligible Assessee.
- d) Assessee shall **within 30 days** of receipt of Draft Order either Accept/File Objection to DRP.
- e) DRP may confirm, reduce or enhance variations of Draft Order.
- f) DRP shall **issue directions** within **9 months from end of month** in which Draft AO order is forwarded to the Assessee.
- g) DRP shall issue directions after considering following:
- Draft order.
 - Objections filed by the assessee.
 - Evidence furnished by the assessee
 - Report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority.
 - Records relating to the draft order.
 - Evidence collected by, or caused to be collected by, it; and
 - Result of any enquiry made by, or caused to be made by it
- h) Directions issued by DRP shall be **binding on AO**.
- i) Order passed by AO on the basis of directions of DRP shall be directly appealable before ITAT.

Refer Question No 7
from Workbook

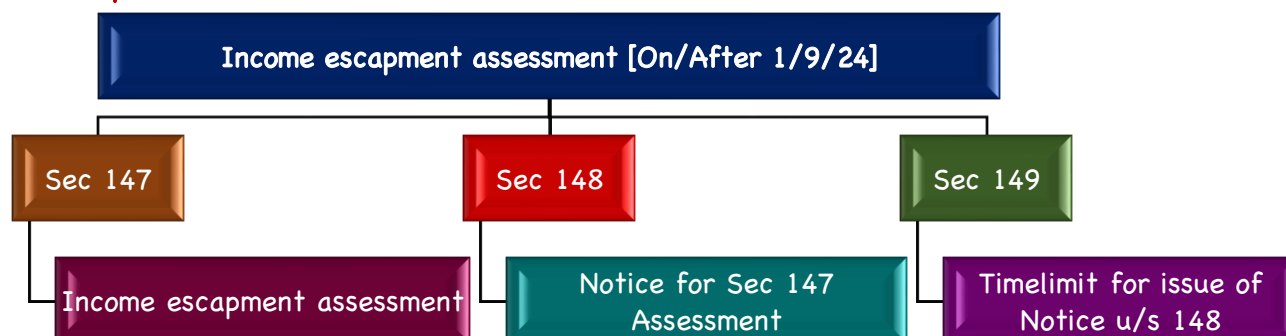
Note:

1. Eligible assessee has a choice
 - File objection before DRP against Draft Assessment Order; or
 - Not to exercise this option & file appeal later before CIT(A) against Final Assessment Order passed by AO.
2. Such eligible assessee shall not include person referred to in Sec 158BA or any other person referred to in Sec 158BD. (Refer assessment of search cases – search & seizure, survey chapter)

13. Sec 147 – 152: Income Escaping Assessment

The concept of **block assessment** under **Chapter XIV-B** (section 158B-158BI) was introduced by the Finance (No. 2) Act, 2024 for the cases where **a search is initiated under section 132 or requisition is made under section 132A on or after 1st September 2024**. For all other cases, the provisions of sections 147 to 151 (Income escapement assessment procedure) will continue to apply.

Income Escapement Assessment [On / After 1/9/24]



Sec 148: Notice for Assessment u/s 147

- AO has to serve notice to assessee requiring him to furnish ROI within **specified time** in notice. **within a period of 3 months from the end of the month** in which such notice is issued or such further period, as may be allowed by the AO on the basis of an application made in this regard by the assessee.

However, where return of income is furnished beyond the period allowed above, such return would not be deemed to be a return under section 139.

- Notice can be issued only when-
 - there is **information** with the AO which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and
 - the AO has obtained **prior approval of the specified authority** to issue such notice.

Information means:

- any **information** in the case of the assessee for the relevant assessment year in accordance with the **risk management strategy** formulated by the Board from time to time; or
- any **audit objection** to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.
- any **information** received under an **agreement** referred to in section 90 or section 90A; or
- any **information made available** to the Assessing Officer under the scheme notified in respect of **faceless collection of information** under **section 135A**; or
- any information which requires action in consequence of the **order of a Tribunal or a Court**.
- a survey is conducted under section 133A**, other than survey conducted for verifying tax is deducted or collected at source under section 133A(2A), on or after 01.04.2021, in the case of the Assessee.

Sec 148A: AO has to follow the following steps before issue of notice u/s 148

- Conduct any inquiry (if required).
- Provide an opportunity of being heard to assessee by serving Show Cause Notice [SCN] as to why notice u/s 148 shouldn't be issued.
- Consider the reply of assessee.
- Decide by passing order whether it is a fit case to issue notice u/s 148.

Non-Applicability of Section 148A

- any **information made available** to the Assessing Officer under the scheme notified in respect of **faceless collection of information** under **section 135A**.

Sec 149: Time Limit for Issue of Notice

	Sec 148A – SCN	Sec 148
General case	3 years from end of RAY in which income was escaped.	3 years & 3 months from end of RAY in which income was escaped
Special case [Income escaped $\geq$ 50 L]	5 years from end of RAY in which income was escaped	5 years & 3 months from end of RAY in which income was escaped

Sec 147: Income Escaping Assessment/Reassessment/Reopening of Cases

- If any income chargeable to tax has escaped assessment for any AY, AO may assess or reassess such income or recompute loss / allowance / deduction for such AY.
- AO may also assess any other income that comes to his notice subsequently during course of proceeding u/s 147.
- **Time limit for completion of assessment u/s 147: Within 12 months from end of FY** in which notice is served u/s 148.

Section 150 – Reopening assessment to give effect to appeal/revision/court order

No time limit in some cases: Normally, there is a time limit to reopen an assessment (section 149). But **section 150 says this time limit will not apply** if the Income Tax Department issues a notice under section 148 **to follow or implement:**

- an order passed in **appeal**,
- **revision**,
- **reference**, or
- an order of a **court**.

Sec 151: Permission from Specified Authority

"Specified authority" for the purposes of sections 148 and 148A shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be.

Sec 151A: Faceless assessment of income escaping assessment

The Central Government may make a scheme for the purposes of assessment, reassessment or re-computation u/s 147 or issuance of notice u/s 148 or 148A or sanction for issue of such notice u/s 151, so as to impart greater efficiency, transparency and accountability by—

- ✓ **Eliminating the interface** between the income-tax authority and the assessee or any other person to the extent technologically feasible.
- ✓ **Optimizing utilization** of the resources through economies of scale and functional specialization.
- ✓ Introducing **a team-based** assessment, reassessment, re-computation or issuance or sanction of notice with dynamic jurisdiction.

Sec 152(1): Rate of taxation

In the case of any assessment or reassessment or re computation made under section 147, the income escaping assessment would be chargeable to tax at the rate applicable to the **respective years in which such income is liable to be taxed**.

Sec 152(2): Assessee entitled to claim dropping of proceedings under section 147 in certain cases

- ✓ If the Income Tax Department reopens an assessment under **section 147**, the **assessee (taxpayer)** can ask the department to **drop the reassessment proceedings** on his showing that he had been assessed on an amount not lower than what he would be rightly liable for, even if the income alleged to have escaped assessment had been taken into account.
- ✓ this benefit is available **only if** the assessee **did not challenge** the original assessment earlier by filing an appeal or filing a revision petition.

Refer Question No 8
from Workbook

14. Sec 153: Time Limit for Completion of Assessment

Assessment u/s	Time Limit
143(3) / 144	Within 12 months from end of relevant AY
147	Within 12 months from end of FY in which notice is served u/s 148

Note:

- If a taxpayer files an **updated return** under **section 139(8A)**, the Income Tax Officer can pass an **assessment order** under **section 143 or 144** **within 12 months from the end of the financial year in which the updated return is filed.**
- If a taxpayer files a return because of an **order under section 119(2)(b)**, the Income Tax Officer can pass an **assessment order** under **section 143 or 144** **within 12 months from the end of the financial year in which that return is filed.**

In computing above time limits, following period shall be excluded:

	Case	From	Till
1	Contravention by institutions etc. u/s 10 & AO informs to govt.	Date on which AO informs	Date on which govt. notification received by AO withdrawing approval
2	Direction for Special Audit u/s 142(2A)	Date on which AO directs	Last date on which assessee is required to file report
3	Reference made to Cost accountant for inventory valuation u/s 142(2A)	Date on which AO directs	Last date on which assessee is required to file report
4	Reference made to Valuation Officer u/s 142A	Date on which AO refers.	Date on which report was received by AO
5	Application made to AAR or Board of Advance Ruling	Date on which application was made	Date on which Rejection Order / Advance Ruling received by Commissioner
6	Where reference made for exchange of information u/s 90/90A	Date on which reference made	Date on which Information is received
7	If Assessment Proceeding stayed by any court	Period stay	Period stay

15. Sec 156: Demand Notice

If any Tax, Interest, Penalty or any other sum is payable / due, then AO shall serve Demand Notice specifying payment.

Time limit for payment of tax [Sec. 220(1)]: The Assessee should make the payment of amount demanded within 30 days of service of notice

Where the Assessing Officer has any reason to believe that it will be detrimental to revenue if the full period of 30 days is allowed, then he may with the previous approval of the Joint Commissioner direct that the sum specified in the notice.

Interest on delay in payment [Sec. 220(2)]: If the payment is not made within 30 days (or time allowed in the notice), interest shall be payable @ 1% for every month (or part thereof) of the delay.

16. Sec 156A: Modification and Revision of Notice in Certain Cases

- 1) Where demand notice has been issued u/s 156 and demand is **reduced** as a result of an order of the Adjudicating Authority (AA) as defined in IBC, 2016, the AO shall modify the demand payable as per order of AA and shall thereafter serve on the Assessee a revised notice of demand

- 2) Where the order of AA is modified by the NCLT or the supreme court, as the case may be, the modified notice of demand as referred to in sub- sec (1), issued by the AO shall be revised accordingly.

17. Sec 157: Intimation of Loss

The Income Tax Officer assessee a taxpayer's total income and finds that the taxpayer has made a loss, and that loss is allowed to be carried forward to future years, then:

- The Assessing Officer must inform the taxpayer in writing
- He will mention the exact amount of loss that can be carried forward and set off in future years
- This applies to:
 - ✓ Business loss
 - ✓ Speculation business loss
 - ✓ Capital gains loss
 - ✓ Loss from owning and maintaining race horses

18. Sec 292BB: Notice of AO Deemed to be Valid in Certain Cases

- If Assessee has appeared in any proceedings or co-operated in any inquiry, then it shall be deemed that notice has been duly served upon him
- He cannot raise objection after completion of Assessment that notice was not served or not served in time or served in improper manner.

However, this deeming provision shall not apply if he raised objection about such defect before completion of Assessment.

Note: Non-issuance of Notice by Department is not a Curable Defect u/s 292BB.

Refer Question No 9
from Workbook

SEARCH, SEIZURE & SURVEY

1. Sec 131: Power regarding discovery, production of evidence, etc.

I.T. Authority shall have all the powers vested in a civil court under the Code of civil procedure, 1908:

- a. Discovery & Inspection.
- b. Enforcing the attendance of any persons & examining such person on oath.
- c. Compelling the production of books of & documents.
- d. Issuing commission (Summons).
- e. IT Authority can impound books of A/C's for max 15 working days.

Refer Question No 1
from Workbook

2. Sec 132: Search and Seizure

Who can authorize?	- CIT / DIT & higher authorities - Additional / Joint Commissioner or Director [If authorized by CBDT]	
To whom	Assessing Officer	
When	If IT Authority has reason to believe that: (in consequence of information in his possession, which is something more than mere rumour or gossip)	
	Person	Circumstances
	Any person to whom a summons u/s 131(1) or a notice u/s 142(1) was issued to produce any books of accounts or other documents	Such person has omitted or failed to do so
	Any person to whom a summons or notice as aforesaid has been or might be issued	Such person will fail to do so
	Any person is in possession of any money, bullion, jewellery or other valuable article or thing	wholly or partly undisclosed income or undisclosed property
	Note: The reason to believe, as recorded by the income-tax authority, shall not be disclosed to any person or any authority or the Appellate Tribunal.	
Power of Authorized Officer	➤ Enter any building, place, vessel, vehicle or aircraft where he suspects that books, money etc. are kept. ➤ Power to break locks of any door, box, locker etc. if keys are not available. ➤ Search any person there. ➤ Require to produce password, if books are in electronic form. ➤ Place marks of identification & Make inventory ➤ Seize any books, documents, money, bullion, jeweler etc. found under search. [Stock in trade cannot be seized].	

Extension of jurisdictional area	Where any building, place, vessel, vehicle or aircraft is within the area of jurisdiction of any PCCIT or CCIT or PCIT or CIT but such authority has no jurisdiction over such person and Such authority has reason to believe that any delay in getting the authorization from the PCCIT or CCIT or PCIT or CIT having jurisdiction over the person would be prejudicial to the interests of revenue. - then it shall be competent for him to exercise the above powers.
Extension of Authorization	Where a search for any books of account, other document, money, bullion, jewellery or other valuable article or thing is authorized. and PCCIT or CCIT or PCIT or CIT in consequence of information in his possession, has reason to suspect that such document or asset is kept in any other building, place, vessel, vehicle or aircraft not mentioned in the authorization. - then such other PCCIT or CCIT or PCIT or CIT can authorize the officer to search such other building, place, vessel, vehicle or aircraft. Note: However, the reason to suspect, as recorded by the income-tax authority, shall not be disclosed to any person or any authority or the Appellate Tribunal
Assistance to Authorized Officer	The authorized officer may requisition the service of- ✓ any police officer or any officer of Central Government ✓ any person or entity as may be approved by the PCIT or CCIT or PDGIT or the DGIT to assist him in carrying out the search operations.
Deemed / Constructive Seizure	❖ Conditions: Not possible to take physical possession due to volume, weight or a dangerous nature. ❖ Procedure: ✓ Authorized Officer may serve order to owner that he shall not deal with such asset without approval. ✓ No such order can be passed for stock-in-trade. ✓ Though such order can also be passed for reasons other than those mentioned above, but the order shall not be treated as Deemed seizure and it shall not be in force for a period exceeding 60 days from the date of the order. (Prohibitory Order / Order of Restraint)
Provisional Attachment	❖ Procedure: ✓ during the course of the search or seizure; or ✓ within a period of 60 days from the date on which the last of the authorizations for search was executed, the authorized officer may attach provisionally any property belonging to the assessee. ✓ Every provisional attachment shall cease to have effect after the expiry of 6 months from the date of such order. ✓ During course of search/within 60 days conclusions of search the authorized

	officer, may make a reference to VO, VO shall estimate the FMV of the property. Report of VO shall be in 60 days of receipt of such reference. ❖ Conditions: ✓ The authorized officer is satisfied that for the purpose of protecting the interest of revenue. ✓ The reasons for such provisional attachment should be recorded in writing. ✓ Previous approval (in writing) of the PDGIT or DGIT or the PDIT or DIT has taken.
Presumption under Search	If any books, documents, money, bullion, jewellery etc. found in possession of any person it is presumed: ✓ They belong to such person. ✓ Contents of books or documents are true. ✓ Signature & other part of books or documents which seems to be in handwriting of any particular person are in that person's handwriting. ✓ If Authorized Officer has no jurisdiction over the person searched by him or if he found books, assets etc. of other person, then he shall handover the books, assets etc. to AO having jurisdiction over such other person within 60 days from the date on which search was completed.

Refer Question No 2-9
from Workbook

3. Sec 132A: Requisition

Where income-tax authority in consequence of information in his possession, has reason to believe that – any person to whom a summon u/s 131(1) or a notice u/s 142(1) was issued to produce any books of account or other documents –

- ✓ Has omitted or failed to produce such books of account or other documents; and
- ✓ The said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force.

4. Sec 132B: Application of Books & Assets Seized

Books & Documents: The books of account and other documents seized should be returned within a period of **one month from the end of the quarter in which the order of assessment or reassessment or recomputation is made.** For retention beyond this period, permission of CIT is required.

Money, Bullion, Jewellery & Other Valuable Articles:

Explained Assets	Unexplained Assets
Application made by assessee within 30 days from end of month in which such asset was seized explaining the nature & source.	Can be utilized to recover any existing tax liability or any new liability under search related assessment.
Asset released to assessee with prior approval of CIT & Higher Authorities after adjusting any existing tax liability within 120 days from the date of conclusion of search u/s 132.	• First utilize money. • If it falls short, then sell assets or discharging liabilities. • If some assets remain, then hand them over to assessee.

Note - "Existing liability" does not include advance tax payable.

Interest payable to the assessee:

- ✓ Where the aggregate amount of money (either seized or realized through sale of assets) seized **exceeds** the aggregate of the amount required to meet the liabilities.
- ✓ Government shall pay simple interest at the rate of **0.5 % p.m.**
- ✓ The interest shall be payable **from** the date immediately after expiry of the period of 120 days from the date on which the last of the authorizations for search u/s 132 or requisition u/s 132A was executed **to** the date of completion of the assessment.

Refer Question No 10,11
from Workbook

5. Sec 133: Power to Call for Information

The Assessing Officer, the Joint Commissioner or the Joint Commissioner (Appeals) or the Commissioner (Appeals) can call any information from any person which will be useful or relevant to any proceedings under the Act.

6. Sec 133A: Power of Survey

- a) Who can survey: who is subordinate to the PDGIT or DGIT or PCCIT or CCIT
- b) IT Authority may enter any building or place at which business / profession is carried on.
- c) If books or assets relating to business / profession are kept at some other place, then such other place can also be covered under survey.
- d) **Upon entering, they can:**
 - i. Inspect any books of accounts or documents.
 - ii. Check or verify cash, stock or any other valuable articles.
 - iii. Place identification marks on books of accounts & documents.
 - iv. Record statement of any person.
 - v. Impound & retain books & documents after recording reasons. [Max 15 working days]

Refer Question No 12-16
from Workbook

e) Entry Restrictions

To the place of Business / Profession	Only during those hours when such place is kept open for conducting B&P.
Any other place	Only after sunrise but before sunset

Note: Restriction is only for entry & not for exit.

- f) IT Authority can also survey any function, ceremony or event but only after conclusion of such function, ceremony or event & requires any person to furnish information & statement.
- g) **TDS / TCS Survey:** For verifying TDS / TCS has been deducted / collected as per the provisions of Income Tax Act. However, in such survey, Income Tax Authority cannot
 - i. Impound Books & Documents
 - ii. Make inventory of cash, stock & other valuable articles.

7. Sec 133B: Power to collect Information (Door to Door Survey)

- ✓ IT Authority may enter any place at which B&P is carried on & collect information from there.
- ✓ Entry shall be made only during hours when such place is kept open for conducting B&P.
- ✓ No power to impound books & documents u/s 133B.

Refer Question No 17
from Workbook

8. Sec 133C: Power to call for information by prescribed Income – Tax Authority

The prescribed income-tax authority (being Principal Director General or Director General or Principal Director or Director) may, for the purposes of verification of information in its possession relating to any person, issue a notice to such person requiring him, on or before a date to be specified therein, to furnish information.

9. Sec 134: Power to inspect statutory records of companies

The Income tax authority [being Assessing Officer, Deputy Commissioner (Appeals), Joint Commissioner, Joint Commissioner (Appeals), Commissioner (Appeals) or any other authorized person] may inspect and take copies of any register of the members, debenture- holders or mortgagees of any company or of any entry in such register.

Refer Question No 18
from Workbook

10. Sec 135: Power of certain authorities

The Income tax authorities (being Principal Director General or Director General or Principal Director or Director, the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and the Joint Commissioner) shall be competent to make any enquiry under this Act.

11. Sec 135A: Faceless collection of information

The Central Government may make a scheme for the purposes of

- ✓ calling for information u/s 133,
- ✓ collecting certain information u/s 133B, or
- ✓ calling for information by prescribed income-tax authority u/s 133C, or
- ✓ exercise of power to inspect register of companies' u/s 134, or
- ✓ exercise of power of assessing officer u/s 135

so as to impart greater efficiency, transparency and accountability by:

- a) **eliminating the interface** between the income-tax authority and the assessee or any other person to the extent technologically feasible.
- b) **optimizing utilization** of the resources through economies of scale and functional specialization;
- c) **introducing a team-based** exercise of powers, including to call for, or collect, or process, or utilize, the information, with dynamic jurisdiction.

12. Sec 138: Disclosure of information in respect of assessee

The Board or any authorized income-tax authority may furnish necessary information received or obtained by them to the officer, authority or body under any law for enabling other authority to perform his duty.

- a) Relating to the imposition of any tax, duty or cess, or to dealings in foreign exchange as defined in sec. 2(n) of the Foreign Exchange Management Act, 1999; or
- b) As the Central Government may, if in its opinion it is necessary so to do in the public interest, specify by notification in the Official Gazette.

13. Block Assessment in Search and Requisition cases [effective from 01.09.2024]

The Finance Act, 2021, streamlined the search and reassessment procedures by eliminating separate search assessments and consolidating them under sections 147 to 151A. This change aimed to address challenges such as staggered assessments, prolonged litigation, and inconsistent outcomes, ultimately reducing taxpayer burden and improving efficiency.

To further enhance the process, the Finance (No. 2) Act, 2024 reintroduced block assessments (formerly under Chapter XIV-B, Sections 158B to 158BI) for searches conducted after 01.09.2024. The goal of this reintroduction is to ensure early completion of search assessments, coordinated investigations, and to minimize multiple proceedings.

Definitions

- Block Period**

The period relevant for assessments in search cases under section 132 or requisition under section 132A spans the six assessment years preceding the year when the search or requisition occurred. It also includes the period from the 1st of April of the relevant previous year to the date when the last authorization for the search or requisition is executed.

For example: if the search was initiated on 10-12-2025 and last of authorization executed on 18.12.2025, the block period will comprise of assessment years relevant to previous years 2024-25, 2023-24, 2022-23, 2021-22, 2020-21 and 2019-20 including period from 1st April 2025 to 18.12.25.

- Undisclosed Income**

Any money, bullion, jewellery, virtual digital assets or other valuable article or thing.	Has not been/would not have been disclosed(whole/part)
Any income arising from any money, bullion, jewellery, virtual digital assets or other valuable article or thing.	Has not been/would not have been disclosed(whole/part)
Any expenditure arising from any money, bullion, jewellery, virtual digital assets or other valuable article or thing.	Has not been/would not have been disclosed(whole/part)
Any expenditure, exemption, deduction or allowance claimed previously and which are found to incorrect	

1. Sec 158BA: Assessment of undisclosed total income as a result of search

- Assessment Under Block Period:** For searches initiated on or after 01.09.2024 under section 132, or requisition under section 132A, the Assessing Officer will assess or reassess the total income for the block period under Chapter XIV-B.
If the search started before 01.09.2024 but concluded after 01.09.2024, the assessment will follow regular provisions.
- Abatement of Pending Assessments:** Any pending assessments or reassessments under other provisions of the Income Tax Act for any year in the block period will be deemed to have abated on the date the search or requisition is initiated.
- Impact of References Under Section 92CA:** If a reference under section 92CA (1) or an order under section 92CA (3) was made in a pending assessment, it will also abate on the initiation of the search or requisition.

- d. **Subsequent Searches/Requisitions:** If a subsequent search or requisition happens during a pending assessment, the earlier assessment must be completed first.

Where the period of completing the assessment with respect to the subsequent search is less than three months, such period shall be extended to three months from the end of the month in which the assessment with respect to the earlier search was completed.

- e. **Annulment and Revival of Assessment:** If any proceeding initiated under this Chapter or any order of assessment or reassessment made under section 158BC(1)(c) has been annulled in appeal, the assessment for years that were abated will revive from the date of annulment, unless the annulment order is set aside. The time limit for completing the revived assessment is provided under section 153.

- f. **Separate assessment of Total Income (other than undisclosed income) of the year of Search/Requisition:**

The total income (other than undisclosed income) of the assessment year relevant to the previous year in which the last of the authorizations for a search is executed or a requisition is made shall be assessed separately in accordance with the other provisions of this Act.

Thereby, only undisclosed income of the block period of six years shall be subject to the provisions of this chapter.

- g. **Taxation of total undisclosed income of block period:**

The **total undisclosed income** relating to the block period shall be charged to tax, at the rate specified in section 113, as income of the block period irrespective of the previous year or years to which such income relates.

As per section 113, the total undisclosed income of the block period, determined under section 158BC, shall be chargeable to tax @60% as increased by the surcharge, if any, Health and Education Cess.

2. Sec 158BB: Computation of total undisclosed income of block period

Sec 158BB given methodology for computing total undisclosed income of block period.

The aggregation of following shall be total undisclosed income of block period

Particulars	Amount
1. Undisclosed income declared in ROI u/s 158BC by assessee	XXX
2. Undisclosed income determined by AO	XXX
	XXX

Incomes excluded from total undisclosed income:

- Total income determined u/s 143(1) / 143(3) / 144 / 147 / 153C in respect of any of PY related to block period.
- Total income declared in ROI u/s 139 (or) ROI filed in response to Sec 142(1) of any PY related to block period.
- Income computed by assessee in respect of PY, where such PY has ended & due date for furnishing ROI of PY has not expired.
- Income computed by assessee on the basis of books of accounts related to 1/4/PY to date immediately preceding to search / requisition initiated.
- Income computed by assessee on the basis of books of accounts related to date of search / Requisition initiated to date of search / requisition concluded.
- Total income referred in section 194P.
- Total income referred in section 115A.
- Total Income referred in section 115G.

3. Sec 158BC: Procedure for block assessment

If a search is initiated or assets are requisitioned on or after 01.09.2024, the Assessing Officer will issue a notice to the person, asking them to file a return within **60 days**. This return should include total income and undisclosed income for the block period.

- a. the returns filed will be treated as if it was filed under section 139 (regular return), and a notice under section 143(2) will be issued next.
- b. If the return is filed after the 60-day period, it won't be considered a valid return under section 139.
- c. In the following cases above period 60 days shall be extended by further 30 days
 - PY immediately preceding to PY in which search / Requisition initiated, the due date for furnishing ROI has not expired.
 - Assessee liable for tax audit u/s 44AB for any PY.
 - The books of A/C's of such PY have not been audited on the date of issuance of such notice.
 - Assessee requests in writing for extension of time, so that he may get such A/C's audited.
- d. The Assessing Officer does not need to issue a notice under section 148 to proceed with the assessment under this Chapter.
- e. Once the return is filed, the person cannot file a revised return.
- f. The computerized processing of returns under Section 143(1) does not apply to returns filed under this section.
- g. The Assessing Officer must obtain **prior approval** from an Additional Commissioner, Additional Director, Joint Commissioner, or Joint Director before issuing a notice under this section 158BC.
- h. The Assessing Officer shall proceed to **determine the total income including the undisclosed income** of the block period, in the manner laid down in section 158BB and the provisions of section 142, 143(2), 143(3), 144, 145, 145A and 145B shall.

4. Sec 158BD: Undisclosed income of any other person

Where the Assessing Officer is satisfied that any undisclosed income belongs to or pertains to or relates to **any person, other than the person** with respect to whom search was made under section 132 or whose books of account or other documents or any assets were requisitioned under section 132A, **shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer** shall proceed under section 158BC against such other person and the provisions of this Chapter shall apply accordingly.

Cases	Block period of the other person
Where there is one specified person relevant to such other person.	The block period for such other person shall be the same as that for the specified person.
Where there is more than one specified persons relevant to such other person.	The block period for such other persons shall be the same as that for the specified person in whose case the block period ends on a later date .

5. Sec 158BE: Time-limit for completion of block assessment

The order under section 158BC shall be passed within 12 months from the end of quarter in which the last of the authorisations for search under section 132, or requisition under section 132A, was executed or made, as the case may be.

For example, the time limits for completing the block assessment where the last authorisation of a search is falling between 1st April and 30th June 2025 will be 30th June 2026.

The period of limitation for completion of assessment or reassessment for the block period in the case of the other person referred to in section 158BD shall be twelve months from the end of the quarter in which the notice under section 158BC in pursuance of section 158BD, was issued to such other person.

The Finance Act 2025, under section 158BC(1)(a), enabled the extension by AO in the time allowed to file the return by a further period of 30 days (60 days + 30days). if certain conditions are fulfilled. The period of limitation shall be thirteen months from the end of the quarter in which the last authorisation for a search under or requisition is executed or made. The corresponding extension in the limitation period to complete the block assessment is inserted under section 158BE in such cases. A similar extension in the limitation period for the completion of block assessment in the case of other person is inserted.

6. Sec 158BF: Certain Interests and Penalties not to be levied or imposed

No interest under section 234A, 234B or 234C or penalty under section 270A shall be levied or imposed upon the assessee in respect of the undisclosed income assessed or reassessed for the block period.

7. Sec 158FA: Levy of interest and penalty in certain cases

a) **Interest for delay in filing of return** - When the assessee fails to furnish the return of undisclosed income, within the specified time in the notice issued under section 158BC or does not file it at all, the assessee is liable to pay interest at the rate of 1.5% of the tax on the undisclosed income.

The interest shall be charged for each month or part thereof, and the period shall start from the day immediately following the expiry of the time specified in the notice and ending on the date of completion of the assessment under section 158BC.

b) **Penalty for undisclosed income** - The Assessing Officer or the Commissioner (Appeals), direct that the person shall pay by way of penalty a sum which shall be equal 50% of tax on the undisclosed income determined by the Assessing Officer under section 158BC.

In simple terms, immunity from penalty under this section or section 271AAD (1) or section 271D or section 271DA or section 271E will be granted to a person if they meet the following conditions:

- They file the return under section 158BC.
- They pay the tax due based on that return or, if money was seized, offer to adjust the seized money against the tax due.
- They provide proof of tax payment along with the return.
- They do not appeal the assessment of the income shown in the return.

However, **no immunity** will be given if the undisclosed income determined by the assessing Officer is higher than the income reported in the return. In such cases, the penalty shall be imposed on that portion of undisclosed income determined which is in excess of the amount of income shown in the return.

8. Sec 158DG: Authority competent to make assessment of block period

The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of a Deputy Commissioner or an Assistant Commissioner or a Deputy Director or an Assistant Director, as the case may be.

However, no such order shall be passed without the previous approval of the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director.

Note: After completion of block assessment, AO shall pass an order of assessment – in this case “No option” to assessee to file objections with DRP u/s 144.

Refer Question No 19,20
from Workbook

APPEALS & REVISION

1. Appellate Authorities in Income-tax Act

Appeal	Appellate authority	Against which order	Appellant
1	Joint Commissioner (Appeals) / Commissioner (Appeals).	specified order of the Assessing Officer.	Assessee only.
2	Income Tax Appellate Tribunal (ITAT).	Against the order of - Joint Commissioner (Appeals) - Commissioner (Appeals)	Assessee or Dept.
3	High Court.	Against the order of ITAT (the case must involve substantial question of law).	
4	Supreme Court.	Against the order of High Court.	

2. Appeals to Joint Commissioner (Appeals)/ Commissioner (Appeals).

Appealable Orders before Joint Commissioner (Appeals)	On or after 1.4.2023, any Assessee aggrieved by any of the following orders of an Assessing Officer (below the rank of Joint Commissioner) may appeal to the Joint Commissioner (Appeals) - an intimation under section 143(1) - any order of assessment under section 143(3) or section 144, - an order of assessment, reassessment or recomputation under section 147 etc.,		
- Appeal pending before Commissioner (Appeals) in respect of appealable orders mentioned above may be transferred to Joint Commissioner (Appeals). - The Joint Commissioner (Appeals) may then proceed with such appeal or matter from the stage at which it was before it was so transferred. - Opportunity of being reheard is to be given before transferring the pending appeals.			
- Appeal pending before Joint Commissioner (Appeals) may be transferred to the Commissioner (Appeals). - The Commissioner (Appeals) may then proceed with such appeal or matter from the stage at which it was before it was so transferred. - Opportunity of being reheard is to be given before transferring the pending appeals.			
Central Government empowered to notify faceless appeal scheme			
Appealable Orders before CIT (A)	Assessee aggrieved by any of orders issued by JCIT/Higher authority may appeal to the Commissioner (Appeals) against such orders.		
Form of appeal and prescribed fees	Every appeal shall be in the Form 35.		
		Case	Prescribed fees
	1	where the total income of the Assessee as computed by the Assessing Officer is ₹ 1,00,000 or less.	₹ 250
	2	where the total income of the Assessee computed as above is more than ₹ 1,00,000 but not more than ₹2,00,000.	₹ 500

	3	where the total income of the Assessee computed as above is more than ₹ 2,00,000.	₹1000						
	4	In any other case	₹ 250						
Time limit	- An appeal to Joint Commissioner (Appeals) or to the Commissioner (Appeals) against any order which is appealable is to be presented within 30 days. - May admit an appeal even after the expiry of the said period of thirty days, if he is satisfied that the appellant had sufficient cause for not presenting the appeal within the specified time. The dates from which the limitation period of 30 days has to be reckoned are as follows: <table><tr><td>Appeal relating to</td><td>30 days to be reckoned from</td></tr><tr><td>Assessment/penalty</td><td>Date of service of notice of demand</td></tr><tr><td>Any other case</td><td>Date on which intimation of the order sought to be appealed against is served.</td></tr></table>			Appeal relating to	30 days to be reckoned from	Assessment/penalty	Date of service of notice of demand	Any other case	Date on which intimation of the order sought to be appealed against is served.
Appeal relating to	30 days to be reckoned from								
Assessment/penalty	Date of service of notice of demand								
Any other case	Date on which intimation of the order sought to be appealed against is served.								
Withdrawal of appeal	Once appeal filed it cannot be withdrawn								
Documents to be submitted	- Memorandum of appeal - Order against which appeal is made - Statement of facts - Grounds of appeal - Notice of demand - Challan								
Tax to be paid at the time of filing the appeal	No appeal to the Joint Commissioner (Appeals) or the Commissioner (Appeals) shall be admitted for consideration unless, at the time of filing the appeal In a case where return has been filed: The Assessee has paid the tax on the amount of income returned by him In a case where no return has been filed: If, however, no return has been filed by the Assessee and an assessment has been made on him by the Assessing Officer, then, the Assessee must pay an amount equal to the amount of advance tax which was payable by him before filing the appeal. The Joint Commissioner (Appeals) or the Commissioner (Appeals) is, however, empowered for good and sufficient reasons to be recorded in writing, to exempt an appellant from the requirement of payment of advance tax, on receipt of an application from the appellant.								
Power of grant of stay	JCIT(A)/CIT(A) has power to Grant stay of demand.								
Production of additional evidence	In the following circumstances additional evidence shall be admitted by the Commissioner (Appeals): a) Where the Assessing Officer has refused to admit evidence, which ought to have been admitted; or b) Where appellant was prevented by sufficient cause from producing before the Assessing Officer any evidence, which is related to any ground of appeal; or								

	c) Where the appellant was prevented by sufficient cause from producing the evidence, which he was called upon to produce by the Assessing Officer; or d) Where the Assessing Officer has made an order (appealed against) without giving sufficient opportunity to the appellant to produce evidence relevant to any ground of appeal.
Powers of JCIT(A)/CIT(A)	a) If an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment. Where such appeal is against an order of assessment made under section 144, he may set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment. b) In an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it in such a way as to enhance or reduce the penalty.
Time limit for disposal of appeal	Within 1 year from the end of financial year in which appeal is filed (if possible)

Refer Question No 1 to 3
from Workbook

3. Appeals to ITAT

Appealable Orders before Joint Commissioner (Appeals)	- Appeal against an order of JCIT(A)/CIT(A) lies with the Income Tax Appellate Tribunal (ITAT). - Both taxpayer and the Assessing Officer can file an appeal before the Appellate Tribunal.						
Constitution of ITAT	- CG shall constitute ITAT Consisting of members. Qualification of members: <table border="1"> <thead> <tr> <th>Member</th><th>Qualification</th></tr> </thead> <tbody> <tr> <td>Judicial</td><td> - He has held a post of Judicial Officer in the territory of India for at least 10 years; or - He has been served as a member of the Indian Legal Service in Grade II post or any higher post for at least 3 years; or - He has been an advocate for at least 10 years. </td></tr> <tr> <td>Accountant</td><td> - He has practiced as a Chartered Accountant for at least 10 years; or - He has practiced as a registered accountant for at least 10 years; or - He has practiced partly as a registered accountant and partly as a Chartered Accountant for at least 10 years; or - He has been a member of the Indian Income-tax Service, Group A, and has held the post of the Additional Commissioner of Income-tax or any equivalent or higher post for at least 3 years. </td></tr> </tbody> </table> President of the ITAT shall appointed by The Central Government. - a person who is a sitting or retired Judge of a High Court and who has	Member	Qualification	Judicial	- He has held a post of Judicial Officer in the territory of India for at least 10 years; or - He has been served as a member of the Indian Legal Service in Grade II post or any higher post for at least 3 years; or - He has been an advocate for at least 10 years.	Accountant	- He has practiced as a Chartered Accountant for at least 10 years; or - He has practiced as a registered accountant for at least 10 years; or - He has practiced partly as a registered accountant and partly as a Chartered Accountant for at least 10 years; or - He has been a member of the Indian Income-tax Service, Group A, and has held the post of the Additional Commissioner of Income-tax or any equivalent or higher post for at least 3 years.
Member	Qualification						
Judicial	- He has held a post of Judicial Officer in the territory of India for at least 10 years; or - He has been served as a member of the Indian Legal Service in Grade II post or any higher post for at least 3 years; or - He has been an advocate for at least 10 years.						
Accountant	- He has practiced as a Chartered Accountant for at least 10 years; or - He has practiced as a registered accountant for at least 10 years; or - He has practiced partly as a registered accountant and partly as a Chartered Accountant for at least 10 years; or - He has been a member of the Indian Income-tax Service, Group A, and has held the post of the Additional Commissioner of Income-tax or any equivalent or higher post for at least 3 years.						

	completed not less than 7 years of service as a Judge in a High Court; or one of the Vice-Presidents of the Appellate Tribunal. Note: - a Bench should normally consist of one judicial member and one accountant member. - However, section 255(3) provides for constitution of a single member bench and a Special Bench. - The President may, for the disposal of any case constitute a special Bench consisting of three or more members, one of whom must necessarily be a judicial member and one an accountant member. - The President or any other member of the tribunal authorized by the Central Government (single judge bench) in this behalf may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer in the said case does not exceed ₹ 50 lakh.	
Where members having differences of opinions	- If the members of a Bench differ in opinion on any point the point shall be decided according to the opinion of the majority, if there is a majority. - However, if the members are equally divided, they should state the points on which they differ and the case shall be referred by the President of the Tribunal for hearing on such point by one or more of the other members of the Tribunal Then, such points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it.	
Central Government empowered to notify faceless appeal scheme		
Cross objection	- Assessing Officer or the Assessee, as the case may be, on receipt of notice that an appeal against the order of the Commissioner (Appeals) has been filed by the other party, may file a memorandum of cross objection (Form 36A & No fees) with the Tribunal. - Within 30 days of receipt of notice that appeal has been filed by the other party. However, Tribunal may admit belated memorandum of cross objection on sufficient cause being shown.	
Form of appeal and prescribed fees	- Every appeal shall be in the Form 36. - Where assessed income as computed by the Assessing Officer is -	
	Up to ₹ 1,00,000	₹ 500
	Exceeds ₹ 1,00,000 but does not exceed ₹ 2,00,000	₹ 1,500
	Exceeds ₹ 2,00,000	1% of Assessed income [Max. ₹ 10,000]
	Stay petition	₹ 500
	Any other case	₹ 500
	Where appeal is filed to the Appellate Tribunal by Department.	No fees
	Filing of memorandum of cross-objections.	No fees
Time limit for filing appeal	within 2 months from the end of the month in which the order sought to be appealed against is communicated.	

	Tribunal may admit belated application on sufficient cause being shown.
Withdrawal of appeal	Once appeal filed it cannot be withdrawn
Documents to be submitted	- Memorandum of Appeal (in triplicate) - order of Assessing Officer - grounds of appeal - statement of facts
Order of stay on Demand	- Tribunal, after considering the merits, may pass an order of stay in any proceedings for a period not exceeding 180 days (provided the assessee deposits not less than 20% of the amount of tax, interest, fee, penalty, or any other sum payable). - Appellate Tribunal is satisfied that the delay in disposing of the appeal is not attributable to the assessee, so however, that the aggregate of the period of stay originally allowed and the period of stay so extended shall not exceed 365 days. - if such appeal is not so disposed of within the period allowed (original and extended), the order of stay shall stand vacated after the expiry of such period even if the delay in disposing of the appeal is not attributable to the assessee.
ITAT can confirm, reduce, a set aside the assessment.	
Time limit for disposal of appeal	Appellate Tribunal may hear and decide such appeal within a period of 4 years from the end of the financial year in which such appeal is filed.

Refer Question No 4 to 7
from Workbook

4. Appeals to HC & SC

	High Court	Supreme Court
Basis of Appeal	Appeal against ITAT order can be filed to HC only if there is Question of Law.	Appeal against HC order.
Time Limit	Within 120 days from date of receipt of order.	Within 90 days.
Power to review own order	HC have power to review its order if grounds for review are: - Discovery of new & important evidence - Mistake apparent on record - Any other sufficient reason	SC have power to review its order.

Note points for HC:

- ✓ Case before High Court to be heard by not less than two judges.
 - ✓ If the judges are having differences of opinion on any point the point shall be decided according to the opinion of the majority, if there is a majority.
- Where judges are equally divided, the point of law upon which the judges differ shall be referred to one or more of the other judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.

Refer Question No 8 to 11
from Workbook

5. Sec 263: Revision of Orders in Favour of Dept

Cases where order is prejudicial to interest of revenue	- Order is passed without making inquiries & investigation which should have been made - Order is passed allowing any relief without inquiry into claim - Order was not made as per Instructions / Directions issued by CBDT - Order was not passed as per decision given by HC / SC prejudicial to assesses.
Procedure	- Commissioner may call and examine all records which are available at the time of examination by commissioner. - Opportunity of being heard must be given to Assessee before passing Revision Order. - Commissioner can enhance, modify or cancel the assessment & direct for fresh assessment
Time Limit for passing Revision Order	Within 2 years from end of FY in which AO order was passed.
Doctrine of Partial Merger	If AO order has been considered and decided in appeal. - Matters which are subject matter of appeal → Cannot be revised. - Other matters → Can be revised.

6. Sec 264: Revision of Orders in favour of Assessee

Cases when other orders are revised	CIT / PCIT / CCIT / PCCIT may on own motion or on application by assessee revise AO order which is prejudicial to Interest of Assessee .	
Appeal to whom?	Assessee can either prefer to appeal to CIT(A) or can apply to commissioner for revision u/s 264. Note: Assessee can apply for revision u/s 264 only if the time limit to file CIT(A) has been expired. [30 days]	
Time Limit for application	Within 1 year from communication of AO order (Fees ₹ 500)	
Time Limit for passing Revision Order	Own Motion	- Within 1 year from date of passing of AO order - The PCCIT or CCIT or PCIT or CIT is not empowered to revise any order on his own motion if 1 year has expired from the date of the order.
	Appeal by Assessee	Within 1 year from end of FY in which application was made by assessee
Appeal against Revision Order	No appeal can be filed against Revision Order u/s 264	
Doctrine of Total Merger	If AO order is in / has been decided in appeal, then Revision u/s 264 is not possible on any matter	

Refer Question No 12 to 19
from Workbook

7. Settlement commission

- Settlement commission shall cease to operate after 31/01/21.
- No application for settlement commission shall be after above mentioned date.
- With respect to pending applications, CG shall constitute one/ more interim boards for settlement.
- Interim board shall consist of 3 members, each of being rank of CCIT.
- If members of interim board having differences of opinion on any point, opinion of majority will prevail.

8. Sec 268A: Special Provision for Appeal by Department

- CBDT can fix mandatory limit to regulate appeal by department in order to avoid litigation in small cases.
- Department can file appeal only if the tax effect is more than following amount:

Appeal to	Revised limit w.e.f. 17/9/2024
ITAT	₹ 60,00,000
HC	₹ 2 crore
SC	₹ 5 crore

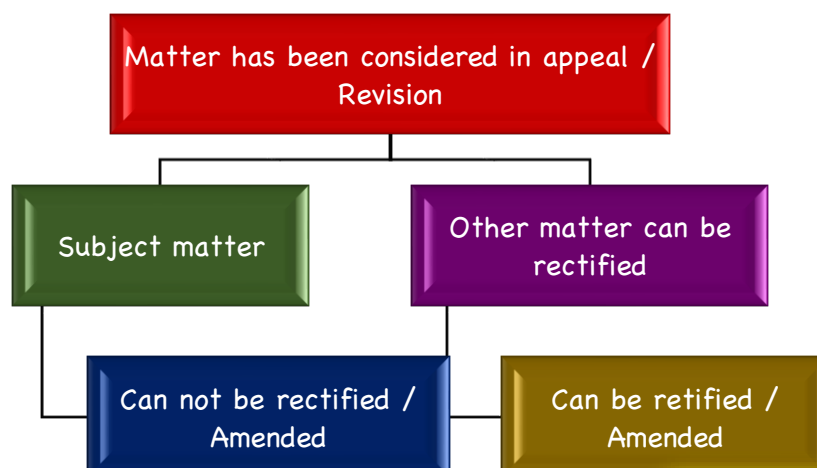
- If department has not filed appeal on a particular issue in case of a particular Assessee in a particular year due to above limit, it shall not stop the dept. for
 - a) In case of same Assessee in another year
 - b) In case of other Assessee in any year

Refer Question No 20
from Workbook

9. Rectification of mistake

Rectification of Mistake			
Sec 154		Sec 254	
1. Income tax authority (AO / CIT / CIT(A)) can rectify the mistake which is apparent on record in ✓ Order passed by authority ✓ Sec 143(1) Intimation ✓ TDS / TCS Intimation		1. ITAT can rectify the mistake in its order which is apparent record	
2. Application by • Own motion • Made by assessee [No fees & No form]		3. Application by • Own motion • Made by assessee (fees - ₹ 50)	
3. Time limit		3. Time limit	
Own motion	Application by assessee	Own motion	Application by assessee
Within 4 years from end of FY in which order containing mistake was passed.	Within 6 months from end of month in which application, received by IT Authority.	Within 6 months from end of month in which ITAT order was passed.	Within 6 months from the end of months in which application was made by Assessee.

Note for Sec 154:



Refer Question No 21
from Workbook

10. Sec 158A: Special provision for avoiding repetitive appeals

1. Where an Assessee claim (a declaration in the **Form 8** and verified in the prescribed manner) that:
 - a. any question of law arising in his case for an assessment year which is pending before the Assessing Officer or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical.
 - b. with a question of law arising in his case for another assessment year which is pending before the High Court or the Supreme Court (such case being hereafter in this section referred to as the other case),
 - c. and if the Assessing Officer or the appellate authority, as the case may be, agrees to apply in the relevant case the final decision on the question of law in the other case,
 - d. he shall not raise such question of law in the relevant case in appeal before any appellate authority.
2. The Assessing Officer or the appellate authority, as the case may be, may, by order in writing:
 - a. **admit the claim** of the Assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or
 - b. **reject the claim** if he or it is not so satisfied.
3. Such order shall be final and shall not be called in question in any proceeding by way of appeal or revision under this Act.
4. Where a claim is admitted:
 - a. the Assessing Officer or the appellate authority may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case; and
 - b. the Assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal.
5. When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Assessing Officer or the appellate authority, shall, if necessary, amend the order conformably to such decision.

Refer Question No 22
from Workbook

11. Sec 158AB: Procedure where an Identical Law is pending before HC or SC

In case of Assessee or any other persons, if question of law for any AY is pending before jurisdictional HC or SC (first case) against the order of ITAT or HC which was in the favour of Assessee/other person (order was against dept.) and in case of Assessee on same question of law is decided by CIT(A) or ITAT (Second case) in the favour of Assessee, then instead of filing appeal to ITAT/HC (by dept), the collegium may decide and inform the CIT/PCIT not to file any appeal, at this stage, to the ITAT or HC.

"Collegium" means a collegium comprising of two or more CCIT or PCIT or CIT, as may be specified by the CBDT.

Refer Question No 23 to 25
from Workbook

COLLECTION, RECOVERY & REFUND

1. Sec 156: Demand Notice

Sec. 156: Demand Notice

On completion of assessment (or intimation generated after processing of TDS statement), a demand notice [in Form 7] is served for additional demand raised in the assessment.

Time limit for payment of tax: The assessee should make the payment of amount demanded within 30 days of service of notice [Sec. 220(1)] Where the assessing officer has any reason to believe that it will be detrimental to revenue if the full period of 30 days is allowed, then 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 time as may be specified by him in the notice.

Extension of time limit: On an application made by the assessee before the expiry of due date, the assessing officer may extend the time for payment or allow payment by installments, subject to such conditions as he may think fit to impose in the circumstances of the case.

Sec. 220: Interest

Interest on delay in payment: If the payment is not made within 30 days (or time allowed in the notice), interest shall be payable @ 1% for every month (or part thereof) of the delay [Sec. 220(2)]

Sec.220(2A): Waiver or reduction of interest: 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 u/s 220(2), if he satisfied that:

- payment of such amount has caused or would cause genuine hardship to the assessee;
- 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
- the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

The order accepting or rejecting the application of the assessee, either in full or in part, shall be passed within a period of 12 months from the end of the month in which the application is received.

Sec.220(4): Assessee in default: If the amount is not paid within the time (or extended time) at the place and to the person mentioned in the said notice the assessee shall be deemed to be in default.

2. Sec 221: Penalty payable when tax in default

When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable u/s 220(2), be liable, by way of penalty, to pay such amount as the assessing officer may direct, and in the case of a continuing default, such further amount or amounts as the Assessing Officer may, from time to time, direct, so, however, that the total amount of penalty does not exceed the amount of tax in arrears.

3. Sec 222: Certificate to Tax Recovery Officer

When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may draw up under his signature a statement in the prescribed form (Form 57) specifying the amount of arrears due from the assessee (such statement being hereafter referred to as "certificate") and shall proceed to recover from such assessee the amount specified in the certificate by one or more of the modes mentioned below (in accordance with the rules laid down in the Second Schedule)

- a) Attachment and sale of the assessee's movable property.
- b) Attachment and sale of the assessee's immovable property.
- c) Arrest of the assessee and his detention in prison.
- d) Appointing a receiver for the management of the assessee's movable and immovable properties.

4. Sec 223: Tax Recovery Officer by whom Recovery is to be effected

The Tax Recovery Officer competent to take action u/s 222 shall be:

- a. the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situated or
- b. the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situated.

5. Sec 224: Validity of Certificate & Cancellation or Amendment

It shall not be open to the assessee to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground whatsoever, but it shall be lawful for the Tax Recovery Officer to cancel the certificate if, for any reason, he thinks it necessary so to do, or to correct any clerical or arithmetical mistake therein.

6. Sec 225: Stay of Proceedings

It shall be lawful for the Tax Recovery Officer to grant time for the payment of any tax and when he does so, he shall stay the proceedings for the recovery of such tax until the expiry of the time so granted.

7. Sec 226: Other modes of Recovery

Whether or not certificate has been drawn up u/s 222, the Assessing Officer may recover the tax by any one or more of the modes provided in this section.

Attachment of salary: If any assessee is in receipt of any income chargeable under the head "Salaries", the Assessing Officer or Tax Recovery Officer may require any person paying the same (i.e., the employer) to deduct from any payment subsequent to the date of such requisition, any arrears of tax due from such assessee.

Garnishee order: The assessing officer or Tax Recovery Officer may by notice in writing require, any person from whom money is due or any person holds or may subsequently hold money for an account of the assessee, to pay to the assessing officer or Tax Recovery Officer so much of the money (subject to maximum of amount payable to assessee) as is sufficient to pay the amount due by the assessee.

Refer Question No 1
from Workbook

8. Sec 227: Recovery through state Government

The recovery of tax in any area has been entrusted to a State Government, the State Government may recover any arrears of tax in the same manner as the municipal tax or local rate is recovered.

9. Sec 229: Recovery of penalties, Fine, Interest & Other Sums

Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided for the recovery of arrears of tax.

10. Sec 230: Tax Clearance Certificate**Person not domiciled in India**

✓ No person, — who is not domiciled in India:

- a) who has come to India in connection with business, profession or employment; and who has income derived from any source in India,
- b) shall leave the territory of India by land, sea or air unless he furnishes to the prescribed authority:

an undertaking in the prescribed form [Form 30A] from his employer; or through whom such person is in receipt of the income, to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer or the payer, and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no objection certificate [Form 30B], for leaving India.

Person domiciled in India

Every person, who is domiciled in India at the time of his departure from India, shall furnish, in the prescribed form [Form 30C] to the income-tax authority or such other prescribed authority.

11. Sec 231: Faceless collection and recovery of tax

So as to impart greater efficiency, transparency and accountability by:

- a) Eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;
- b) Optimizing utilization of the resources through economies of scale and functional specialization;
- c) Introducing a team-based issuance of certificate for deduction or collection of income-tax at lower rate, or for no deduction, or for deeming a person to be an assessee in default, or for passing of an order or amended, order, or extending the time for payment, or allowing payment by installment, or reducing or wavier of interest, or stay of proceeding in pursuance as not being in default.

12. Sec 281B: Provisional attachment to protect revenue in certain cases

Where, during the pendency of any proceeding for the assessment or reassessment or for imposition of penalty u/s 271 AAD where the aggregate amounts of penalty likely to be imposed under the said section exceeds 2 Cr, the assessing officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Chief Commissioner, Director General or Director, by order in writing, attach provisionally any property belonging to the assessee.

13. Sec 281: Certain transfers to be void

- Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice by TRO, any assessee creates a charge on or parts with the possession (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) of, any of his assets in favor of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise.
- Assets means land, building, machinery, plant, shares, securities and fixed deposits in banks, to the extent to which any of the assets aforesaid does not form part of the stock-in-trade of the business of the assessee.
- However, such charge or transfer shall not be void if it is made:

- i. for adequate consideration and without notice of the pendency of such proceeding or without notice of such tax or other sum payable by the assessee; or
 - ii. with the previous permission of the assessing officer.
- This section applies to cases where the amount of tax or another sum payable or likely to be payable exceeds ₹ 5,000 and the assets charged or transferred exceed ₹ 10,000 in value.

Refer Question No 2
from Workbook

14. Sec 237: Meaning of refund

Where the tax paid by the assessee is in excess of his tax liability, then such assessee shall be entitled to receive back such excess amount, called refund.

Tax paid by the assessee includes the following –

- a) Advance tax;
- b) Tax deducted at source (TDS);
- c) Tax collected at source (TCS);
- d) Self-assessment tax; and
- e) Tax paid on demand

15. Who can claim Refund

Following person can claim refund –

1. A person who has paid tax more than the amount for which he is chargeable under this Act [Sec. 237];
2. Where the income of one person is included in the total income of other person, such other person is entitled to claim refund on tax paid on such income [Sec. 238(1)]

Where due to death, incapacity, insolvency, liquidation or any other cause, a person is unable to claim or receive any refund due to him, his legal representative, trustee, guardian or receiver, as the case may be, can claim and receive such refund for the benefit of such person or his estate [Sec. 238(2)].

Refer Question No 3
from Workbook

16. Sec 239: Form and Time Limit for Claiming Refund

Every claim for refund shall be made by furnishing return in accordance with the provisions of sec. 139.

17. Sec 240: Refund on Appeal

Where any refund becomes due as a result of any order passed in appeal or other proceedings, the assessing officer shall refund the amount to the assessee suo moto i.e. without any claim being made by the assessee in this behalf. Such refund shall become due on –

Case	When refund becomes due
Where an assessment is set aside or cancelled and an order of fresh assessment is directed to be made	The refund shall become due on completion of such fresh assessment and amount of refund shall be decided as per the fresh assessment.
Where the assessment is annulled	The refund shall become due when such assessment is annulled. The refund shall be only of the amount of the tax paid in excess of tax as per return.

18. Sec 241A: Withholding of refund in Certain cases

If the following conditions are fulfilled, the Assessing Officer, may, for reasons to be recorded in writing and with the previous approval of the principal Commissioner, withhold the refund due to the assessee u/s 143 (1) up to the date on which the assessment u/s 143(3) is made:

- a) Refund of any amount becomes due to the assessee u/s 143(1);
- b) The Assessing Officer is of the opinion, having regard to the fact that a notice has been issued u/s 143(2) [i.e., notice for scrutiny assessment u/s 143(3)] in respect of such return; and
- c) The Assessing Officer is of the opinion that the grant of the refund is likely to adversely affect the revenue.

19. Sec 245: Set off refunds against tax remaining payable or withholding of refund

- a) **Set off of refunds against any sum payable:** If someone is entitled to a refund, the tax authority (the assessing officer or Commissioner) can decide to set off (offset) the refund amount against any money that the person still owes to the government. Before doing this, the tax authority must inform the person in writing about the action proposed to be taken.
- b) **Withholding of refund:** If part of the refund is set off or no refund is set off, and a refund is due to a person, the assessing officer can withhold the refund if there are ongoing assessment or reassessment proceedings for that person. However, this can only be done with valid reasons, in writing, and with prior approval from the Principal Commissioner or Commissioner & withhold the refund up to which such assessment or reassessment is made.

w.e.f 1.10.24, the period of withholding of refund has been extended up to 60 days from the date on which such assessment or reassessment made.

ADVANCE TAX & INTEREST

1. Sec 207:

Advance tax means tax paid in the financial immediately preceding the AY (i.e., P.Y).

2. Sec 208:

Assessee is required to pay advance tax if his liability for advance tax is ₹10,000 or more.

Exception: Resident senior citizen not having income under the PGBP shall not be liable to pay advance tax.

3. Sec 209: Manner of computation of advance tax liability

Step-1: Estimate the current income of the financial year for which advance tax payable.

Step-2: Compute tax on such estimated current income.

Step-3: Add Surcharge and Education cess, if applicable.

Step-4: Allow relief u/s 89(1)/TDS/TCS.

Step-5: The balance amount is the advance tax payable provided it is ₹ 10,000 or more.

4. Sec 210:

Advance tax will be payable in certain instalments as mentioned in Sec.211

5. Sec 211: Due date of advance tax for all Assessee

a) Common advance tax payment schedule for both corporates and non- corporates (other than assesses opts for sec 44AD/ADA):

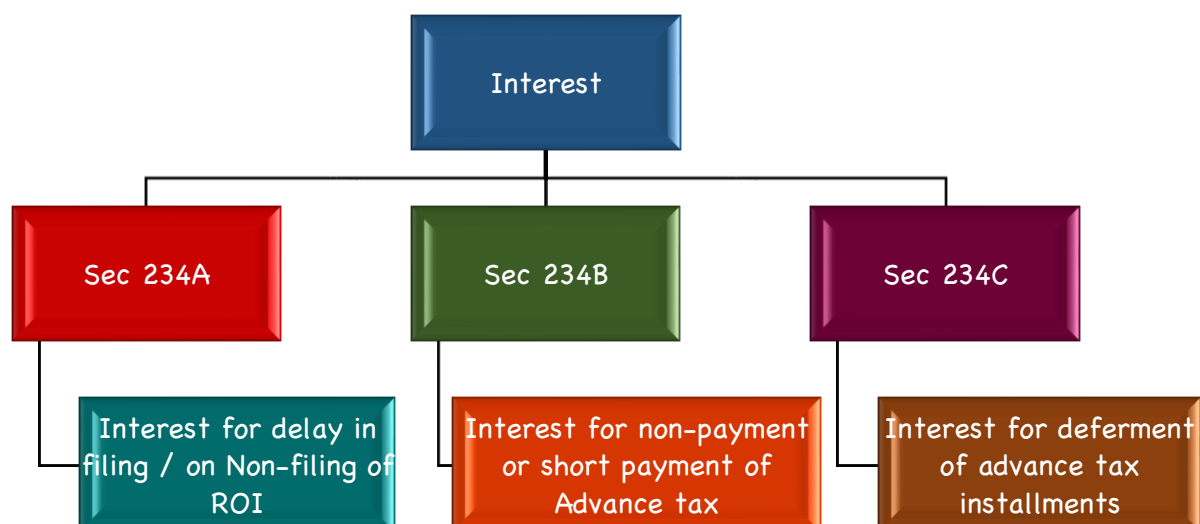
Due dates	Amount of advance tax
On or before 15 th June of P.Y.	Not less than 15% of advance tax liability
On or before 15 th September of P.Y.	Not less than 45% of advance tax liability
On or before 15 th December of P.Y.	Not less than 75% of advance tax liability
On or before 15 th March of P.Y.	Not less than 100% of advance tax liability

b) If the Assessee opts for sec 44AD/ADA: Due date of advance tax is 15th March of PY (only one installment)

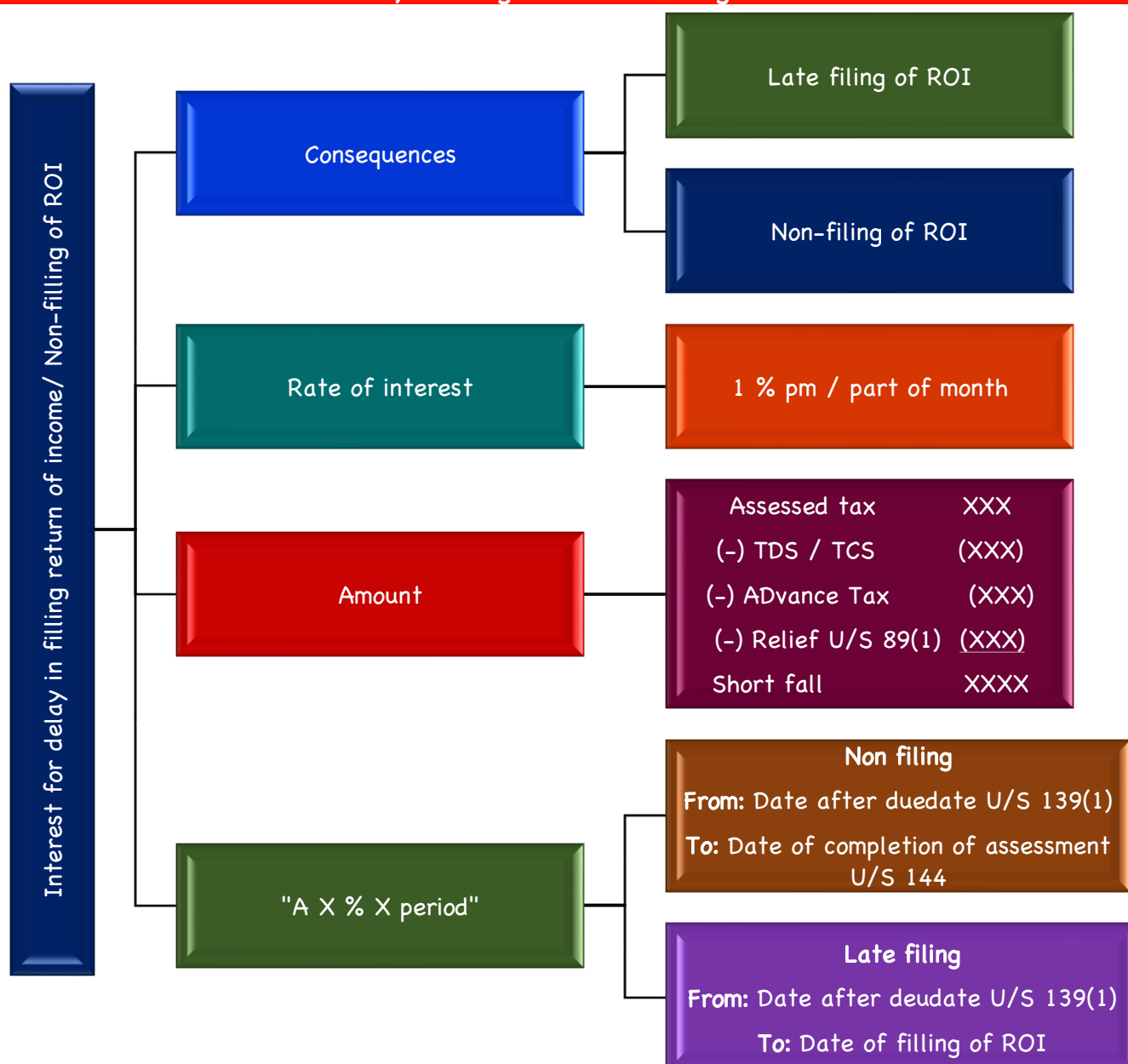
Note: Tax paid up to 31st march of P.Y. is only treated as advance tax.

6. Sec 219: Credit of advance tax

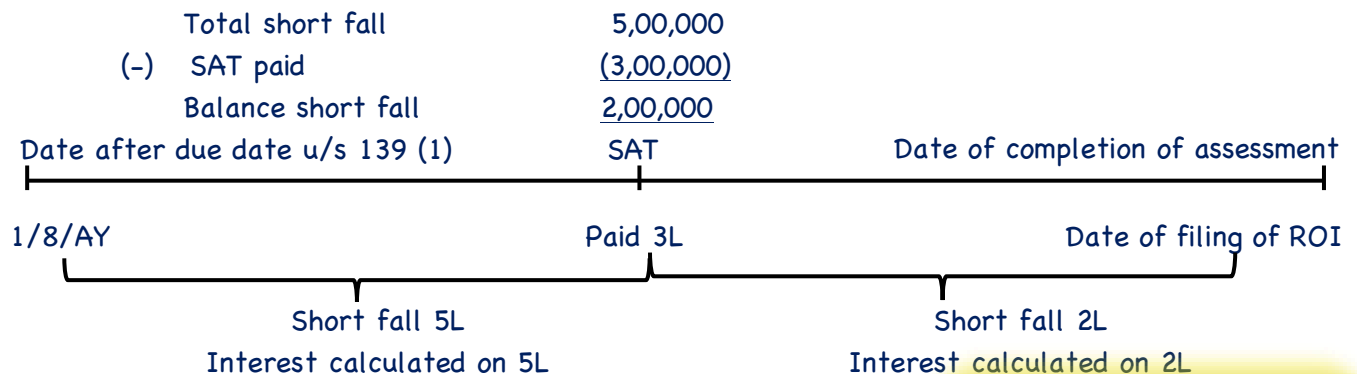
Any sum other than interest and penalty, paid by an Assessee as advance tax, is treated as a payment of tax in respect of the income of the previous year and credit there of shall be given in the regular assessment.



7. Sec 234A: Interest for delay in filing / on Non – filing of ROI

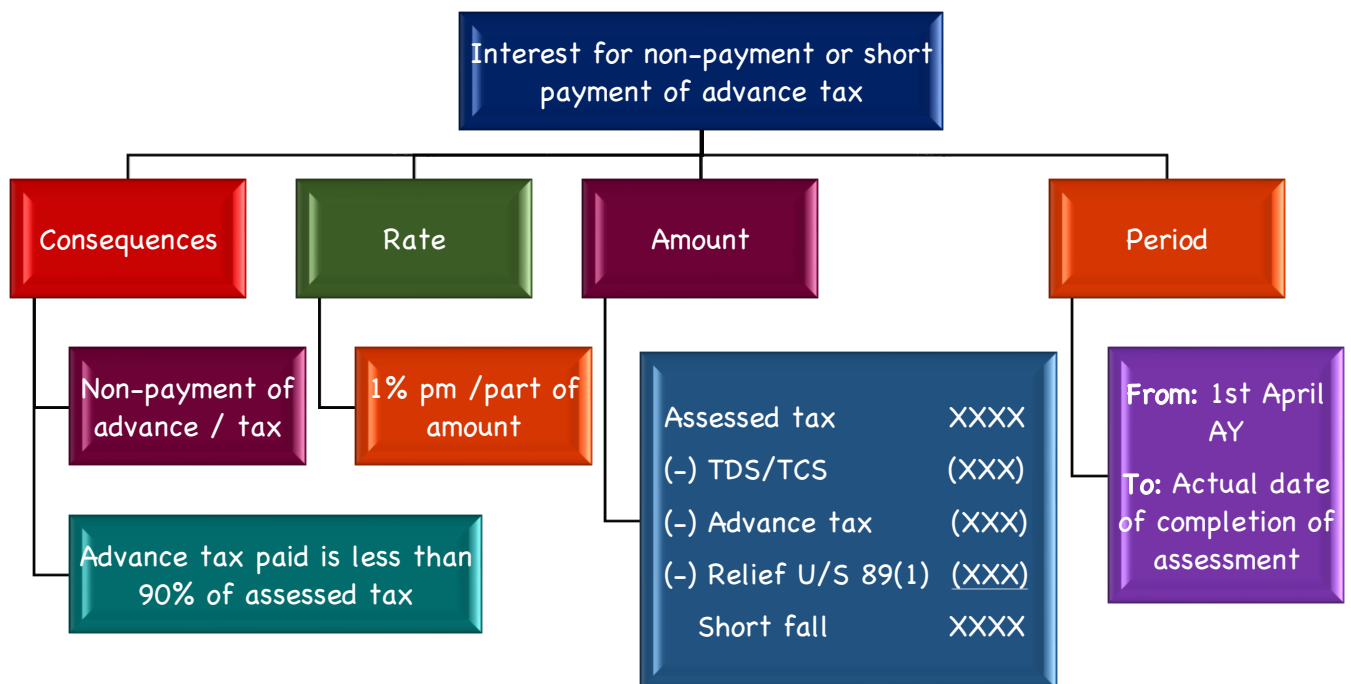


Interest liability u/s 234A is "different," in case assessment by assessee himself (Self-assessment) And Assessment made by Assessing officer (sec 143(2) etc.), therefore Interest paid u/s 234A at the time of self-assessment shall be reduced from final Interest liability u/s 234A.



Refer Question No 1
from Workbook

8. Sec 234B: Interest for non-payment or short payment of advance tax



Interest u/s 234B Liability is different in case of assessment by assessee himself (Self-assessment) and Assessment by AO (Sec 143(1) / 143 (2) etc., therefore, Interest u/s 234B paid at the time of self-assessment shall be adjusted from final Interest u/s 234B computed by AO.

Refer Question No 2,3
from Workbook

9. Sec 234C: Interest for deferment of Advance Tax instalments

Applicability	Sec 234B is attracted for: Deferment of advance tax beyond the due dates.
Interest Rate	1% per month or part of the month
Period	a. 1% for a period of three months, for every deferment. b. The instalment due on 15 th march, the interest liability under this section would be 1% per one month. c. In case of Business covered under section 44AD/ADA, 1% interest is applicable
Amount on which interest is payable	Difference between Tax due on Returned income XXX Less: TDS/TCS/Relief u/s 89/ AMT Credit (XXX) Less: The actual amount paid till due date (XXX) <u>XXX</u>

Note: If advance tax paid in case of 1st and 2nd instalment is 12% or more and 36% or more respectively then no interest shall be payable by the Assessee.

Non-applicability of interest under section 234C in certain cases:

The provision of section 234C shall not apply to any shortfall in the payment of tax due on returned income where such shortfall is on account of under-estimate or failure to estimate-

- The amount of Capital Gain.
- Income of nature referred to the section 2(24)(ix) winnings from lotteries, etc.
- Income under the head "Profits or gains of business or profession" in cases where the income accrues or arises under the said head for the first time.
- The amount of dividend income and deemed dividend.

The assessee has paid the whole of the amount of tax payable in respect of above incomes a part of the remaining instalments of advance taxes which are due, or where on such instalment due, by 31st march of the financial year.

Refer Question No 4 to 10
from Workbook

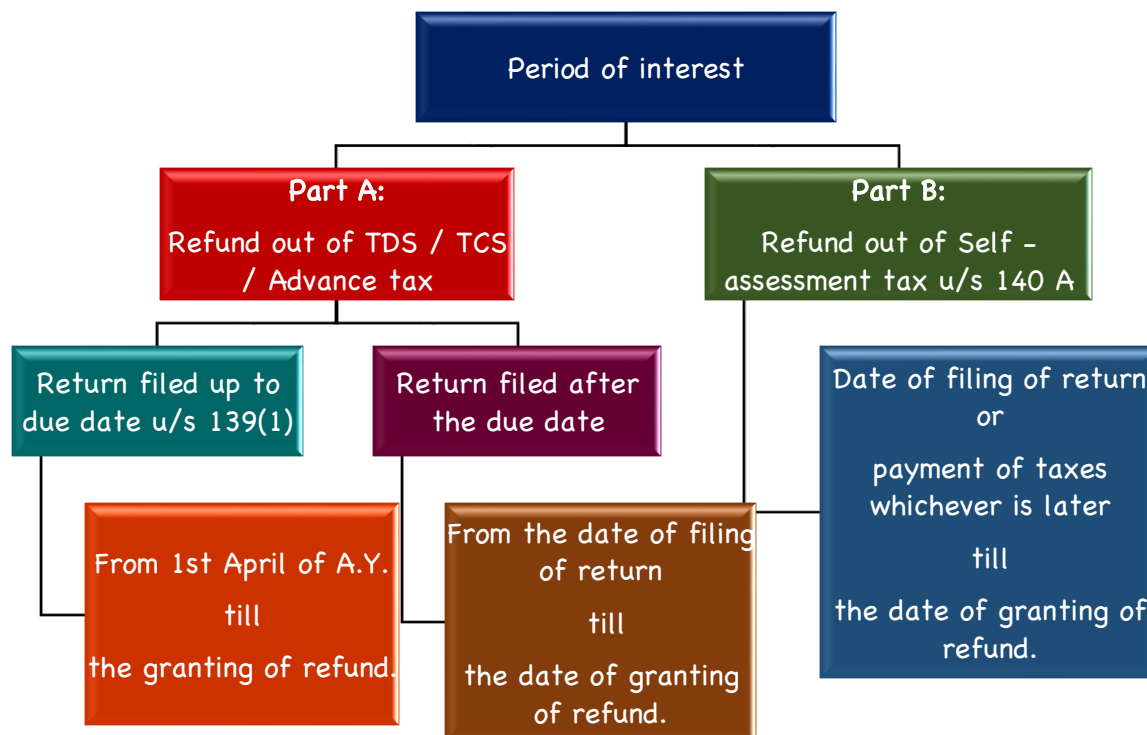
10. Sec 234D: Interest on excess refund granted

If refund is granted u/s 143(1) & later on computation of assessment, if either no refund is found due or the amount refunded is excess, then excess refund will have to be paid back by Assessee along with interest u/s 243D @0.5% per month or part of the month on such excess refund.

Period: From date of granting refund till the completion of assessment

11. Sec 244A: Interest on Refund

Simple interest @ 0.5% per month or part of the month will be paid by department on the amount refunded.

**Note:**

- No interest under A&B, if refund is less than 10% of the tax determined u/s 143(1) or on a regular assessment.
- Interest on refund taxable under the head **IFOS**.
- Department can set off refund amount against the tax payable after intimating Assessee.
- If deductor deposit excess tax to government, then he is entitled for refund and he is eligible for interest on such excess refund @ **0.5% per month or part of the month** from the date on which he claimed refund in prescribed form till the date on which refund granted.
- If refund is due to any other reasons (except discussed above) then the interest is calculated from the date payment of tax, penalty till the date on which refund is granted.

Refer Question No 11
from Workbook

12. Sec 234E: Fee for default in furnishing TDS / TCS statements

- For delayed filing quarterly statement, Assessee shall be liable to a mandatory fee of **₹200 per day** during which default continues.
- The fees cannot be **exceeding** the amount of TDS deductible.
- The fee shall be paid before filing a quarterly statement.

13. Sec 234G: Fees for default in filling Statements

Donee Trust/institute referred u/s 35(1)(ii)/(iia)/(iii) or 80G(5) fails to submit statement to PDGIT (system) or certificate of donation to donor up to 31st May of next FY then such institute/Trust required to pay fees of ₹200 per day during which failure continue.

14. Sec 201 (1A): Interest for failure to deduct and pay tax at source

Condition: Where a person, responsible for deducting tax at source, fails to

a. deduct tax at source.

or

b. deposit such tax after deducting the same.

Amount on which interest is to be charged: On the amount of such tax.

Rate of Interest:

Period	Rate of Interest
From the date on which such tax was deductible to the date on which such tax is deducted	Simple interest @ 1% per month or part thereof
From the date on which such tax was deducted to the date on which such tax is actually paid	Simple interest @ 1.50% per month or part thereof

Note:

In case any person fails to deduct such tax on the sum paid or payable but is not deemed to be an Assessee in default (as per first proviso to sec. 201(1)), the interest shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such payee.

15. Sec 205C (7): Interest for failure to collect and pay Tax at source

Condition: Where a person, responsible for collecting tax at source, fails to -

a. collect tax at source.

or

b. deposit such tax after collecting the same.

Amount on which interest is to be charged: On the amount of such tax

Rate of Interest: Simple interest @ 1% per month or part thereof

Period: From the date on which such tax was collectible to the date on which such tax is paid.

16. Sec 220(2): Interest for failure to pay tax according to demand notice

Any amount specified as payable in a notice of demand u/s 156 should be paid within 30 days (or lesser period as specified by the Assessing Officer with prior approval of Joint Commissioner) of the service of the notice.

Condition: Any person fails to pay such amount within such time

Rate of interest: Simple interest @ 1% for every month or part thereof.

Amount on which interest is to be charged: On the amount specified in the notice of demand.

Period: Interest shall be charged for a period commencing from the day immediately after the expiry of 30 days and ending on the day on which such amount is paid.

17. Waiver or reduction of interest u/s 234A, 234B & 234C

The Chief Commissioners and the Directors-General (Investigation) is empowered to reduce or waive penal interest u/s 234A, 234B and 234C in the following circumstances

- Where, in the course of search and seizure operation, books of account have been taken over by the Department and were not available to the taxpayers to prepare his return of income.
- Where, in the course of search and seizure operation, cash had been seized, which was not permitted to be adjusted against arrears of tax or payment of advance tax installments.
- Any income other than capital gains which was received or accrued after the date of first or subsequent installment of advance tax, which was neither anticipated nor contemplated by the taxpayer.

- d) Where, because of any retrospective amendment of law or the decisions of the Supreme Court after the end of the relevant previous year.
- e) Where return of income is filed voluntarily without detection by the Income tax Department and due to circumstances beyond control of the taxpayer such return of income was not filed within the stipulated time-limit.

Note:

- Board can grant relief u/s 234A, 234B or 234C.
- Waiver of interest can be considered only if the return of income is filed voluntarily without detection by the Assessing Officer.

UPDATED RETURN

1. Sec 139 (8A): Updated Return

a) Who can file updated return: Any person, whether or not he has furnished a return u/s 139(1) or (4) or (5), for an assessment year, may furnish an updated return of his income or the income of any other person in respect of which he is assessable under this Act, for the previous year relevant to such assessment year.

b) Time limit for filing updated return: At any time within **48 months** from the end of the relevant assessment year.

For example, an updated return for A.Y. 2026-27 can be filed till 31.3.2031.

c) The updated return is accompanied by the proof of payment of tax as required u/s 140B.

Notes:

- **An updated return cannot be filed, if the updated return:**
 - a) is a return of a loss; or
 - b) a person cannot reduce his tax liability by filing updated return; or
 - c) results in refund or increases the refund due on the basis of return furnished u/s 139(1) or (4) or (5).
- **A person shall not be eligible to furnish an updated return, where:**
 - a) a search has been initiated u/s 132 or books of account or other documents or any assets are requisitioned u/s 132A in the case of such person; or
 - b) a survey has been conducted u/s 133A [other than sec. 133A(2A)], in the case such person; or
 - c) a notice has been issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned u/s 132 or 132A in the case of any other person belongs to such person; or
 - d) a notice has been issued to the effect that any books of account or documents, seized or requisitioned u/s 132 or 132A in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, such person.
- **No updated return shall be furnished by any person for the relevant assessment year, where:**
 - a) an updated return has already been furnished by him for the relevant assessment year; or
 - b) any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment year in his case; or
 - c) the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 or the Prohibition of Benami Property Transactions Act, 1988 or the Prevention of Money-laundering Act, 2002 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 and the same has been communicated to him, prior to the date of furnishing of return under this sub-section; or
 - d) information for the relevant assessment year has been received under an agreement referred to in sec. 90 or 90A in respect of such person and the same has been communicated to him, prior to the date of furnishing of return under this sub-section.

Note: With effect from 01.04.2025, no updated return shall be furnished by any person where any notice to show-cause under section 148A has been issued in his case after 36 months from the end of the relevant assessment year.

However, where subsequently an order is passed under section 148A (3) determining that it is not a fit case to issue notice under section 148, updated return may be filed up to 48 months from the end of the relevant assessment year.

d) Sec 140B: Tax on Updated Return

An updated return furnished under section 139(8A) would be regarded as **defective return** as referred u/s 139(9) unless such return of income is accompanied by the proof of payment of tax as required under section 140B.

❖ **Where Assessee has not furnished return earlier:**

Particulars	Amount
Compute Tax on Income as per updated return	XXXX
Less: Advance Tax and TDS and TDS / Relief u/s 89 / AMT / MAT Credit, Relief u/s 90A/90/91 of RPY.	(XXXX)
Add: Interest u/s 234A	XXX
Add: Interest u/s 234B	XXX
Add: Interest u/s 234C	XXX
Add: Late filing fees u/s 234F	₹ 5,000
Total tax to before additional tax	XXXX

❖ **Where Assessee has furnished return earlier:**

Particulars	Amount
Compute Tax on Income as per updated return	XXXX
Less: Advance Tax and TDS and TDS / Relief u/s 89 / AMT / MAT Credit, Relief u/s 90A/90/91 of RPY.	(XXXX)
Less: Self-assessment tax paid u/s 140A	
Add: Interest u/s 234B	XXX
Add: Interest u/s 234C	XXX
Less: Interest paid already u/s 234B and 234C as per earlier return	
Total tax to before additional tax	XXXX

❖ **Computation of Additional Income Tax:**

If such return is furnished after expiry of the time available under section 139(4) or 139(5) of the assessment year and before completion of the period of 12 months from the end of the relevant assessment year.	25% of aggregate of tax and interest payable.
If such return is furnished after the expiry of 12 months from the end of the relevant assessment year but before completion of the period of 24 months from the end of the relevant assessment year.	50% of aggregate of tax and interest payable.
If such return is furnished after the expiry of 24 months from the end of the relevant assessment year	60% of aggregate of tax and interest payable.

but before completion of the period of 36 months from the end of the relevant assessment year.	
If such return is furnished after the expiry of 36 months from the end of the relevant assessment year but before completion of the period of 48 months from the end of the relevant assessment year.	70% of aggregate of tax and interest payable.

Refer Question No 1
from Workbook

2. Sec 170A: Effect of order of Tribunal/court in Respect of Business Reorganizations

Requirement to file Modified Return in ITR-A: In a case of business reorganization, where prior to the date of order of a High Court or Tribunal or an Adjudicating Authority as defined in section 5(1) of the Insolvency and Bankruptcy Code, 2016, as the case may be, any return of income has been furnished by the successor under the provisions of section 139 for any assessment year relevant to the previous year to which such order applies, such successor has to furnish, within a period of **six months from the end of the month in which the said order was issued**, a modified return in Form ITR-A in accordance with and limited to the said order. The said return of income has to be furnished electronically under digital signature.

BUSINESS RESTRUCTURING & RECONSTRUCTION

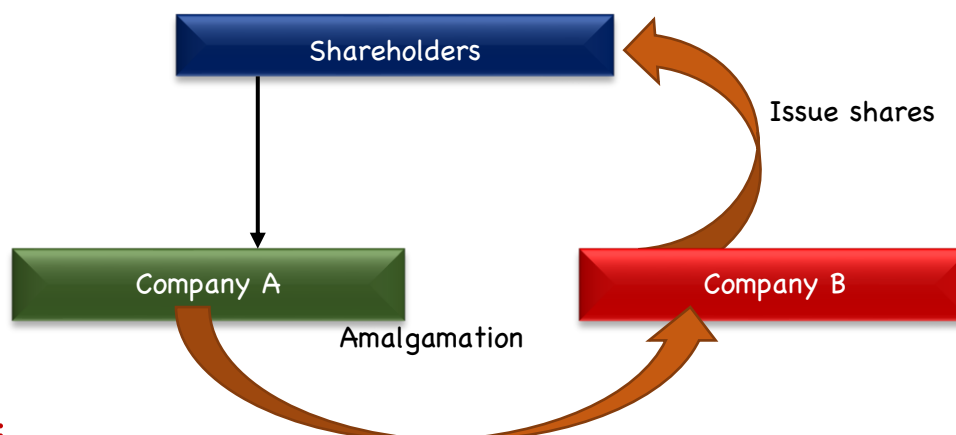
This chapter includes:

- Amalgamation
- Demerger
- Slump Sale
- Conversion of Sole Proprietary Business to Company
- Conversion of Firm into Company
- Conversion of Private Limited Company / Unlisted Public Company into LLP

1. Sec 2(1B): Definition of Amalgamation

Amalgamation (in relation to companies) means:

- the merger of one or more companies with another company; or
- the merger of two or more companies to form one company; in such a manner that—
 - a. **all assets and liabilities** of the amalgamating company or companies immediately before the amalgamation becomes the assets and liabilities of the amalgamated company.
 - b. shareholders (both equity or preference) holding **not less than 75% in value of the shares** in the amalgamating company or companies become shareholders (equity or preference) of the amalgamated company.



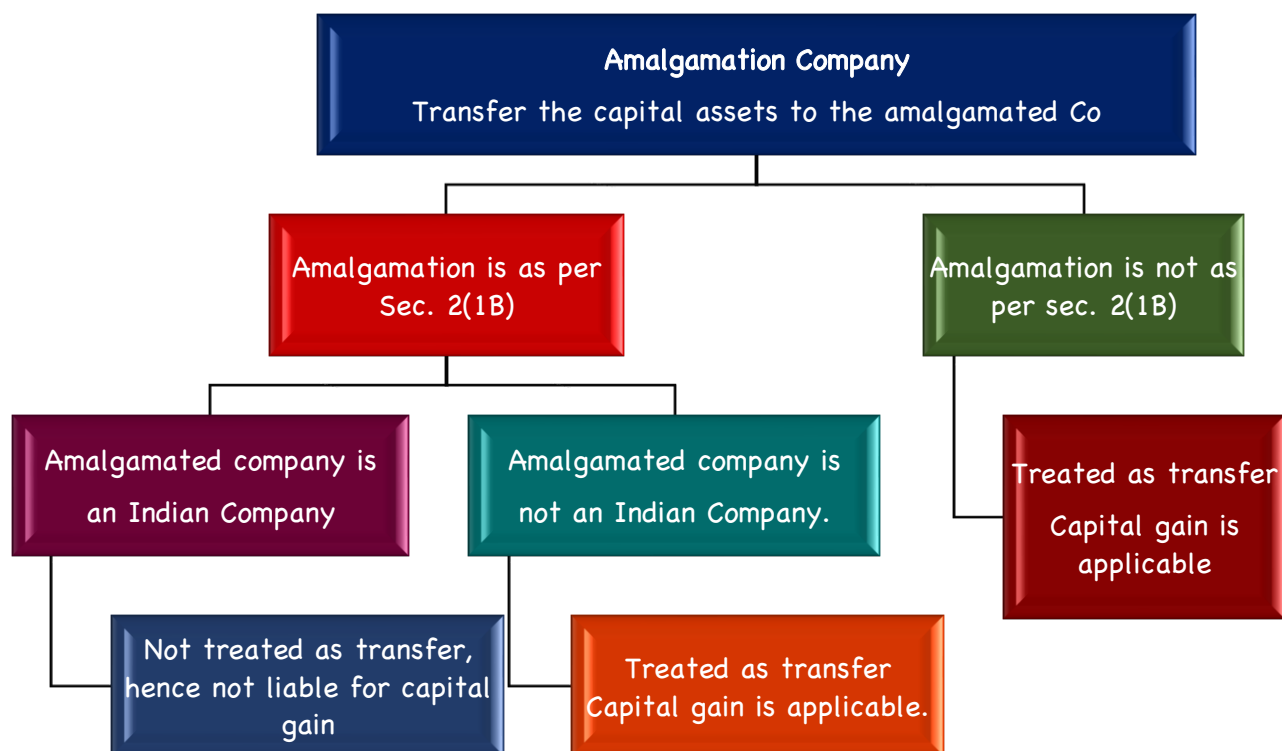
Exceptions:

Following mergers shall not be treated as amalgamation –

- A merger where one company acquires the property of another company by purchasing it.
- A merger where property is distributed to another company after the first company is wound up.

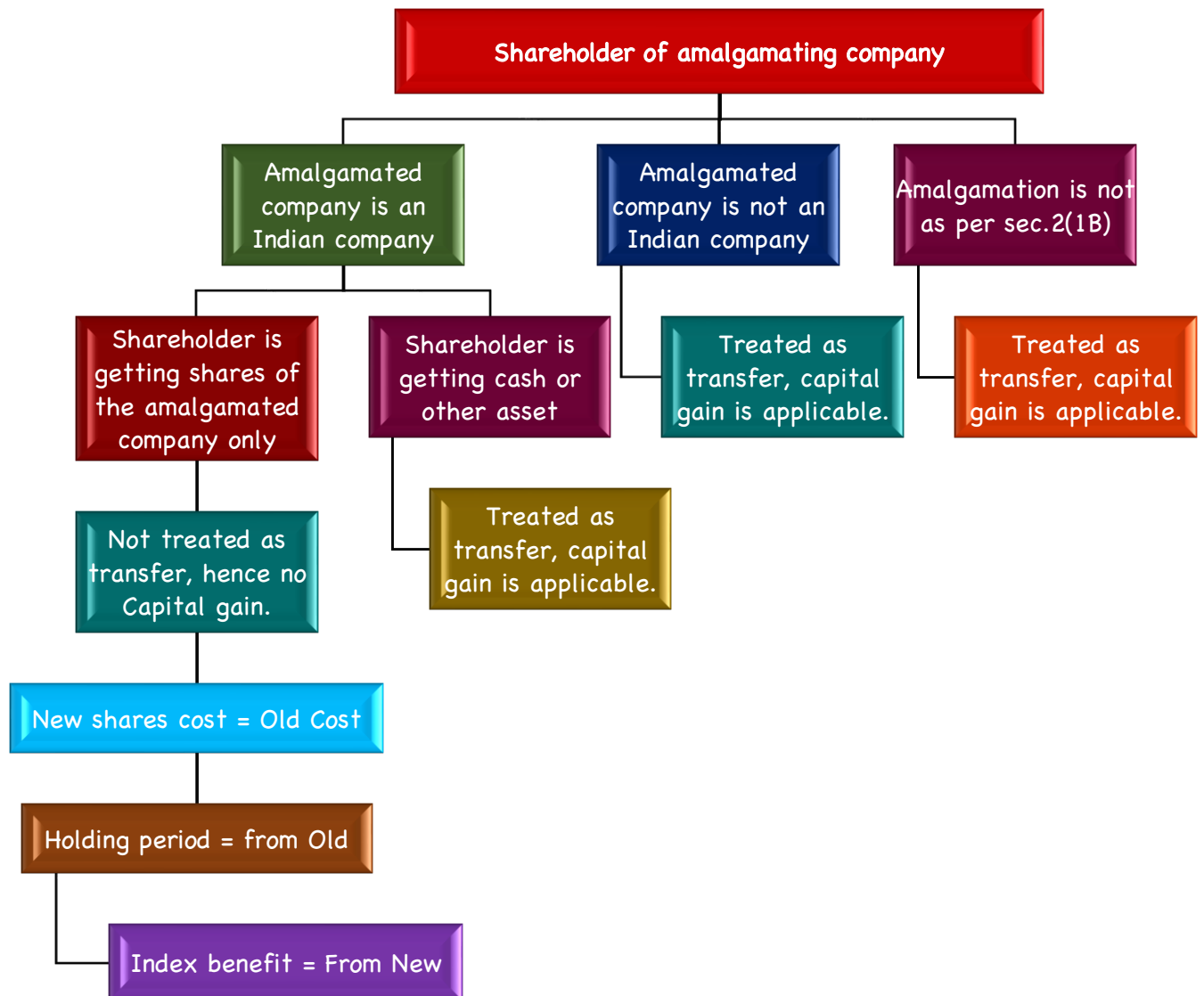
2. Effect of amalgamation on amalgamating company

- a) As per sec. 47(vi), any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company is not treated as transfer (hence not liable to capital gain) provided the amalgamated company is an Indian company.
- b) If amalgamation does not satisfy condition of sec. 2(1B) and of sec. 47(vi), then exemption is not available.

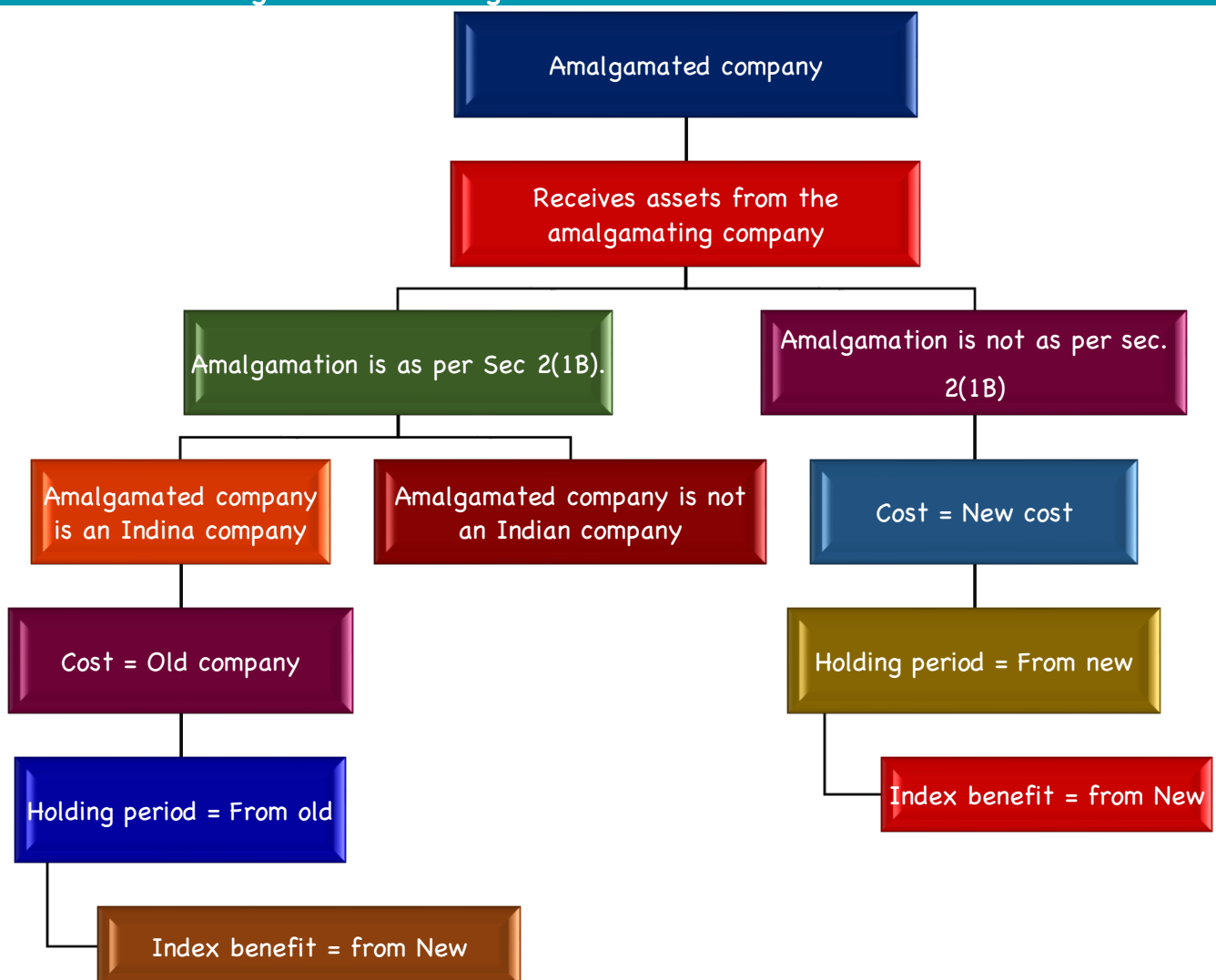


3. Effect of Amalgamation on a shareholder

Transfer of shares of amalgamating company	As per sec. 47(vii), any transfer by a shareholder, in a scheme of amalgamation, of share(s) held by him in the amalgamating company is not treated as transfer and hence not liable to capital gain , if following conditions are satisfied: ➤ The transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company; and ➤ The amalgamated company is an Indian company.
Cost of shares in amalgamated company	The cost of shares in amalgamating company shall be deemed to be the cost of shares in amalgamated company. [Sec. 49(2)]
Determination of nature of assets	To find whether shares in amalgamated company are long-term or short-term capital asset, the period of holding shall be calculated from the date when shares in the amalgamating company were acquired. [Sec. 2(42A)]
Indexation benefit	Indexation benefit shall be available from the year in which shares of amalgamated company were acquired by the assessee.



4. Effect of amalgamation on Amalgamated co

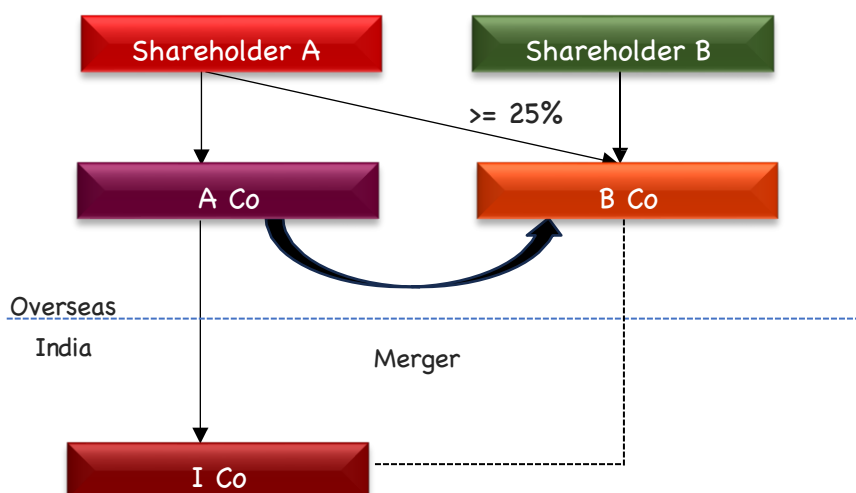


❖ Amalgamation of foreign companies

Sec 47 specifies certain transactions which will not be regarded as transfer for the purpose of capital gains tax.

Sec	case	Asset transferred	Conditions to be fulfilled
47(via)	Any transfer by the amalgamating foreign company to the amalgamated foreign company, in a scheme of amalgamation of two foreign companies.	Capital asset, being shares held in an Indian company	a) At least 25% of the shareholders of the amalgamating foreign company must continue to remain shareholders of the amalgamated foreign company; b) Such transfer should not attract capital gains in the country in which the amalgamating company is incorporated.
47(viab)	Any transfer by the amalgamating foreign company to the amalgamated	Capital asset, being share of a foreign company, referred to in Explanation 5 to	a) At least 25% of the Shareholders of the amalgamating foreign company must continue to remain

	foreign company, in a scheme of amalgamation of two foreign companies.	section 9(1)(i), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company.	shareholders of the amalgamated foreign company; b) Such transfer should not attract capital gains in the country in which the amalgamating company is incorporated.
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5. Sec 72A: Set off and carry forward of business loss and unabsorbed depreciation

a. Applicability

- There has been an amalgamation of a company owning -
 - an industrial undertaking; or
 - a ship; or
 - a hotel, with another company.
- There has been amalgamation of a banking company with a specified bank.
- There has been amalgamation of one or more public sector company or companies with one or more public sector company or companies; or
- An erstwhile public sector company can amalgamate with one or more companies if the share purchase agreement under strategic disinvestment restricted immediate amalgamation, and the amalgamation happens within 5 years from the end of the previous year in which the restriction on amalgamation in the share purchase agreement ends.

"Strategic disinvestment" means the sale of government or public sector company shares, reducing the government's shareholding below 51%, and transferring control to the buyer.

b. Conditions to be satisfied

The accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless:

The amalgamating company—

- The company has been in the business where the losses or depreciation occurred for at least 3 years.
- It has held at least 75% of the book value of its fixed assets for 2 years prior to the date of amalgamation.

The amalgamated company—

- i. It must hold at least 75% of the book value of fixed assets acquired from the amalgamating company for at least 5 years from the date of amalgamation.
- ii. It must continue the same business of the amalgamating company for at least 5 years from the date of amalgamation.
- iii. fulfils such other conditions as may be prescribed.

c. Treatment:

- The accumulated business loss (**non-speculative**) and unabsorbed depreciation of the amalgamating company will be treated as the loss or depreciation of the amalgamated company for the year of the amalgamation. The same rules for setting off and carrying forward losses and depreciation will apply.
- If any conditions are not met, the loss or depreciation set off in any previous year will be treated as income and taxed in the year the conditions are violated.

6. Special note points in amalgamation**a. Value of non-depreciable capital assets for the purpose of capital gain**

- **Capital Assets in Amalgamation (Section 49(1)):**

When a capital asset is transferred to an amalgamated Indian company during an amalgamation, the cost of that asset for the new company is the same as the cost the original company (the amalgamating company) paid for it. If the original company made any improvements to the asset, those costs are added to the original cost.

- **Non-Depreciable Assets Acquired Before 1st April 2001:**

For non-depreciable assets bought before April 1, 2001, the owner can choose to use either the original cost of the asset or its fair market value on April 1, 2001, as the cost of acquisition.

- **Period of Holding:**

When calculating how long the asset has been held (for capital gains purposes), the holding period of the previous owner is also counted.

However, the benefit of "indexation" (adjustment for inflation) starts from the year the amalgamation happens.

b. Value of depreciable asset for the purpose of business income:

- When an amalgamating company transfers a block of depreciable assets to the amalgamated company, the new company's "actual cost" for the assets is the same as the written down value (WDV) of those assets in the amalgamating company for the previous year. This value is reduced by the depreciation already claimed by the amalgamating company for that year.
- **Depreciation in the Year of Amalgamation:**
The total depreciation that can be claimed by both the amalgamating and amalgamated companies in the year of amalgamation cannot exceed the depreciation that would have been allowed if the amalgamation had not happened. This depreciation must be divided between the two companies based on how long each used the assets during that year.

c. Value of asset transferred as stock in trade:

When an asset (not covered under Section 45(2)) is transferred from the amalgamating company to the amalgamated company and then sold as stock-in-trade, the cost for the new company (amalgamated company) is calculated as follows:

- a) The original cost of the asset to the amalgamating company, plus:
- b) Any improvements made to the asset, and
- c) Any costs incurred by the amalgamating company related to the transfer of the asset.

7. Sec 35DD: Deduction of Expenses incurred in case of Amalgamation / Demerger

Applicable to: An Indian company

Conditions

- a) Assesses has incurred certain expenditure wholly & exclusively for the purpose of amalgamation or demerger.
- b) No deduction has been claimed for such expenses under any other section.

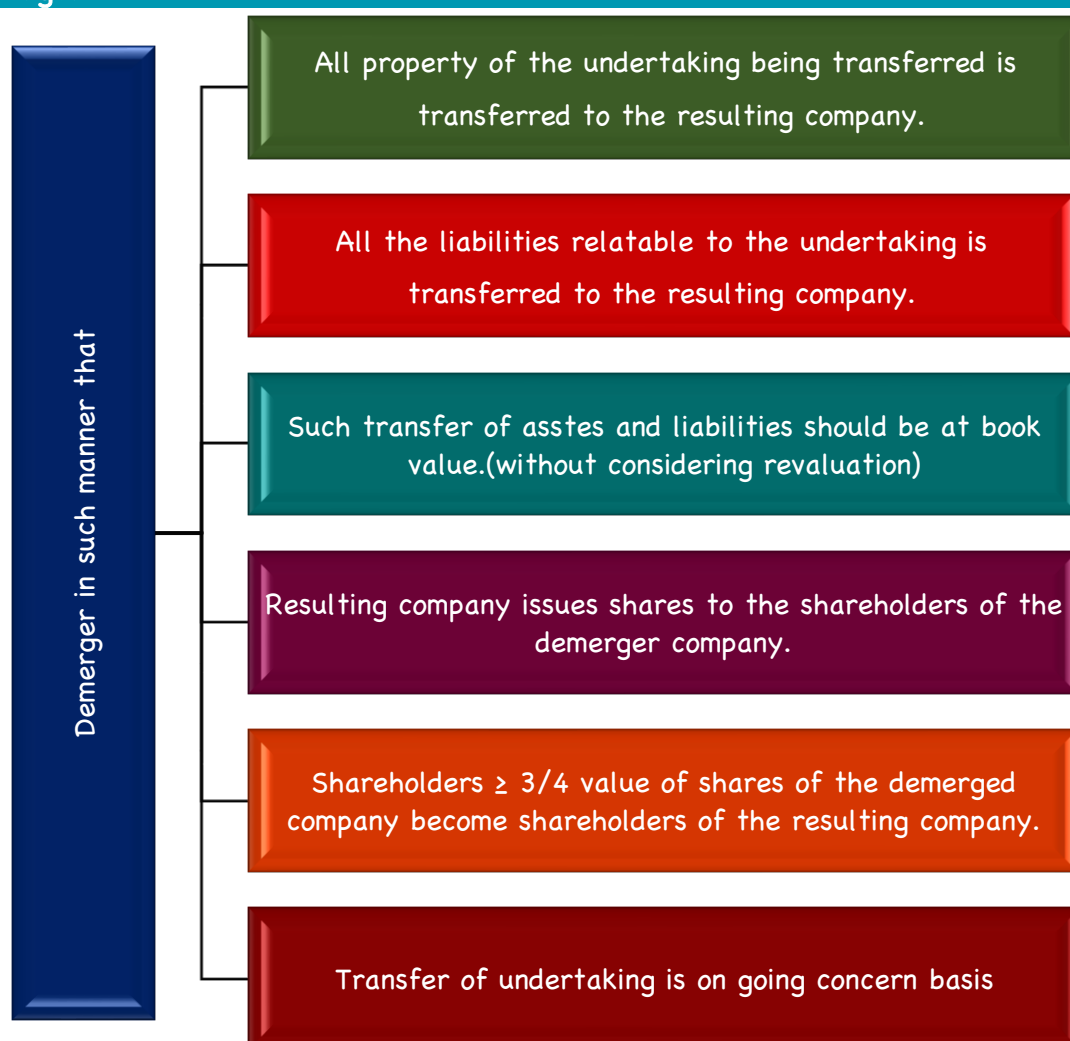
Quantum of deduction: 1/5th of expenses so incurred for a period of 5 years commencing from the year in which amalgamation or demerger takes place.

8. Other provisions

- a. **Scientific Research Expenditure (Section 35(5)):** The provisions of Section 35 apply to the amalgamated company as if the amalgamating company had not transferred the asset.
- b. **Telecom or Spectrum License:** The amalgamated company (or resulting company, if Indian) can claim a deduction under Section 35ABB (or 35ABA) for the remaining period, as if the amalgamating company had not transferred the license.
- c. **Amortization of Preliminary Expenses:** If an undertaking is transferred under an amalgamation or demerger, the amalgamated or resulting company (if Indian) can claim a deduction under Section 35D for the remaining period, as if the amalgamation or demerger had not happened.
- d. **Amortization of VRS Expenditure:** Similarly, the amalgamated or resulting company can claim a deduction under Section 35DDA for the residual period, as if the amalgamation or demerger had not occurred.

Refer Question No 1,2,3 ,4
from Workbook

9. Demerger



- a. As per sec. 47(vib), any transfer, in a demerger, of a capital asset by the demerged company to the resulting company is not treated as transfer (hence not liable to capital gain) provided the resulting company is an Indian company.

Cost of shares	Resulting company	COA of shares held in demerged company X $\frac{\text{Net book value of assets transferred in demerger}}{\text{Net worth of demerged company before demerger}}$ Net worth = Paid-up share capital + General reserves (as per books of account of the demerged company immediately before demerger)	
	Demerged company (after demerger)	Cost of acquisition of the original shares xxx Less: Cost of shares of resulting company (as above) (xxx) Cost of shares of demerged company xxx	
Determination of nature of asset	Resulting company	To find whether shares in resulting company are long-term or short - term capital asset, the period of holding shall be calculated from date of acquisition of original shares in demerged company (before demerger).	
	Demerged company		

Indexation benefit	Resulting company	Indexation benefit shall be available from the year in which shares in resulting company were acquired by the assessee.
	Demerged company	Indexation benefit shall be available from the year in which original shares in demerged company were acquired by the assessee.

❖ **Demerger of foreign companies**

Sec 47 specifies certain transactions which will not be regarded as transfer for the purpose of capital gains tax.

Sec	Case	Asset transferred	Conditions to be fulfilled
47(vic)	Any transfer by the demerged foreign company to the resulting foreign company, in a scheme of demerger of a foreign company.	Capital asset, being a share or shares held in an Indian company.	a) Shareholders owning at least 75% of the value of shares in the demerged foreign company continue to hold shares in the resulting foreign company. b) The transfer is not subject to capital gain tax in the country where the demerged foreign company is incorporated.
47(vicc)	Any transfer by the demerged foreign company to the resulting foreign company, in a scheme of demerger of a foreign company.	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.	a) Shareholders owning at least 75% of the value of shares in the demerged foreign company continue to hold shares in the resulting foreign company. b) The transfer is not subject to capital gain tax in the country where the demerged foreign company is incorporated.

10. Sec 72A: Set off and Carry Forward

In the case of a demerger, the accumulated business loss (**Non-speculation loss**) and unabsorbed depreciation of the demerged company will be treated as follows:

- If the loss or depreciation is directly related to the undertakings transferred to the resulting company, it can be carried forward and set off by the resulting company.
- If the loss or depreciation is not directly related to the transferred undertakings, it will be split between the demerged company and the resulting company. The split will be in proportion to the assets retained by the demerged company and transferred to the resulting company. The loss or depreciation can be carried forward and set off by either the demerged or resulting company, depending on the situation.

Refer Question No 5 to 8
from Workbook

11. Sec 50B: Slump Sale

Meaning	Transfer of one or more undertaking by any means for a lumpsum consideration without value being assigned to the Individual assets and liabilities in such sale.
Nature of capital asset	Long term capital gain if undertaking is held for more than 36 months & short term in all other cases
Tax rate	• LTCG is taxable @ 20% if transfer takes place before 23.7.2024 • LTCG is taxable @ 12.5% if transfer takes place on or after 23.7.2024 • STCG taxable @ Normal rates
Deemed COA/COI	• Net worth of undertaking should be taken as Deemed COA/COI • No indexation benefit would be available even if it results in a long-term capital gain, irrespective of the date of transfer of the undertaking i.e., whether before or on or after 23.7.2024.
Value of the assets to be considered	• In case of depreciable assets: WDV as per Sec.43(6)(c) • In case of self-generated goodwill: Nil • In case of capital asset where whole expenditure has been allowed u/s 35AD: Nil • In case of other assets: Book value

Computation of Capital Gain	₹
FVOC (FMV per Rule 11UAE)	XX
Less: Transfer Expenses	(X)
Net Consideration	XX
Less: Cost of Acquisition (Net worth of Undertaking)	(X)
STCG/LTCG	XX

Notes:

1. Computation of Net worth = Assets - liabilities
2. Revaluation of asset shall be ignored.
3. If Net-worth comes negative then, COA shall be taken as Nil
4. No Profit under PGBP shall arise even if stock is transferred in slump sale.

5. **Rule 11UAE:**

FMV on the date of transfer (slump sale) shall be higher of FMV-1 or FMV-2

FMV-1: FMV of Undertaking transferred

FMV-2: FMV of Consideration Received

1) **FMV-1:** A-B-C-D-L,

Where,

A = Book value of all the assets (except jewellery, artistic work, shares, securities and immovable property) as reduced by the following amount:

- Income-tax paid after reducing income-tax refund (if any)
- Unamortized amount of deferred expenditure

B = FMV of jewellery and artistic work (based on registered valuer report)

C = FMV of shares and securities

D = SDV of Immovable property

L = Book value of liabilities, but excluding following

- Paid up equity share capital.
- Dividend amount set apart where such dividends have not been declared in AGM before the date of transfer
- Reserves and surplus, other than depreciation reserve.
- Provision for tax, other than income-tax paid after reducing income-tax refund (if any), to the extent of the excess over the tax payable with reference to the book profits
- Provision for unascertained liabilities.
- Contingent liabilities other than arrears of dividends of cumulative preference shares

2) FMV-2: $E+F+G+H$,

where,

E = Monetary consideration

F = FMV of non-monetary consideration (assets for which Val Rules prescribed).

G = Open market price of non-monetary assets for which Val. Rules not prescribed (Valuer report)

H = SDV of immovable property.

6. Assessee shall furnish a CA report upto date of Audit u/s 44AB indicating the computation of the net worth, and certifying that the net worth, has been correctly arrived
7. Tax Saving restructuring plans to avoid tax if transferee is Indian Co
 - a) Transfer undertaking after acquiring 100% shares of transferee to not attract CG [Sec 47(v)]
 - b) Transfer undertaking by way of demerger rather than slump sale [Sec 47(vib)]

Refer Question No 9 to 16
from Workbook

12. Sec 47(Xiv): Conversion of Sole proprietary concern into Company

When a sole proprietorship is succeeded by a company, and the proprietorship transfers capital assets to the company, the transaction is not considered a transfer (and thus not taxable) if these conditions are met:

- a. All assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company.
 - b. The proprietor holds at least 50% of the company's voting power and maintains that shareholding for a period of 5 years from the date of succession
 - c. The proprietor does not receive any payment or benefit, other than shares in the company.
- The exemption applies to the transfer of **capital assets**, not **stock-in-trade**. If stock is transferred at a profit, it will be taxed as business income.

13. Sec 47(Xiii): Conversion of Firm into Company

When a firm is succeeded by a company and transfers a capital asset to the company, the transfer is not considered a taxable transfer **if the following conditions are met:**

- All assets and liabilities of the firm related to the business are transferred to the company.
- All the firm's partners become shareholders in the company in the same proportion as their capital accounts in the firm on the succession date.
- The partners hold at least 50% of the company's voting power, and they must maintain this shareholding for 5 years from the date of succession.
- The partners do not receive any payment or benefit, other than shares in the company.

Withdrawal of exemption u/s 47(xiii)/47(xiv) [Sec. 47A (3)]

If the conditions under Section 47(xiii) or 47(xiv) are violated, the exemption previously given will be revoked. The profits or gains from the transfer of the capital asset, which weren't taxed earlier, will be treated as taxable income for the successor company in the year the violation occurs.

Carry forward & set off of losses on conversion of proprietary concern or partnership firm into company [Sec. 72A (6)]

When a firm or proprietary concern is succeeded by a company (and meets the conditions in Sections 47(xiii) or 47(xiv)), the accumulated losses of the firm or concern can be carried forward for up to 8 years.

Effect of non-compliance of conditions given u/s 47(xiii) and (xiv)

If any conditions in Sections 47(xiii) or 47(xiv) are not met, the losses or depreciation claimed by the successor company in previous years will be treated as income and taxed in the year the conditions are violated.

Refer Question No 17 to 19
from Workbook

14. Sec 47 (Xiiib): Conversion of private Limited Co/Unlisted public company in LLP

When a company converts into a Limited Liability Partnership (LLP), the transfer of shares by a shareholder is **not considered as transfer** if the following conditions are met:

- All assets and liabilities of the company immediately before the conversion become the assets and liabilities of the LLP.
- All the company's shareholders become partners in the LLP, with their capital contributions and profit-sharing ratio in the LLP being the same as their shareholding in the company before conversion.
- The shareholders do not receive any payment or benefit, except for their share in the LLP's profit and capital.
- The shareholders' combined profit-sharing ratio in the LLP must be at least 50% for 5 years from the date of conversion;
- The company's sales, turnover, or gross receipts in any of the 3 years preceding the previous year in which the conversion takes place must not exceed ₹60 lakh.
- The total value of the company's assets in the books of account of the company in any of the 3 years before conversion takes place must not exceed ₹5 crore.
- No amount can be paid to any partner from the accumulated profit in the company's accounts for 3 years from the date of conversion.

Withdrawal of exemption u/s 47(xiiib) [Sec. 47A(4)]

If the conditions of Section 47(xiiib) are violated, any exemption given to the company or shareholder will be revoked. The profits or gains from the transfer of capital assets, intangible assets, or shares, which were not taxed earlier, will be treated as taxable income of the successor LLP or the shareholder (of predecessor company) in the year the violation occurs.

Carry forward & set off of losses on conversion into LLP [Sec. 72A(6A)]

Condition: If a private company or unlisted public company is succeeded by an LLP and meets the conditions in Section 47(xiiib),

Tax Treatment: The accumulated losses and unabsorbed depreciation of the predecessor company will be treated as losses or depreciation for the successor LLP in the year the business reorganization takes place. These losses can be carried forward for up to 8 years.

Effect of non-compliance of conditions given u/s 47(xiiib)

If the conditions of Section 47(xiiib) are not followed, any losses or depreciation claimed by the successor firm in previous years will be treated as income and taxed in the year the conditions are violated

Refer Question No 20 to 23
from Workbook

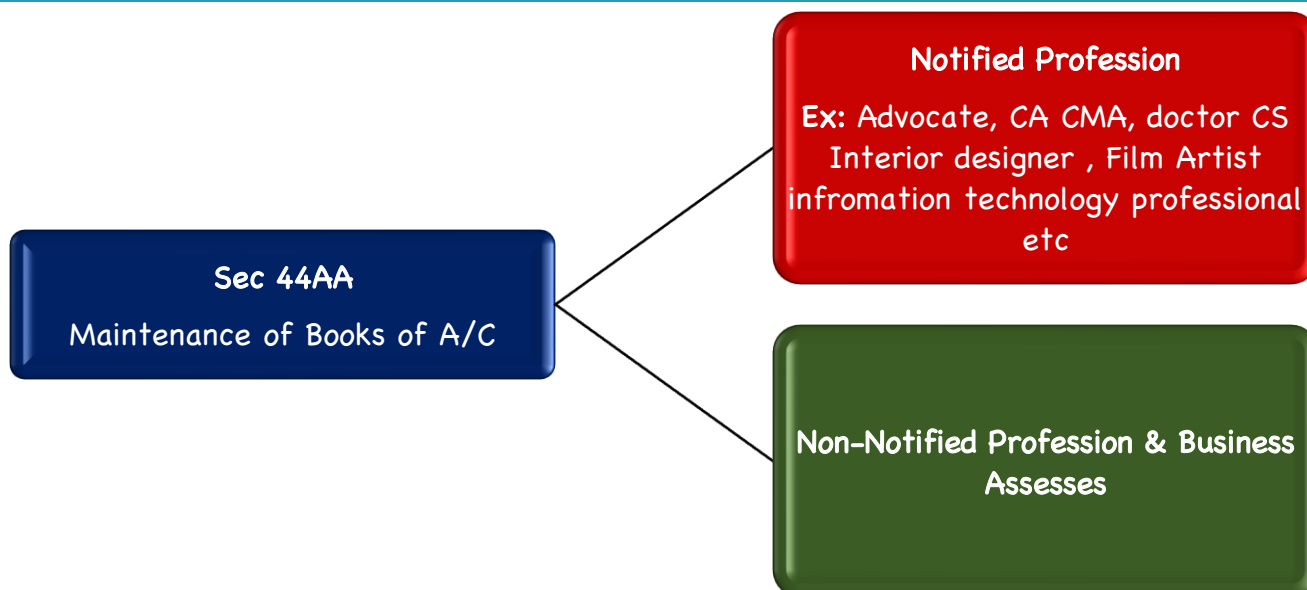
15. Sec 170: Succession to business otherwise than on death

1. When a business or profession is taken over by a new person (successor), the income is taxed as follows:
 - a. The predecessor is taxed on the income upto the date of succession.
 - b. The successor is taxed on the income after the date of succession.
2. If the predecessor cannot be found, the successor will be taxed on the entire income for the previous year, including the period before the succession.

Refer Question No 24
from Workbook

TAX AUDIT

1. Sec 44AA: Maintenance of books of A/c



Notified Profession:

- Gross Receipts > ₹ 1,50,000 in **all 3 years** Immediately preceding to the PY
- Gross receipts likely to exceed ₹ 1,50,000 during CPY, in case of **newly setup profession**.

Example:

	PY 22-23	PY 23-24	PY 24-25	PY 25-26
Gross Receipts	₹1,85,000	₹1,95,000	₹2,15,000	↓
				Sec44AA Will Apply

Satisfied

Not Satisfied

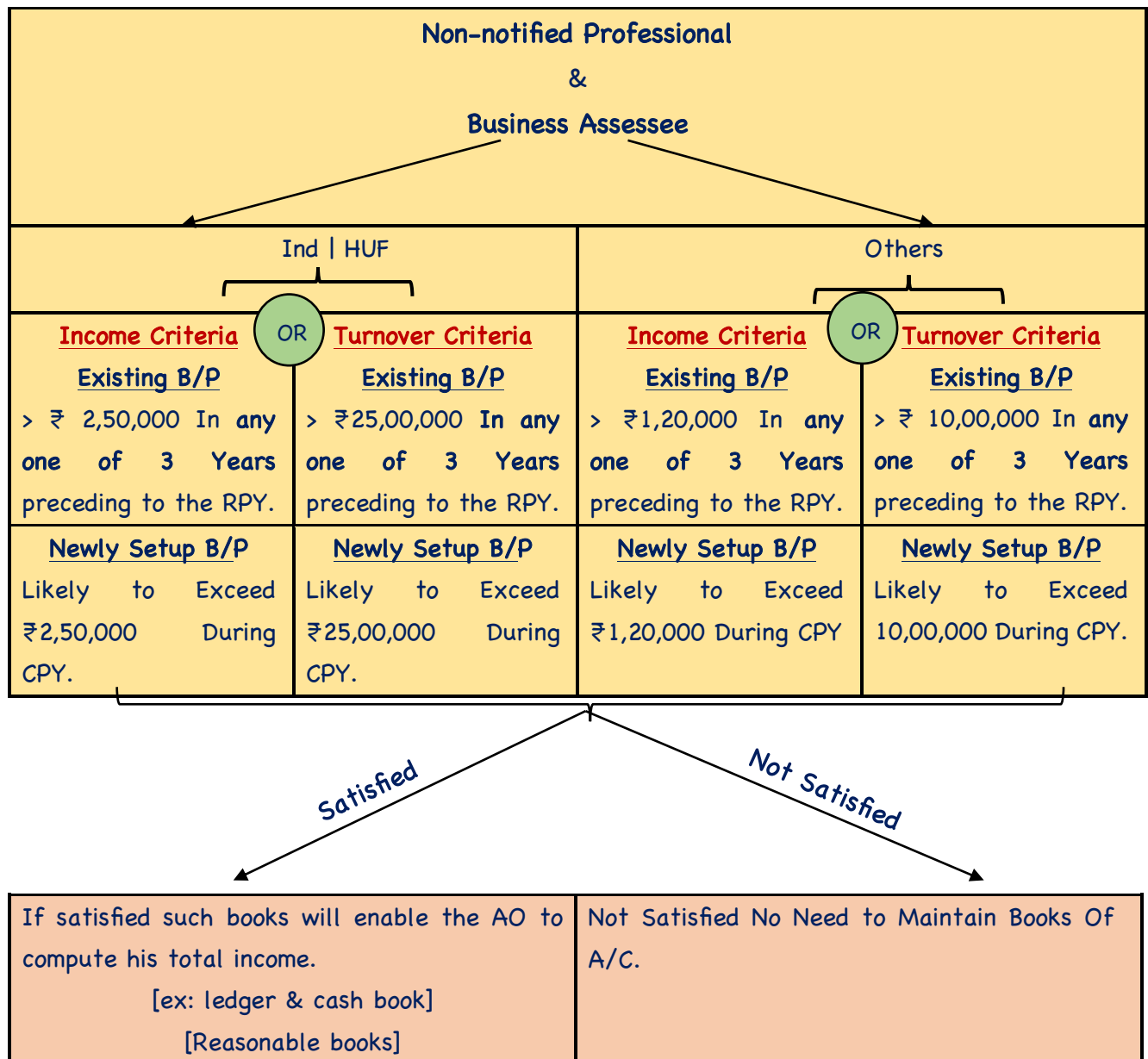
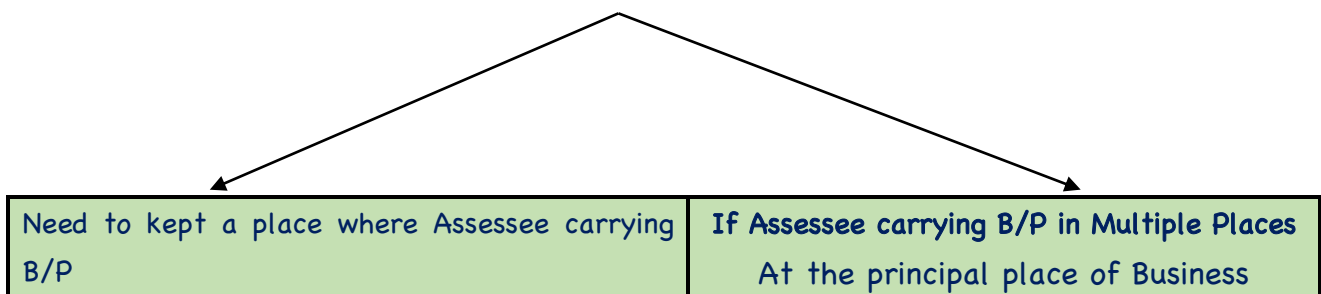
Maintain Books Of A/c Under Rule 6F(2)

- Cash Book
- Journal
- Ledger
- Carbon Copies of bills (Sum Exceeding ₹25)
- Original Bills.

Books Of A/C As Will enable The AO to Compute his Total Income. (Reasonable books i.e. Ledger Cash Book)

In case of **Medical Profession**, In addition to above

- Daily Case Register
- Inventories i.e. Medicines, Drugs etc.

Non-Notified Profession & Business Assesses:**Place at Which Books of A/C to Be Kept & Maintained****Period**

Maintained for a minimum period of 6years from end of RAY.

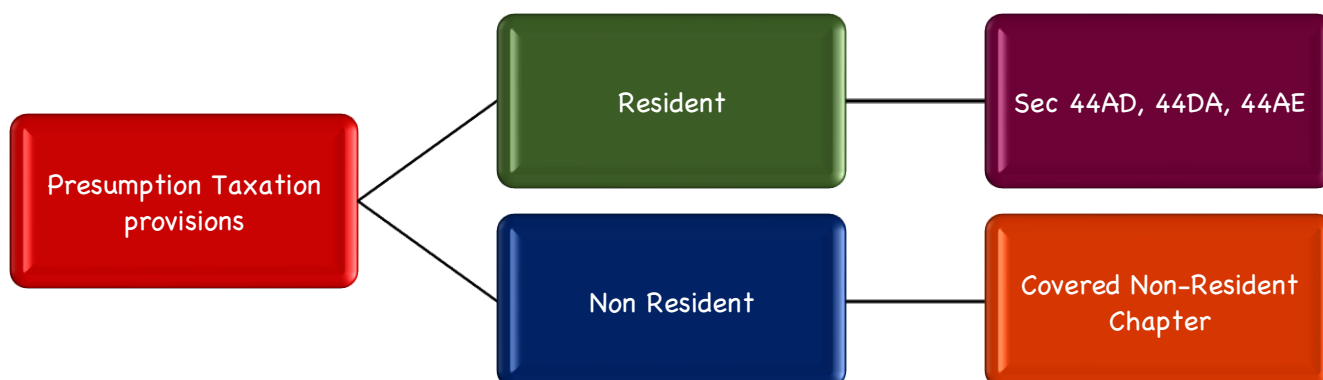
Penalty for failure to maintenance of books of A/c's [Sec 271A]

AO/JCIT (A) / CIT (A) May direct penalty of ₹25,000.

Sec 44AA – Maintenance of Books of A/C (Special Cases)

- ✓ Where the provisions of sec 44AD (4)/ (5) are applicable in his case / his income exceeds Basic Exemption.
- ✓ Showing lower income as compared to presumptive Income u/s 44AE.

2. Presumptive Taxation Provisions



Example: P&CO, Resident Firm Retail – Medicine Turn over 1.2CR					
P&L				Presumptive = T/O X 6% / 8%	
To Purchase	80L	By Sales	1.2 CR	Income	Online ↓ Cash ↓
To Other EXP	20L				
○ Dep					
○ Rent					
○ Salaries					
○ Interest					
To NP	20L				
PGBP = 20L <u>Tax</u> 20L X 30% = 6L +4% = 0.24L 6.24L				PGBP = 1.2CR X 8% = 9,60,000 <u>TAX</u> 9,60,000 X 30% = 2,88,000 + 4% = 11,520 2,99,520	

Assessee can opt presumptive Taxation U/S 44AD, because it shows lower Income than the books of A/C.

S. No	Particulars	Business Sec 44AD	Notified Profession Sec 44 ADA	Business Sec 44AE
1	Eligible Assessee	Residential IND, HUF Firm (Other than LLP) Engaged in Business & Not Claimed Sec 10AA& Chapter VIA deductions	Resident IND, Firm (other than LLP) engaged In Notified Profession	Any Assessee outing not more than 10 good carriages at any time during PY.

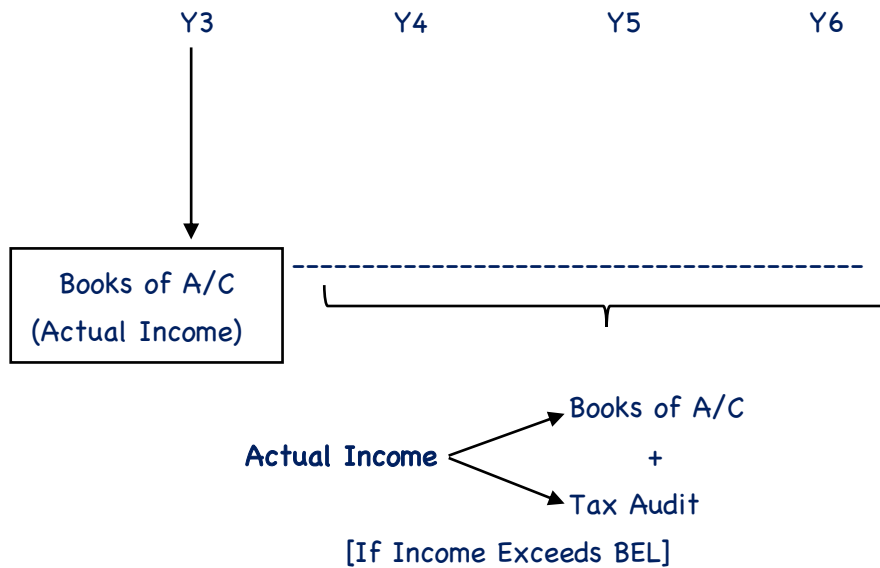
		Under heading C- Income Based Chapter VIA deduction		
2	Eligible B/P	Any Business, other than Goods transportation, whose Total T/O / gross Receipts in PY $\leq$ 2CR. If aggregate cash Receipts in The RPY $\leq$ 5% of Total T/O gross Receipts. ↓ Total T/O /gross Receipts in PY $\leq$ 3CR.	Any notified profession whose gross Receipts in PY $\leq$ ₹50L If aggregate cash Receipts in the RPY $\leq$ 5% of Total T/O Gross Receipts Gross Receipts in PY $\leq$ ₹75L	Business of Playing, hiring, leasing of good carriages
3	Presumptive Income	8% of T/O (If Receipts in cash) 6% of T/O (If Receipts in Other than Cash)	50% of gross Receipts	<u>Heavy good vehicle</u> [>12Tonnes] ₹ 1000 per month (or) part of Month per ton of gross vehicle weight. <u>Other than heavy good vehicle</u> ₹ 7500 per vehicle per part of month.
4	Expenses / deductions (Sec 30-38)	No deductible	Not deductible	Not deductible
5	Chapter VIA deductions	deductible	deductible	deductible
6	In case of Firm Sec 40b	No deductible	No deductible	deductible
7	Stoff of losses against the Presumptive Income	eligible	eligible	deductible
8	Advance Tax Payment Instalments	On/before 15/3/PY Single Instalment	On/before 15/3/PY Single Instalment	Four Instalments

Sec 44AD (4) (5)

Sec 44AD (1): 8% / 6% of T/O

Y1	Y2	Y3	Y4	Y5	Y6
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Sec 44 AD (1)
P. Income



- ✓ Assessee can declare the **higher Income** than the presumptive income at his option.
- ✓ Assessee can claim the profits & gains of B/P are **lower** than income under presumptive taxation provisions, if
 - Whose total income exceeds BEL.
 - Maintain Books of A/C u/s 44AA.
 - Tax Audit U/S 44AB.

3. Tax Audit

Sec 44AB: Tax Audit

Business		profession	
1. Total sales / Turnover /gross Receipts In business > ₹ 1 Cr in RPY.		1. If gross Receipts in profession > 50L in RPY.	
Aggregate cash Receipts in RPY ≤5% of total Receipts And Aggregate cash payment in RPY ≤ 5% of Total payments	Total sales / Turnover/G/R In business >10 Cr In RPY	2. In case of Assessee covered u/S 44 ADA	
		Declared Income far RPY <	profit/gain as per Presumptive Taxation Provision u/S 44ADA
2. In come of assessee covered U/S 44AD (4) / (5)			
3. In case of assessee covered U/S 44AE			

Declared Income for RPY <	Income as per Presumptive Taxation Provision u/s 44AE	
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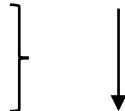
Note:

1. Specified date for Tax Audit Report: 30/09/AY (i.e. 1 month before due date for filing of ROI u/s 139(1).
2. Tax Audit Report Form: Form 3CA /CB/CD
3. **Penalty u/s 271B:**

0.5% of T/O /G/R / Sales

(or)

₹1,50,000


Turnover / Total Sales / Gross Receipts

1. These terms are not defined in the Income Tax Act.

2. **Definitions from Other Laws**

GST Act (Sec 2(112))	Aggregate value of taxable & exempt supplies, exports, and inter-State supplies. Excludes taxes (GST/cess).
Companies Act (Sec 2(91))	Gross revenue from sale of goods/services shown in the P&L Account.

3. **Commercial Understanding of Turnover**

- Gross Turnover = Before deducting returns & discounts
- Net Turnover = After deducting returns & discounts

4. **What to Include / Exclude in Turnover**

Particular	Include / Exclude	Reason / Example
Trade Discount (in invoice)	Exclude	If mentioned in invoice
Turnover Discount	Exclude	Given post-sale
Cash Discount	Include	Treated as finance cost
Commission on Sales	Include	Income
Sales Return	Exclude	Even from prior years
Sale of Fixed Assets	Exclude	Capital receipt
Sale of Investments	Exclude	Capital transaction
Scrap Sale	Include	Business receipt
Shares held as investment	Exclude	Capital asset
Shares held as stock	Include	Trading activity
GST collected (if in separate account)	Exclude	Not part of income if routed separately

5. Special Cases

a) Share Brokers / Sub-brokers

- Include only brokerage income.
- If trading on own account, include sale value.

b) Kachha Arahtias (Commission Agents)

- Include only commission, not sales of principals.

c) Pacca Arahtias

- If ownership/risk lies with agent: Include sales.
- If it stays with principal: Exclude.

6. Speculative & Derivative Transactions

Type	Turnover Calculation
Speculative	Total of all positive + negative differences (absolute terms)
Derivatives (e.g., options, futures)	Include premium received + profit/loss on squaring off
Open Positions (year-end)	Include in year when squared off

7. What is Included in Gross Receipts

Example	Included?	Reason
Export incentives	yes	Business receipt
Interest by moneylender	yes	Business income
Reimbursement (packing, freight etc.)	yes (net surplus)	If net credited to P&L
Forex gain on export	yes	Business income
Insurance claim (not for fixed assets)	yes	Revenue item
Lease rent (operating lease)	yes	Business income
Hire purchase income	yes	Business income
Advance forfeited	yes	Business income
Perquisites in kind	yes	Business benefit

8. What is NOT Included in Gross Receipts

Item	Excluded?	Reason
Agricultural income	yes	Exempt income
Rental income (House Property / Other Sources)	yes	Not business income
Dividend (unless in share trading)	yes	Capital investment return
Interest (Other Sources)	yes	Not business unless NBFC etc.
Travel agent's reimbursement (actual fare)	yes	Pass-through cost
Share of profit in firm [Sec 10(2A)]	yes	Exempt

Partner's interest/remuneration (if no separate business)	yes	Not business turnover
Write back of creditors	yes	Not turnover/receipt

9. Section 44AB Applicability – Multiple Businesses or Professions

Case	Treatment
Assessee has both business and profession	Check separate limits for each
Assessee has multiple businesses	Aggregate turnover is considered
Business/profession under presumptive scheme (e.g. 44AD, 44ADA, etc.)	Exclude such turnover if opting presumptive

Audit Report – Rule 6G

- a) **Applicability:** Persons required to get accounts audited under Income Tax Act (Sec 44AB) must furnish an audit report in prescribed form by the specified date.

Situation	Audit Report Form	Statement of particulars
Assessee already required to get accounts audited under any other law (e.g., Companies Act).	Form 3CA	Form 3CD
Assessee not required to get accounts audited under any other law.	Form 3CB	Form 3CD

- b) **Special Case:** If Assessee follows accounting year (not financial year), then:

- A separate audit under Income Tax is required.
- Use Form 3CB + Form 3CD

Mode of Submission of Audit Report

- a) **Forms Involved:**

- Form 3CA or 3CB (Audit Report)
- Form 3CD (Statement of particulars)

- b) **How to File:**

- Audit report must be uploaded online using the tax auditor's Digital Signature (DSC).
- Must be accompanied by audited financial statements.
- Assessee must login to the e-filing portal and approve the form from their worklist.

- c) **Penalty for Non-Compliance (Sec. 271B)**

If Assessee:

- Fails to get accounts audited OR
- Fails to furnish audit report under Sec. 44AB,

Penalty (whichever is lower):

- 0.5% of turnover/gross receipts
- ₹1,50,000

Refer Question No 1 to 5
from Workbook

- d) **Relief under Sec. 271B – Reasonable Cause (No Penalty)**

Penalty not levied if there is a reasonable cause for failure.

Examples:

- Resignation of tax auditor
- Death or physical incapacity of partner handling accounts
- Labour issues (strike, lockout, etc.)

- Loss of records (fire, theft, etc.)
- Seizure of books by authorities
- Natural calamities or riots
- E-filing portal technical failure

Important Note:

- If no accounts maintained, then Sec. 271B not applicable (no audit = no penalty)
- If Assessee fails to keep books of accounts u/s 44AA, then Sec. 271A will apply – penalty ₹25,000.

Form 3CA vs Form 3CB

	Form 3CA	Form 3CB
Applicability	Assessee already required to get audit under other law (e.g., Companies Act)	Assessee not required to get audit under any other law. Audit is conducted by application of sec. 44AB only.
Examples	Companies, LLPs, Co-operative Societies	Individuals, HUFs, Partnership Firms (not covered under other audit laws)
Audit under	Other Law + Sec. 44AB	Only Sec. 44AB (Tax Audit)
Form 3CD	Mandatory	Mandatory
Auditor's Opinion	The tax auditor is not required to give his opinion about a true and fair view of the accounts . The tax auditor is required to give his opinion regarding particulars furnished in Form 3CD by the assesses are true and correct, subject to observation and qualification, if any.	Auditor must express opinion on: • True & fair view of financials. • Accuracy of particulars in Form 3CD If he has any difference of opinion , these differences are required to be reported in Para 5 of the Form 3CB .
Documents Attached	• Audited Financials • Audit Report under other law • Form 3CD	• Audited Financials • Form 3CD

Revision of Tax Audit Report**a) When?**

If payment made after submission of audit report affects disallowance under:

- Section 40 (e.g., expenses not allowed due to non-TDS)
- Section 43B (e.g., tax/dues allowed only on payment)

b) What to Do?

Get a **revised tax audit report** from a **chartered accountant** (duly signed & verified).

c) Deadline

Revised audit report must be **submitted before the end of the relevant assessment year**.

d) How many times?

Audit report can be **revised any number of times** within the same assessment year.

Form 3CD – Statement of Particulars under Sec. 44AB
a) Annexed with:

Form 3CA or Form 3CB

b) Purpose:

Auditor reports detailed financial & compliance information of Assessee.

c) Structure:

Total 44 Clauses, divided into:

- **Part A:** Basic details of the Assessee.
- **Part B:** Tax law compliance (TDS, deductions, loans, related party transactions, etc.)

d) Form 3CD – Clauses

Clause No.	Particulars	Comments
Part A		
1	Name of the assessee.	These are the basic details included for identification of the Assessee.
2	Address.	
3	Permanent Account Number (PAN) or Aadhar Number.	• Name of the Assessee (as per PAN) along with Trade name, if any. • Branch Audit: Mention name & address of the branch if audit is branch-specific. • Company: Provide registered office address. • Others (Individual, HUF, Firm, etc.): Provide principal place of business. • Aadhaar Number: Optional; applicable only for individuals.
4	Whether the Assessee is liable to pay indirect taxes such as: • Excise Duty • Service Tax • Sales Tax / VAT • GST • Customs Duty, etc.	Mention relevant registration numbers: • GSTIN (for GST) • IEC (Importer-Exporter Code, if applicable) • Other tax authority registration numbers
5	Status	Mention the status of Assessee as per Income-tax Act: • Individual • Hindu Undivided Family (HUF) • Company • Firm / LLP • Association of Persons (AOP) • Body of Individuals (BOI) • Local Authority • Artificial Juridical Person ✓ The status of sole-proprietorship concern is individual.

			✓ No need to mention residential status (like resident/non-resident) in this clause
6		Previous year	Mention the financial year to which the tax audit pertains. ✓ Normally: 1st April to 31st March of the next year. ✓ Special cases (we should mention clearly). • New business • Business closure • Amalgamation • Demerger
7		Assessment Year	This relates to the relevant assessment year pertaining to the audit.
8		Indicate the relevant clause of section 44AB under which the audit has been conducted.	The applicable clause [(a) to (e)] of section 44AB under which tax audit is being conducted should be selected.
8	(a)	Whether the Assessee has opted for taxation under section 115BA / 115BAA / 115BAB / 115BAC(1A) / 115BAD / 115BAE?	✓ Whether the Assessee has opted for any of these sections under the Income Tax Act. ✓ If Yes, mention the specific section(s) opted. • Auditor should verify: ○ Earlier year's income tax returns ○ Forms filed by Assessee to opt for these sections (e.g., Form 10-IB, 10-IC, 10-IEA) • If reporting is based on assesses representation, mention this fact in: ○ Para 3 of Form 3CA OR ○ Para 5 of Form 3CB
Part B			
9	(a)	If Assessee is firm or association of persons, indicate • name of partners / members • their profit-sharing ratios which include the ratio for loss sharing as well	• If a partner/member acts in a representative capacity (e.g., A representing A's HUF), mention the actual/beneficial partner (i.e., A's HUF) • In case of AOP where profit/loss sharing ratio is not defined or unknown, the relevant fact should be reported.

	(b)	If there is any change in - Names of partners/members - Their profit-sharing ratios - Compare with the position as on last date of the previous year	All changes during the year (even if multiple times) must be reported.
10	(a)	Nature of business or profession (if more than one B/P is carried on during the PY, nature of every business or profession should mention)	- Select the applicable business/profession code from the prescribed list. - Mention any changes in the nature of business/profession during the year. - Temporary suspension of business does not need to be reported.
	(b)	If there is any change in the nature of B/P, the particulars of such change.	
11	(a)	Whether books of account are prescribed under Sec. 44AA	- For specified professions, books are prescribed under Rule 6F - For others, books should enable computation of income - Books can be in physical, electronic, or digital form
	(b)	List of books maintained & address where kept	- Mention books generated via computer system if applicable - If books kept at multiple locations, give address-wise list - If maintained in cloud, provide IP address - If maintained on server, mention server location or principal place of business
	(c)	List of books and documents examined by auditor	Auditor must specify all books and relevant documents checked during audit
12		Whether Profit & Loss Account includes profits assessable under presumptive taxation u/s 44AD, 44ADA, 44AE, 44AF, 44B, 44BB, 44BBA, 44BBB, Chapter XII-G, First Schedule, etc.	- Mention the amount of such profit - Mention the relevant section under which it is assessable. - Report only profit related to presumptive income business, section-wise
13	(a)	Method of accounting employed in the previous year.	Method of accounting followed – Cash or Mercantile (Accrual)
	(b)	Whether there had been any change in the method of accounting during PY.	Must follow mercantile system as per Companies Act.

	(c)	If yes, give details of such change, and the effect thereof on the profit or loss.	- If any change in method of accounting, it must be: ✓ Reported clearly ✓ Impact on profit/loss should be quantified - Mention the fact that impact cannot be determined. - A change in accounting policy (e.g., depreciation rate) is not the same as change in method of accounting.
	(d)	Whether any adjustment is required to be made to the profits or loss for complying with ICDS under section 145(2)	ICDS I to ICDS X are notified under the Income Tax Act and must be followed for tax computation (not for accounting books).
	(e)	If yes, give details of such adjustments	- Auditor must report the impact of ICDS on profits – ✓ Increase in profit ✓ Decrease in profit ✓ Net effect - for each ICDS separately.
	(f)	Disclosure as per ICDS	- The ICDS also contain certain disclosure requirements. - this is the clause under which such disclosures are ultimately made.
14	(a)	Method of valuation of closing stock used in the PY.	Should be at lower of actual cost or NRV (Net Realisable Value)
	(b)	Deviation from Sec. 145A and its effect on P&L.	- Cost can be determined using: ✓ Specific Identification ✓ FIFO ✓ Weighted Average Method must be used consistently each year - Adjustments must be made for taxes, duties, GST, excise, etc. as per law. - If there's a change or non-compliance with Sec. 145A (which requires inclusive method of valuation for tax/duty/cess), it must be reported – Impact on profit or loss due to this deviation must also be shown
15		If capital asset converted into stock-in-trade.	Give the following particulars of the capital asset. - Description of capital asset; - Date of acquisition; - Cost of acquisition;

			Amount at which the asset is converted into stock-in-trade.
16	Amounts not credited to the profit and loss account, being		- The items falling within the scope of section 28; - The proforma credits, drawbacks, refund of duty of customs or excise or service tax or sales tax or value added tax, drawbacks or refunds are admitted as due by the authorities concerned; - Escalation claims accepted during the previous year; - Capital receipt, if any.
17	Where any land or building or both is transferred during the PY for a consideration less SDV in section 43CA or 50C, please furnish		- Details of property, - Address of the property - Consideration received or accrued - Value adopted or assessed or assessable- - Whether tolerance limit provisions apply: ✓ Second proviso to Sec. 43CA (1) ✓ Fourth proviso to Sec. 56(2)(x)
18	Particulars of depreciation allowable as per the Income Tax Act, 1961 in respect of each asset or block of asset,		- Depreciation of asset/block of assets - Rate of depreciation - Actual cost of written down value, as the case may be - Additions/deductions during the year with dates; - Depreciation allowable - Written down value at the end of the year
19	Amounts admissible under sections: 33AB, 33ABA, 35(1) (i), 35(1)(ii), 35(1)(ia), 35(1)(iii), 35(1)(iv), 35(2AA), 35(2AB), 35ABA, 35ABB, 35AD, 35CCA, 35CCC, 35CCD, 35D, 35DD, 35DDA, 35E and any other relevant section;		- Verify eligibility and compliance with conditions for deduction - Check if required certificates (like from scientific institutions or accountants) are obtained - Auditor must report the amounts claimed, and whether they are allowable as per law
20	(a)	Bonus or commission paid to employees for services rendered (sec 36(1)).	Deduction is allowed only if the amount is paid for services and not in the form of profit-sharing or dividend.

	(b)	Details of contribution received from employees for various funds as referred to in section 36(1)	• Provident Fund (PF) • Employees' State Insurance (ESI) • Superannuation fund • Any Other Fund for the Welfare of Employees. In this clause, following are required to be reported: • Nature of fund • Sum received from employees • Due date for payment • The actual amount paid • The actual date of payment to the concerned authorities
21	(a)	Please furnish the details of amounts debited to profit and loss account	• The nature of these expenses is such that they may either be fully disallowed or only allowed subject to certain conditions. • If they form a part of the profit and loss account, they have to be disclosed here.
	(b)	Amounts inadmissible under section 40(a)(i), 40(a)(ia), 40(a)(ic), 40(a)(iia), 40(a)(iib), 40(a)(iii), 40(a)(iv), 40(a)(v).	Under this clause, the tax auditor is required to report: • The details of payment on which tax is not deducted at source • Also, the details of payment on which tax has been deducted but not paid during the previous year or before due date of ROI under section 139(1). • Details under this clause are required to be given for each individual payee
	(c)	Amounts debited to profit and loss account being, interest, salary, bonus, commission or remuneration inadmissible under section 40(b) P. Firm /40(ba) AOP/BOI.	In this clause following are required to be reported: • Particulars • Section • Amount debited to P/l account • Amount admissible • Amount inadmissible • Remarks
	(d)	Disallowance section 40A (3) /40A(3A) (Rule 6DD)	• Section 40A (3) disallows any expenditure incurred by any mode other than an account payee cheque, bank draft, or through a bank account

			using ECS if such expenditure exceeds ₹10,000 in a day, subject to certain exceptions under rule 6DD. the fact has to be reported in para 3 of Form 3CA / para 5 of Form 3CB.						
	(e)	Provision for payment of gratuity not allowable under section 40A(7);							
	(f)	Any sum paid by the Assessee as an employer not allowable under section 40A(9);							
	(g)	Particulars of any liability of a contingent nature;							
	(h)	Amount of deduction inadmissible in terms of section 14A in respect of the expenditure incurred in relation to income which does not form part of total income;							
	(i)	Amount inadmissible under the proviso to section 36(1)(iii)	- Where the assessee borrows a loan for business purposes, the interest thereon would normally be allowed as a deduction. - If loan is used to acquire an asset, interest paid before the asset is put to use is not allowed as deduction.						
22	(a)	Interest Inadmissible under MSMED Act, 2006	- If the Assessee fails to pay MSME suppliers on time (as per Section 15 of MSMED Act), they must pay interest under Section 16. - This interest is not allowed as a deduction while computing taxable income (Section 23 of MSMED Act).						
	(b)	Total amount required to be paid to a micro or small enterprise, as per section 15 of the MSMED Act, during the PY.	To promote timely payments, Finance Act 2023 added Clause (h) to Section 43B.						
	(c)	Amount referred to in (b) above, amount – ❖ paid up to time given under section 15 of the MSMED Act; ❖ not paid up to time given under section 15 of the MSMED Act and inadmissible for the previous year	MSME Payment guidelines u/s 15 <table><tr><td>Case</td><td>Due date for payment</td></tr><tr><td>No Agreement</td><td>With on 15 days</td></tr><tr><td>Agreement exists</td><td>With in max 45 days (as agreed)</td></tr></table>	Case	Due date for payment	No Agreement	With on 15 days	Agreement exists	With in max 45 days (as agreed)
Case	Due date for payment								
No Agreement	With on 15 days								
Agreement exists	With in max 45 days (as agreed)								

23	Particulars of payments made to specified persons under section 40A(2)(b).		- Name of Related Party - Relation - Date - Payment made (Amount) - Nature of transaction - PAN of Related Party
24	Deemed Profits under Section 33AB / 33ABA.		- Allows special deduction for deposits made to certain accounts (like Tea/Coffee/Rubber Development or Site Restoration Fund). - If conditions of the section are violated, the earlier allowed deduction is reversed and becomes deemed income in the year of violation.
25	Any amount of profit chargeable to tax under section 41 (deemed profit) and computation thereof.		The following information are required to be reported: - Name of person - Amount of income - Section - Description of Transaction - Computation if any
26	Section 43B – Allowability of Certain Expenditures on Payment Basis		Certain deductions are allowed only on actual payment, irrespective of accrual, if paid on or before the due date of filing the return under Section 139(1). The auditor must report: - Relevant Clause of Section 43B - Nature of liability - Amount
27	(a)	CENVAT Credit / Input Tax Credit (ITC)	Opening Balance of CENVAT/ITC (from previous year) ITC availed during the current year ITC utilised during the year Closing balance of ITC Treatment in books/accounts, especially: - Whether ITC is adjusted in P&L or shown as asset - Whether outstanding ITC is shown under loans/advances, assets, etc.

	(b)	Prior Period Income / Expenditure	• Applicable Only If Mercantile system of accounting is followed. • Any income/expenditure of prior periods that is debited/credited to the current year's P&L. • Items related to earlier years that have materialised in the current year – even if related to prior periods – not considered prior period. E.g., bonus approved in current year for past performance – not a prior period item.
29A		Section 56(2)(ix): Forfeited Advance for Capital Asset	• Advance received during negotiations to transfer a capital asset • If such advance is forfeited and the transfer does not happen, forfeited amount is taxable under "Income from Other Sources" u/s 56(2)(ix).
29B		Section 56(2)(x): Gifts / Deemed Gifts – Without Consideration or Inadequate Consideration	Whether any sum of money, property (movable/immovable) is received: • Without consideration, or • For inadequate consideration • And such receipt is taxable under "Income from Other Sources" u/s 56(2)(x).
30		Sec 69D: Borrowing or Repayment on Hundi (in non-account payee mode)	Any amount borrowed or repaid on a hundi, otherwise than through an account payee cheque, is deemed income of the person borrowing or repaying – in the year of borrowing or repayment, whichever applies. • Name of the person from whom borrowed/repaid • PAN • Address • Amount borrowed • Date of borrowing • Amount due including interest • Amount repaid • Date of repayment
30A		Sec 92CE: Primary Adjustment to Transfer Price	
30B		Sec 94B: Limitation on Interest Deduction	

30C	Whether the assessee has entered into an impermissible avoidance arrangement, as per section 96, during the PY?	
31	(a)	Loans or Deposits Accepted in Violation of Section 269SS No person can accept/take any loan or deposit ₹20,000 or more: • In cash, or • Other than by account payee cheque, account payee bank draft, or ECS through a bank account. While checking ₹20,000 threshold, consider: 1. Loan/deposit taken during the year 2. Outstanding loan/deposit from earlier years still unpaid 3. Total of (1) + (2) on the date of acceptance If total $\geq$ ₹20,000 → Section 269SS applies Where loan/deposit is taken/accepted by a primary agricultural credit society or a primary cooperative agricultural and rural development bank from its member, higher threshold limit of ₹ 2,00,000 is applicable.
	(ba)	Cash Receipts in Violation of Section 269ST A person cannot receive ₹2,00,000 or more in cash: From: 1. A person in a single day, OR 2. In respect of a single transaction, OR 3. Transactions related to one event or occasion, from a person If amount is received other than: 1. Account payee cheque 2. Account payee bank draft 3. Electronic clearing system (ECS)
	(c)	Repayment of Loan/Deposit/ Specified Advance in violation of Section 269T No person shall repay any loan, deposit or specified advance of ₹20,000 or more otherwise than by: • Account Payee Cheque, or • Account Payee Bank Draft, or • ECS (Electronic Clearing System) through a bank account

			If repayment (to a person) exceeds ₹20,000, including: • Principal + interest • Even if held jointly or singly • Includes repayments by transfer / journal entries
32	(a)	Details of brought forward loss or depreciation allowance to the extent available	Head-wise and year-wise reporting are required to be done.
	(b)	Section 79: Change in Shareholding	In closely held companies, brought forward business losses (not depreciation) cannot be carried forward if: Shareholding of at least 51% of voting power is not beneficially held by the same shareholders as on the last day of the previous year in which the loss was incurred. Exceptions – Losses still allowed to be carried forward if change is due to: • Death of a shareholder • Gift of shares to relative • Holding company is a foreign company and change is due to: Amalgamation / Demerger of that foreign company
	(c)	Speculation Loss [Section 73]	• Speculation loss can only be set off against speculation income. • Such losses can be carried forward for 4 years only. • Must be reported separately.
	(d)	Specified Business Loss [Section 73A]	• Applies to losses from specified businesses under Section 35AD. • Such losses cannot be set off against income from non-specified businesses. • They can be carried forward indefinitely, but only set off against income from the same specified business.
	(e)	Deemed Speculation Business [Explanation to Section 73]	In case of a company, if it is engaged in share trading, it may be deemed to be carrying on a speculation business, unless it falls under certain exceptions: Companies whose principal business is: ○ Banking ○ Granting loans and advances ○ Trading in shares as principal business

			If deemed a speculation business, losses will be treated as speculation losses, with limited set-off/carry forward rules.
33		Reporting of Deductions (Chapter VI-A & Chapter III)	To report section-wise deductions claimed by the assessee under: - Chapter VI-A → Deductions from Gross Total Income (like 80C, 80G, etc.) - Chapter III (Section 10A / 10AA) → Income not included in total income (e.g. SEZ units) Certain deductions are NOT available if assessee opts for new tax regimes
34	(a)	TDS/TCS and Deposit	To verify compliance with TDS/TCS provisions of the Income-tax Act. Auditor should ensure consistency with Clause 21(b) (disallowance u/s 40(a)). If there's a difference of opinion, it should be noted in Clause 3/5 of Form 3CA/3CB.
	(b)	Filing of TDS/TCS Returns	To check if the assessee has filed statements of TDS/TCS in time and accurately.
	(c)	Interest Liability under Section 201(1A) / 206C(7)	To report interest liability for: Failure to deduct/collect TDS/TCS, or Delay in deposit of TDS/TCS
35	(a)	Quantitative Details for Trading Concerns	To report item-wise quantitative details of principal goods traded during the previous year. - Item name - Unit name - Opening Stock; - purchases during the previous year; - sales during the previous year; - closing stock; - shortage/excess, if any
	(b)	Quantitative Details for Manufacturing Concerns	This clause requires reporting of item-wise quantitative details for principal items of: Raw Materials Finished Products and By-products

36A	Deemed Dividend [Section 2(22)(e)]	Deemed dividend provisions are triggered when a private limited company gives a loan or advance to: • A shareholder holding more than 10% voting power, or • A concern in which such shareholder has a substantial interest.
36B	Reporting on Buyback of Shares (Section 2(22)(f))	consideration received by a shareholder from a company buying back its own shares (not being listed on a recognized stock exchange) as dividend, to the extent of accumulated profits.
37	Reporting Requirement on Cost Audit	the tax auditor is required to report whether any cost audit was carried out during the relevant previous year. If cost audit was conducted, the tax auditor must: • State that cost audit was carried out, and • Report any disqualifications or disagreements noted by the cost auditor relating to: ○ Matters ○ Items ○ Values ○ Quantities
38	Reporting Requirement on Central Excise Audit	the tax auditor must report whether any audit was conducted under the Central Excise Act, 1944 during the relevant previous year. If such an audit was conducted, the tax auditor must: • Confirm that the audit took place, and • Report any disqualifications or disagreements mentioned in the excise audit report, relating to: ○ Matters ○ Items ○ Values ○ Quantities
40	Reporting Requirements for Turnover and Key Ratios	tax audit report requires reporting of financial ratios related to the assessee's business activities (not applicable to professionals or service providers). Details Required for the Previous Year and Preceding Previous Year:

		1. Total Turnover 2. Gross Profit / Turnover 3. Net Profit / Turnover 4. Stock-in-trade / Turnover ○ Include only finished goods; exclude raw materials and WIP. 5. Material Consumed / Finished Goods Produced ○ Material consumed includes stores, spare parts, loose tools. • If figures of the previous year have been reinstated or restated, it should be disclosed in Clause 3 or 5 of Form 3CA/3CB. • If tax audit was not applicable in the preceding year, leave the column blank—do not fill with zero or NA.
41	Reporting of Demand or Refund under Other Tax Laws	• Tax audit report requires reporting of any demand raised or refund issued during the previous year under tax laws other than: ○ Income-tax Act, 1961 ○ Wealth-tax Act, 1957 • Information to be Reported: For each such demand or refund: 1. Financial Year to which the demand/refund relates 2. Name of the Tax Law (e.g., GST, Customs, etc.) 3. Type – Demand raised or Refund received 4. Date of demand raised or refund issued 5. Amount involved 6. Remarks, if any (e.g., adjustments, appeals pending, etc.) • Cross-verify the information from: ○ Relevant tax department portals ○ CARO reports (for company assesses) ○ Notes to accounts in financial statements • If any refund is adjusted against a demand, such adjustment must also be reported.

42	Filing of Forms 61, 61A, and 61B	Tax audit report requires the auditor to report whether the assessee is required to furnish any of the following forms: Form 61 - Applicable when: - Assessee has received Form 60 declarations (from individuals without PAN entering into specified transactions under Rule 114B). - The assessee falls under the categories listed in Rule 114C and is subject to tax audit under Section 44AB. - Filed under: Rule 114D Form 61A – Statement of Financial Transactions (SFT) Applicable to: Reporting entities under Section 285BA, such as: - Banks, mutual funds, registrars, etc. - Businesses involved in specified high-value transactions (e.g., cash deposits, property purchases). Filed under: Rule 114E Due Date: 31st May following the financial year. Form 61B – FATCA/CRS Reporting Applicable to: Financial institutions (like banks, insurance companies) for reporting under: FATCA (Foreign Account Tax Compliance Act) CRS (Common Reporting Standard) Filed under: Section 285BA and Rule 114G If yes, the following details must be reported: - Income-tax Department Reporting Entity Identification Number (ITDREIN). - Type of Form (61 / 61A / 61B). - Due date for filing. - Actual date of filing (if filed).
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		Confirmation whether the form contains complete and correct information.
43	Reporting under Section 286(2) (Country-by-Country Reporting)	Section 286(2) relates to reporting obligations of an international group. - Reporting is required through Forms 3CEAC to 3CEAE.
44	Break-up of Total Expenditure Based on GST Registration Status	- Reporting of the total expenditure incurred during the year, categorized based on the GST registration status of the entities to whom payments were made. Scope: - Applicable only to expenditures within the scope of GST (i.e., those considered as 'supply' under Section 7 of the CGST Act, 2017). - Applies to assesseees under tax audit. - Includes both capital and revenue expenditure. Details to be Reported: - Total amount of expenditure incurred during the year - Break-up of expenditure on entities registered under GST: - On exempt goods/services - On entities under the Composition Scheme - On other registered entities Total payment to registered entities - Expenditure relating to entities not registered under GST.

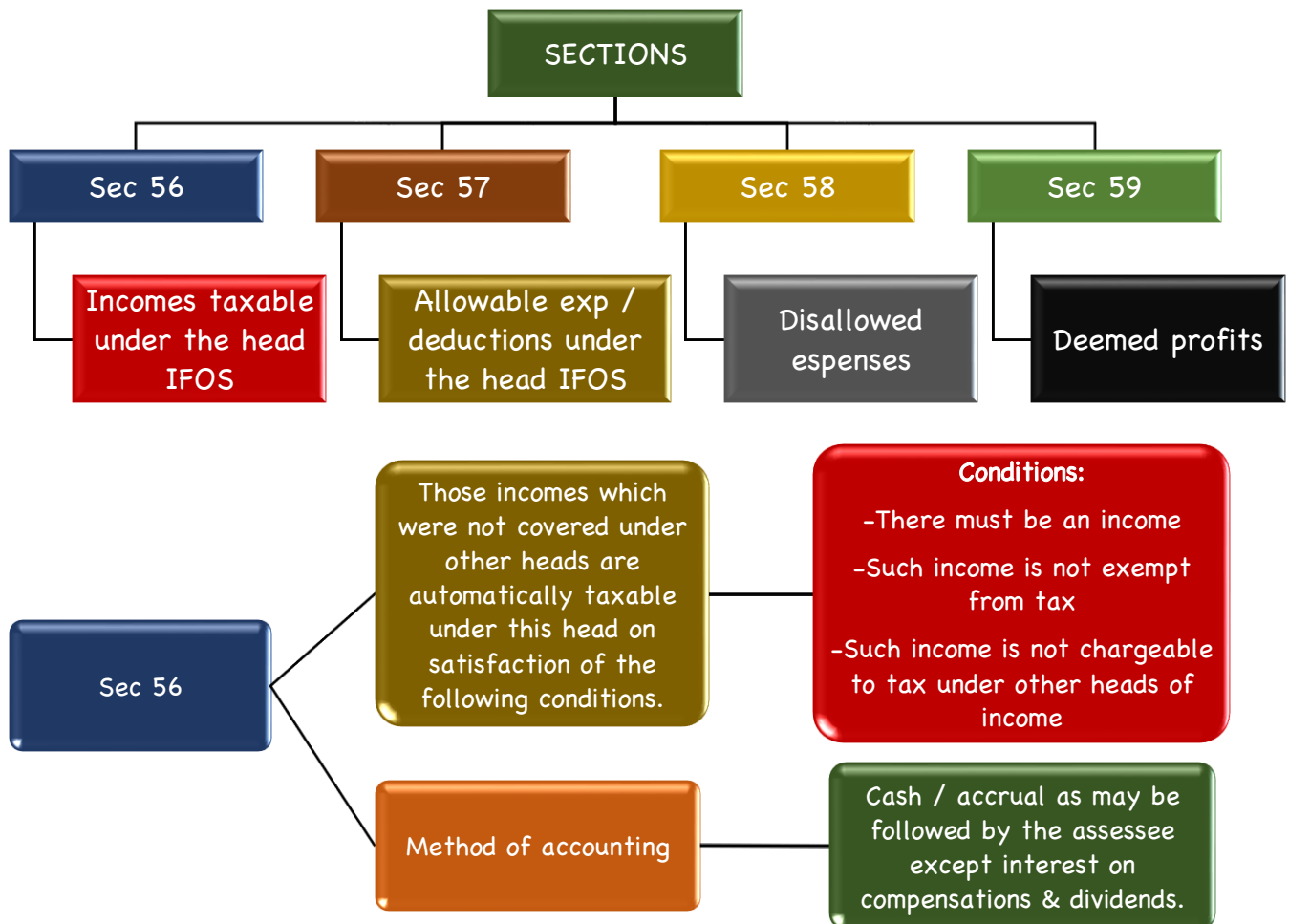
NOTE:

- If any specific clause in Form No. 3CD is not applicable, the tax auditor should state that the clause is not applicable.
- Allowances or disallowances** should be computed based on the **law applicable for the relevant assessment year**.
- If a **single item** of income or expense is **relevant to multiple clauses**, the auditor should:
 - Provide details under **one clause**, and
 - Give **appropriate cross-references** in the other clauses.
- If there is a **difference in opinion** between the **auditor and the assessee**, the auditor should:
 - State **both views** clearly,
 - Include **relevant facts**,

- Allow the tax authorities to make an informed decision.
5. The assessee provides **incomplete, inaccurate, or no information**, the auditor must **disclose** this in:
- **Para 3 of Form 3CA**, or
 - **Para 5 of Form 3CB**, depending on which form is applicable.
6. If the auditor relies on a court ruling or tribunal decision, this may be included as part of the auditor's **observations in Para 3/5 of Form 3CA/3CB**

Refer Question No 6 to 11
from Workbook

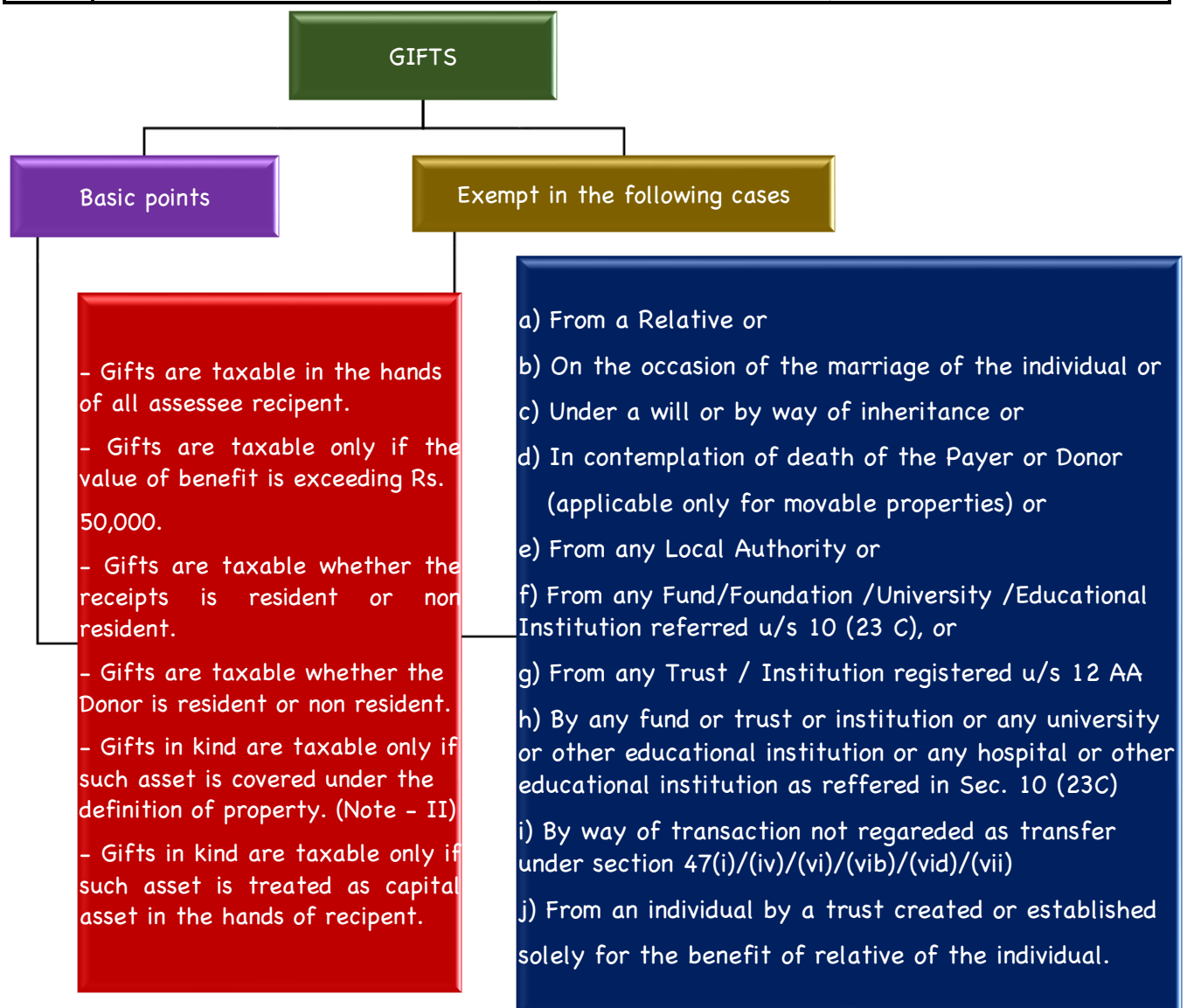
INCOME FROM OTHER SOURCES



1. Sec 56(2): Incomes chargeable under the head IFOS

S. No	Particulars
1	Dividends (Domestic / Foreign / Deemed Dividends)
2	Winnings (Casual Incomes)
3	Interest on compensation / enhanced compensation
4	Gifts (without consideration or Inadequate consideration)
5	Forfeiture of advance money on or after 1/4/2014 for transfer of capital asset.
7	Interest on Securities
8	Employee's contribution to welfare schemes.
9	Income from letting of plant & Machinery / Furniture
10	Composite letting of building
11	Remuneration received from any person other than employer.
12	Director sitting fees
13	Pension received by family members (family pension).
14	Salary of M.P & M.L.A's
15	Any sum received under keyman insurance policy by legal heirs of employee

16	LIC agent's commission
17	Agricultural income received from outside India foreign Agricultural Income.
18	Income from sub letting
19	Interest on bank deposits loans
20	Royalty income (for non- Professional writers Mines etc.)
21	Ground Rent / Rent if plot of land (open sites).
22	Honorarium
23	Interest on contribution to URPF. (Employee's contribution)
24	Sum received, including the amount allocated by way of bonus, under a LIP other than under a ULIP and keyman insurance policy, which is not exempt u/s 10(10D).

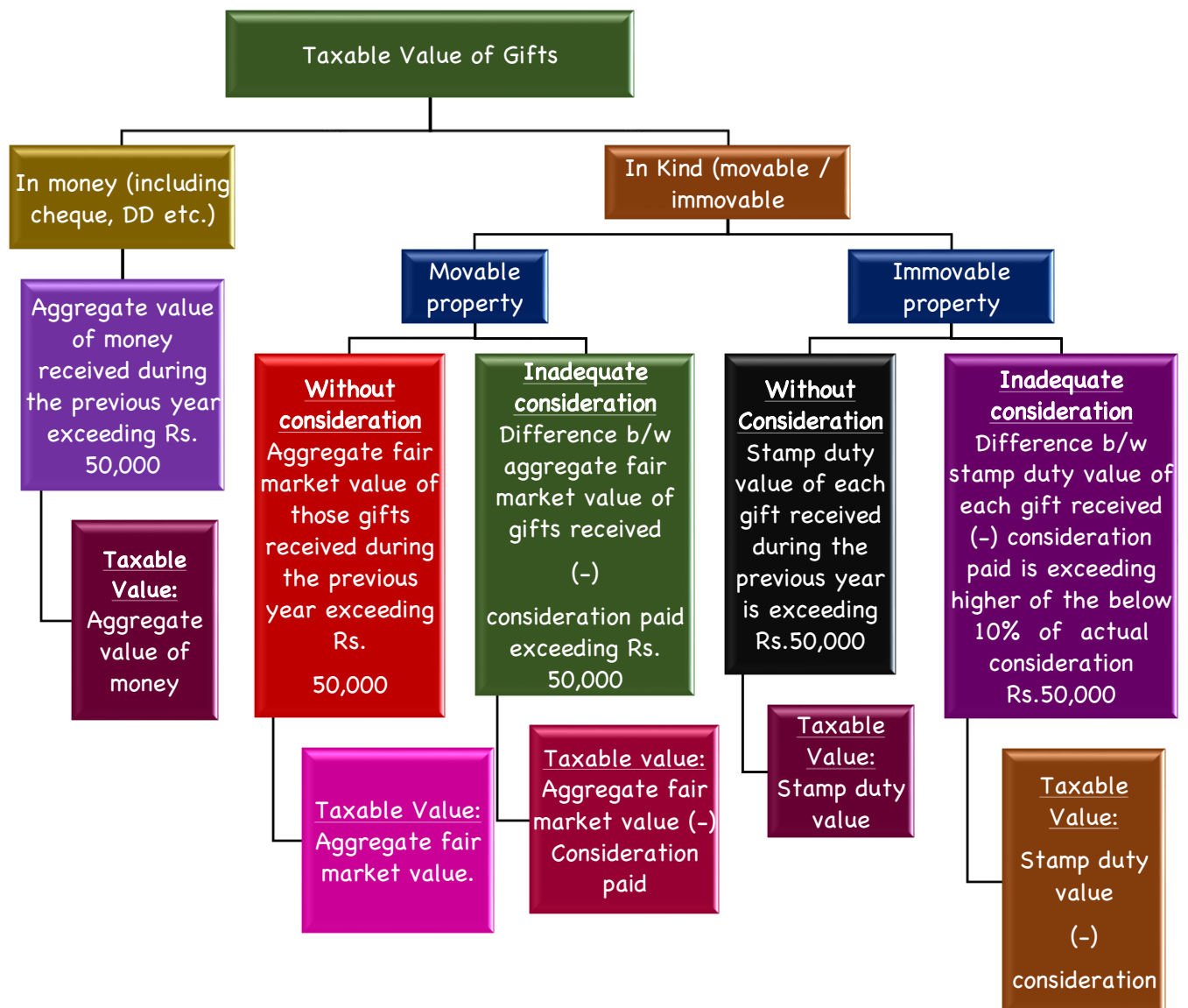
**Notes:****a. Definitions:**

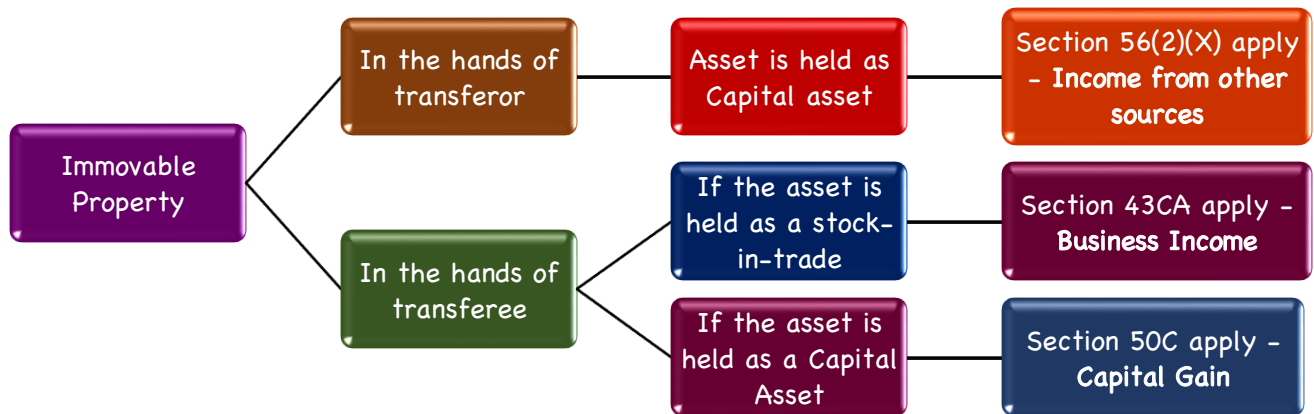
1. Relative includes:	2. Property definition:
For Individual: i. Spouse of the individual ii. Brother or sister of the individual,	Immovable: Land building both. Movable: Shares & Securities, Jewellery, archaeological collections, Drawings, paintings

- iii. Brother or sister of the Spouse of the individual
- iv. Brother or Sister of either of the partners of the individual
- v. Any lineal ascendant of the individual
- vi. Any lineal ascendant or descendent of the Spouse of the individual spouse of the Person referred to in clauses (ii) to (iv) above

HUF: Any member of HUF

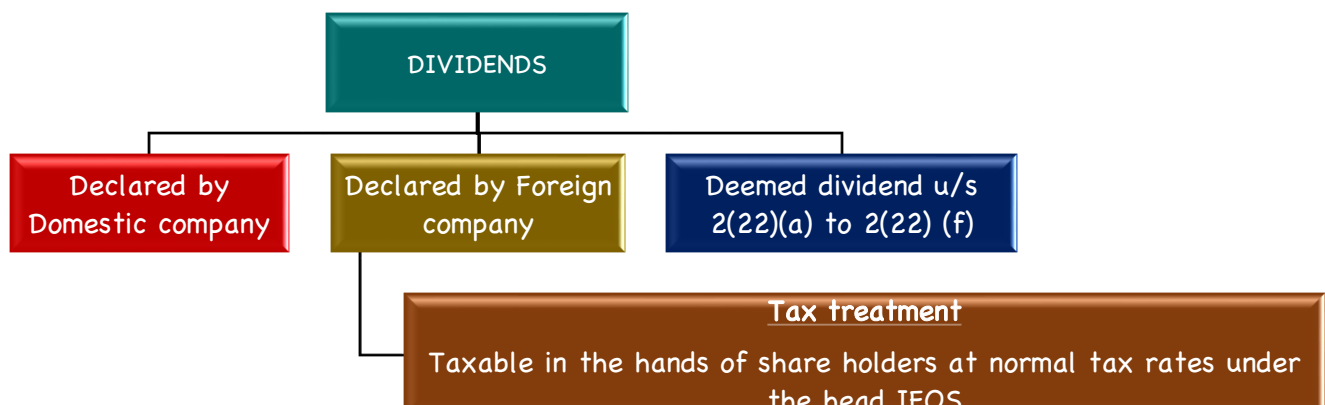
Sculptures, any works of Art, Bullion.





Gift received from following is exempt

1. If an individual spends money on their own or a family member's COVID-19 treatment.
 - a. Documentation Required:
 - A COVID-19 positive report or medical confirmation if the person was clinically diagnosed.
 - All medical documents related to the diagnosis or treatment for COVID-19 within 6 months of being diagnosed.
 - b. Reporting:
 - The individual must report the details of any amount received during the financial year to the Income Tax Department in Form No. 1 within 9 months from the end of such F.Y.
2. If a family member receives financial support due to the death of a person caused by COVID-19
 - a. Eligibility for Receipt:
 - The payment can come from the employer of the deceased (no limit), or from others, as long as the total amount does not exceed ₹10 lakh.
 - The payment must be received within 12 months from the date of death.
 - b. Conditions for Receipt:
 - The death must have occurred within 6 months of the person testing positive or being clinically determined to have COVID-19.
 - The family member must keep the following documents:
 - ✓ A COVID-19 positive report or medical confirmation of the illness.
 - ✓ A death certificate stating the cause of death is related to COVID-19.
 - c. Reporting:
 - The family member must report the amount received during the financial year in Form A to the tax authorities within 9 months from the end of such F.Y.



Deemed Dividends

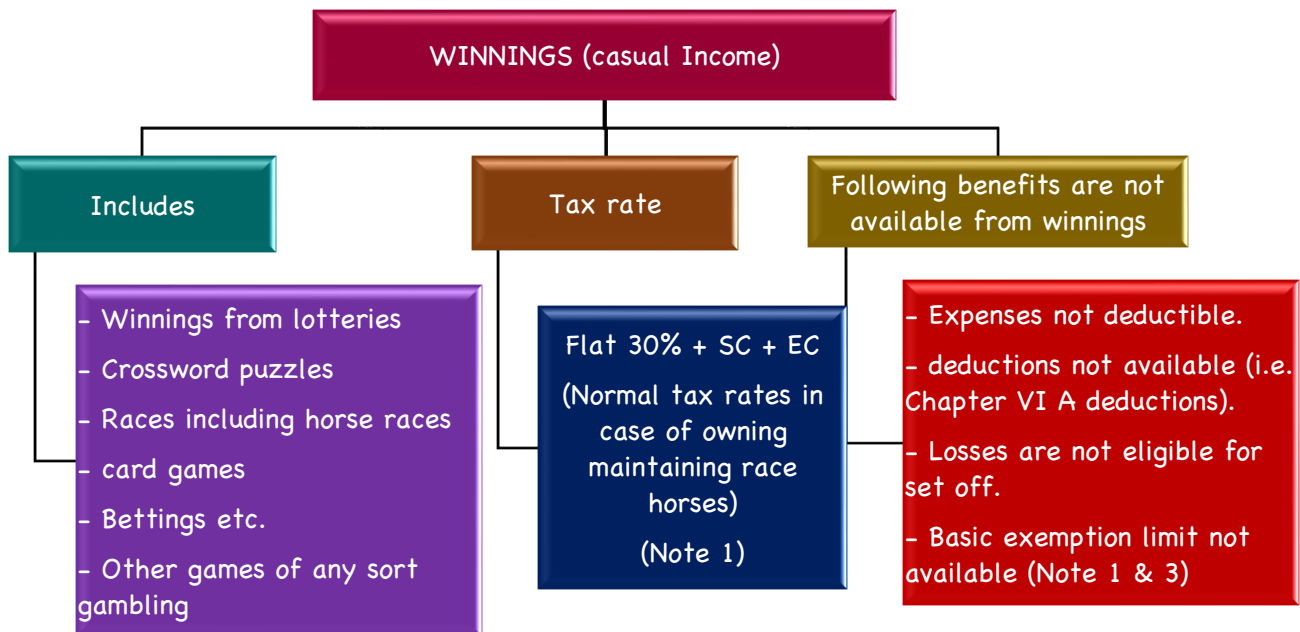
Section	Case
2(22)(a)	Distribution of accumulated profits, whether capitalized or not, by a company to its shareholders is a dividend if it entails the release of all or any part of its assets.
2(22)(b)	Distribution to its shareholders by a company debentures/debenture stock or deposit certificate in any form, whether with or without interest, and any distribution of bonus shares to preference shareholders to the extent to which the company possesses accumulated profits, whether capitalized or not, will be deemed as dividend
2(22)(c)	Distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attribution to the accumulated profits of the company immediately before its liquidation, whether capitalized or not. Note: Any distribution made out of the profits of the company after the date of the liquidation cannot amount to the dividend.
2(22)(d)	Distribution to its shareholders by a company on the reduction of its capital to the extent to which the company possessed accumulated profits, whether capitalized or not.
2(22)(e)	Any payment by a company in which the public are not substantially interest of any sum by way of advance or loan to the following persons will be deemed to be a dividend to the extent of the accumulated profits. a) To equity share holder (holding $\geq 10\%$ voting power) (i.e., beneficiary owner) b) To any concern (in which equity share holder holding $\geq 10\%$ voting power has substantial interest in concern)
2(22)(f)	on or after 1.10.2024, any money paid by a domestic company for buyback of shares (whether listed or unlisted) will be treated as dividend income in the hands of shareholders and taxed accordingly, with no expense deductions allowed.

section 2(22) has been amended (effective from the assessment year 2025-26) to provide that any advance of loan between two group entities which satisfies the following conditions is **not treated as "deemed dividend"** -

- One of the group entities is a "finance company" or a "finance unit" in IFSC set up as a global or regional corporate treasury center for undertaking treasury activities or treasury services
- The parent entity or principal entity of such a group is listed on a stock exchange in a foreign country (other than a country/territory outside India as may be specified by the Board).

Below here is the example to understand the provisions of section 46A and section 2(22)(f):

No. of shares of A Ltd. Bought in 2020 By Mr. B @ ₹ 40 per share	100 shares
Total cost of acquisition	₹ 4,000 (100 X ₹ 40)
No. of shares bought back in November 2024 by A Ltd. @ ₹ 60 per share	20 shares
Income taxable as deemed dividend u/s 2(22) (f) [₹ 60 per share X 20 share]	₹ 1,200
Long-term capital loss on such buyback as per section 46A (Value of consideration - COA) (Nil - ₹ 40 X 20) [Such LTCL can be set-off against other LTCG or it can be carried forward to the next year for set-off against other LTCG]	₹ 800
No. of shares sold in December 2025 by Mr. B @ ₹ 70 per share	50 shares
Long-term capital Gain (₹ 70 X 50 - ₹ 40 X 50)	₹ 1,500
Chargeable long-term capital gain in P.Y. 2025-26 after set-off of long-term capital loss [₹ 1,500 - ₹ 800] would be	₹ 700

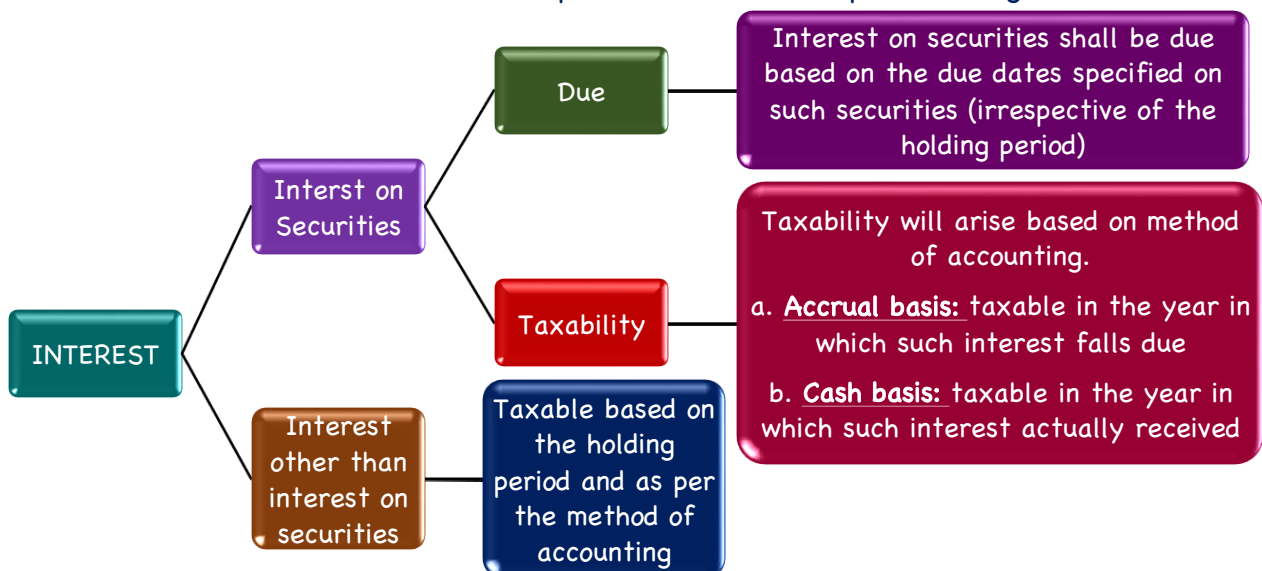
**Notes:**

- 1) Owning and maintaining race horses is not treated as winnings. Hence the applicable tax rate is normal tax rates and Eligible for Deduction of all expenses and deductions.
- 2)
$$\text{Gross winnings} = \text{Net winning} \times \frac{100}{100 - \text{tax rate (TDS)}}$$

(Gross winnings shall be considered for calculating total income)
- 3) Where a certain % has to be foregone by the winner to the Government/agency conducting the lotteries, it is deductible.

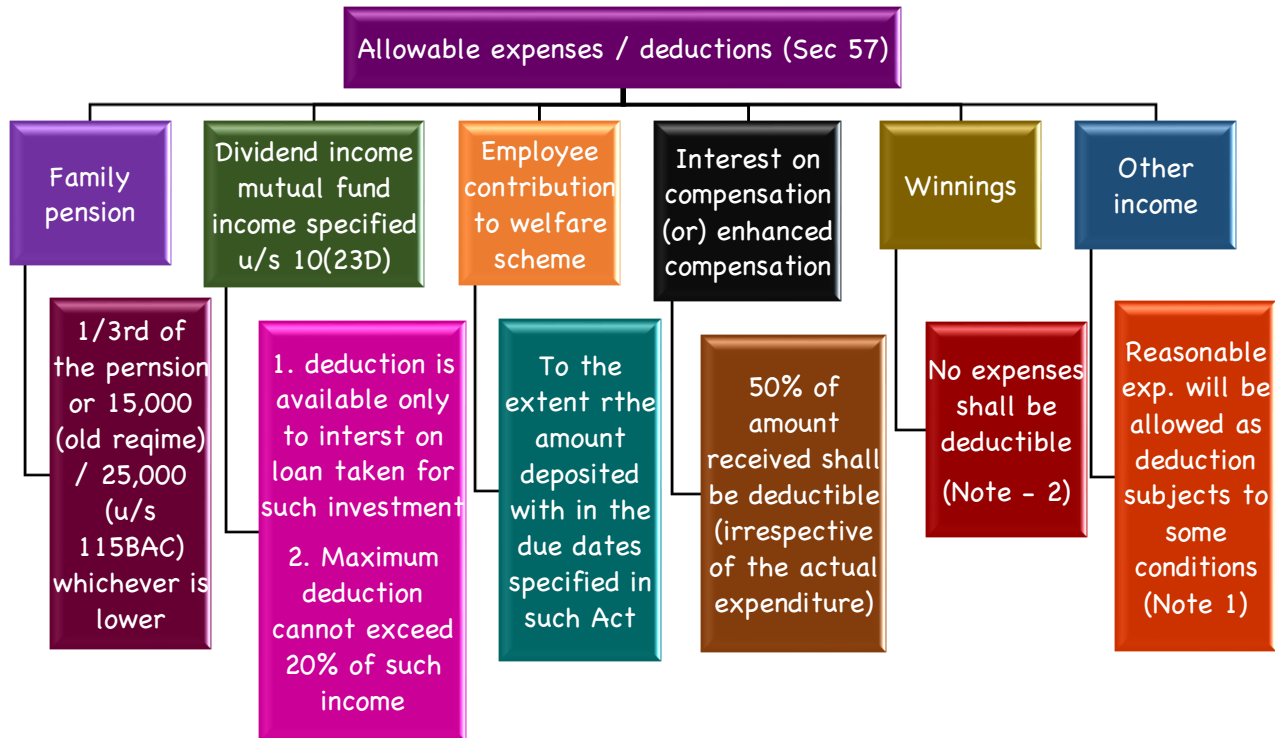
Sec 115BBJ: Applicable rate of Tax in Respect of Winnings from Online Games

- 1) This section provides that net winnings from any online game would be taxed at a flat rate of 30% plus surcharge, if applicable, plus health and education cess@4%.
- 2) **Meaning of online games:** A game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device.
- 3) No expenditure or allowance from such income.
- 4) Deduction under Chapter VI-A is not allowable from such income.
- 5) Adjustment of unexhausted basic exemption limit is also not permitted against such income.



Note: Interest are exempt in some cases referred to in Sec. 10(15)

- Interest on Post Office saving Bank is exempt to the extent of the interest of ₹ 3,500 (in case of single account) and ₹ 7,000 (in case of joint account).



Notes:

1. Conditions:

- It should not be a capital expenditure.
 - It should be incurred during previous year.
 - It should not be a personal expenditure.
 - It should have been expended wholly and exclusively for earning the income.
- Where a certain % has to be foregone by the winner to the Government/agency conducting the lotteries, it is deductible. (Sec.58)

2. Sec.58 – Inadmissible Expenditure

- Income tax.
- Any personal expense.
- Interest or salary payable outside India if tax has not been paid or deducted at source.
- No deduction shall be allowed in respect of winnings from lotteries, crossword puzzles, betting, card games, TV shows, gambling & races including horse races etc. (Where a certain % has to be foregone by the winner to the Government/agency conducting the lotteries, it is deductible).
- Sec. 58(2) specifically provides that the disallowance of payments to relatives and associate concerns and disallowance of payment or aggregate of payments exceeding Rs.10,000 made to a person during a day otherwise than by account payee cheque or draft or ECS through bank account covered by section 40A (3) will be applicable to the computation of income under the head 'Income from other sources' as well.
- 30% of expenditure shall not be allowed, in respect of a sum which is payable to a resident and on which tax is deductible at source, if
 - Such tax has not been deducted or
 - Such tax after deduction has not been paid on or before the due date of return specified in section 139(1).

Note: Refer the provisions relating to Sec.40(a)(ia) and Sec.40(a)(i).

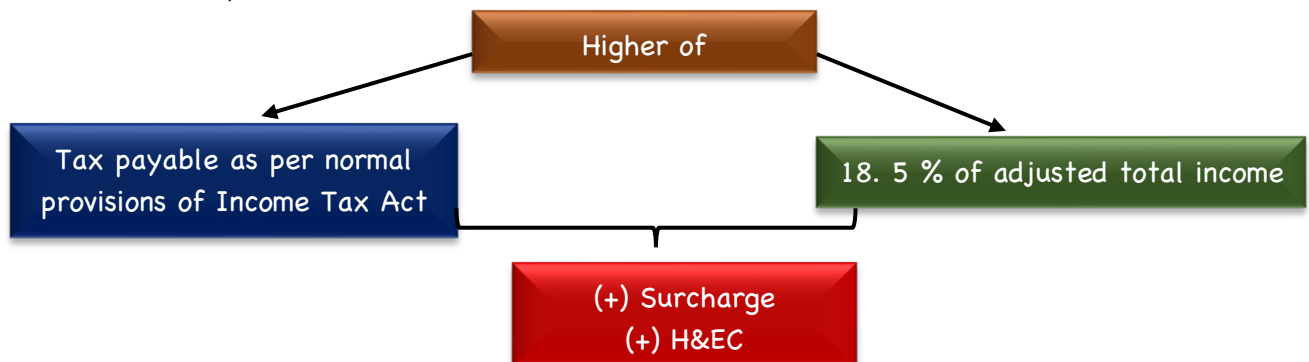
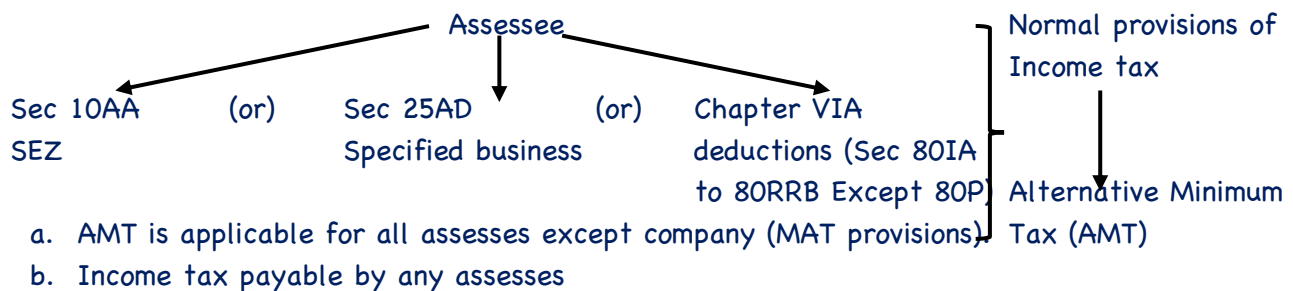
ASSESSMENT OF VARIOUS ENTITIES

In this chapter, we will discuss the various provisions relating to specific person like:

1. AMT (Alternative Minimum Tax)
2. Company
3. Partnership Firm/LLP
4. Business Trust
5. Securitization Trust
6. Investment Fund
7. Local Authority
8. Political parties
9. Electoral trust
10. AOP/BOI
11. Mutual Concerns

1. Alternative Minimum Tax [Sec 115JC]

Alternative Minimum Tax (AMT)

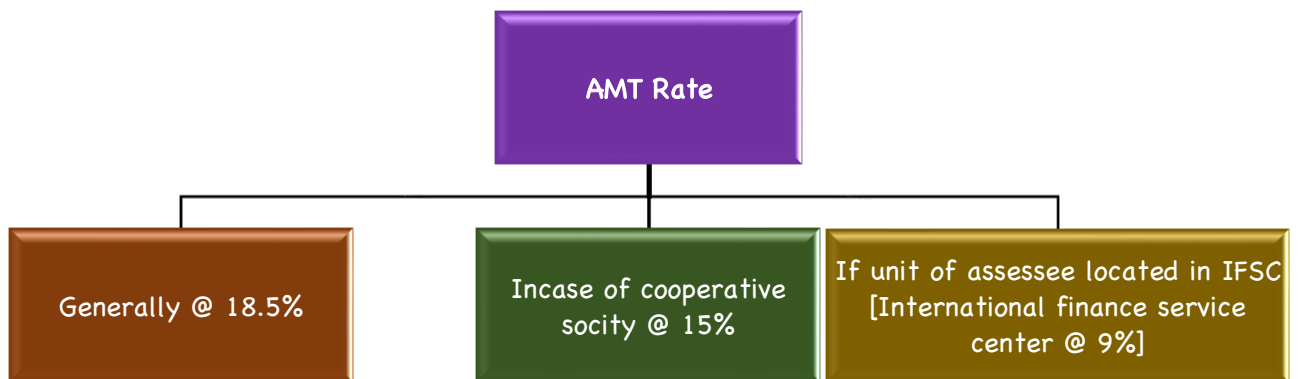


c. Computation of adjusted total income

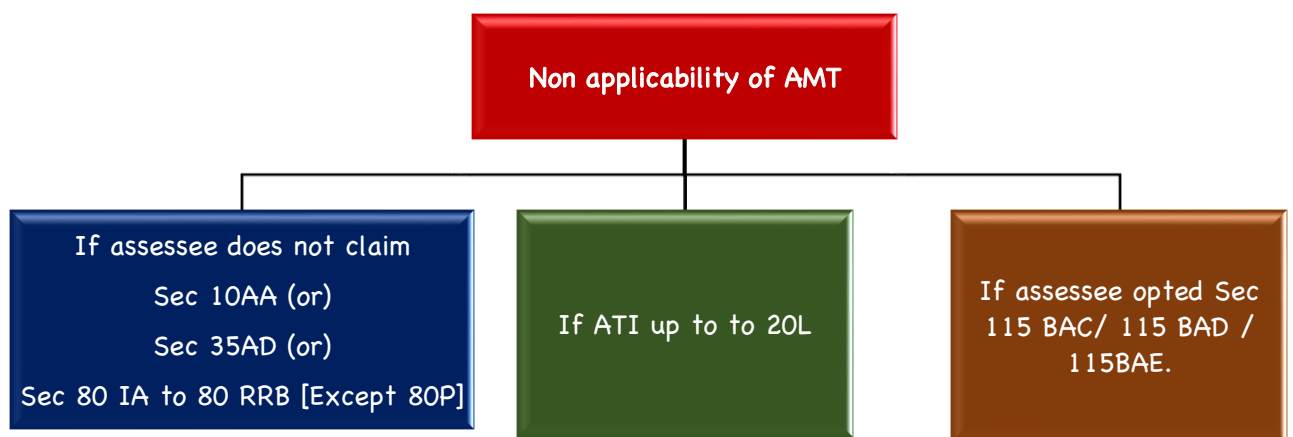
Particulars	Amount
Total income as per normal provisions of income tax	XXX
Add:	
Deduction U/S 10AA[SEZ]	XXX
Deduction U/S 35AD [Specified business]	XXX
Deduction U/S 80IA to 80 RRB [Except 80P]	XXX
Less:	
Depreciation U/S 32 on Sec 35AD Asset	(XXX)
Adjusted total Income	XXX

- d. If assessee [Other than company] adjusted total income up to 20L then AMT concept is not applicable.

e.



f.

g. **Sec 115 JD: AMT credit**

- If (₹ 15L) AMT > (₹ 12L) Normal Income tax, then excess shall be treated as AMT Credit.
- AMT (₹ 3L) Credit can be C/F & set off for 15 AY's.
- It can be setoff in the year in which normal income tax > AMT, up to extent of difference b/w Normal Tax & AMT in that year.

N.TAX	>	AMT	Normal Income Tax	16L
16L		15L	(-) AMT credit	(1L)
			Tax payable	15L

Refer Question No 1,2
from Workbook

2. Assessment of Company

1. Minimum alternative tax (sec 115JB)

a) MAT is applicable only to Companies.

b) Income Tax payable by company

Higher of:

- i. Tax Payable as per normal provisions of Income Tax Act; or
- ii. 15% of Book Profit i.e. MAT
- iii. [+ Surcharge (if any) & Cess]

c) Computation of Book Profit [Explanation 1 to Section 115JB]

Profit / Loss as per P/L A/c	xxx
Add: Following items [if debited to P/L A/c]	xxx
1. Income Tax Paid / Provision [Includes Interest on Income Tax, DDT, Surcharge & Cess] 2. Deferred Tax 3. Dividend Paid / Proposed 4. Any amount transferred to any Reserve A/c 5. Loss / Provision for Loss of Subsidiary 6. Provision for Unascertained Liability / Contingent Liability 7. Provision for Diminution in Value of Asset 8. Notional Loss regarding Business Trust Unit 9. Expenses for earning income u/s 10, 11 & 12 10. Expenses relating to Share of Income from AOP (AOP paid Tax @MMR) 11. Expenses relating to Income from Royalty u/s 115BBF 12. Expenses relating to Income of Foreign Company from: i. Capital Gain on Securities ii. Interest, Dividend, Royalty, Fees from Technical Services [If Tax Rate on above income is less than MAT Rate i.e., 15%] 13. Total Depreciation debited to P/L	
Other Addition	
14. Balance in Revaluation Reserve on retirement or disposal of asset [If not credited to P/L A/c]	
Less: Following items [if credited to P/L A/c]	(xxx)
1. Deferred Tax 2. Amount withdrawn from any reserve [If reserve made through P/L in earlier years] 3. Profit of Sick Industrial Company 4. Notional Gain regarding Business Trust Unit 5. Income exempt u/s 10, 11 & 12 6. Share of Income from AOP 7. Royalty Income from Patents u/s 115BBF 8. Income of Foreign Company from: i. Capital Gain on Securities ii. Interest, Dividend, Royalty, Fees from Technical Services [If Tax Rate on above income is less than MAT Rate i.e., 15%] 9. Transfer of Revaluation Reserve [To the extent of depreciation on revaluation of assets]	

10. Depreciation as per Books [Except on Revaluation of Assets]	
11. Lower of: B/F Loss as per Books or Unabsorbed Depreciation as per Books [However, B/F Loss & Unabsorbed Depreciation both will be deducted if: i. Company against whom application for Corporate Insolvency Resolution Process has been admitted under IBC, 2016; or ii. Company & it's subsidiary of which BOD has been suspended by Tribunal u/s 241 & 242 of Companies Act, 2013.]	
Book Profit	xxx
In case the company required to comply with Ind -AS	
Add:	
1. Items credited to other comprehensive income (OCI) and not to be reclassified to statement pf profit or loss (Note)	xxx
2. Gain form change in fair value of equity instruments through OCI and revaluation surplus from assets on retirement, disposal, realization or transfer	xxx
3. Amount debited to statement pf profit and loss on distribution of non-cash asset to shareholder in a demerger a surplus appendix A of Ind-AS10	xxx
Less:	
1. Items debited to OCI and not to be]25 reclassified to statement of profit or loss Note)	xxx
2. Loss from change in fair value of equity instruments through OCI and revaluation surplus from assets on retirement, disposal, realization or transfer	xxx
3. Amount credited to statement of profit and loss on distribution of non-cash assets to shareholder in a demerger as per appendix to shareholders in a demerger as per appendix A of Ind-AS-10	xxx
Book Profit as per Ind-AS	xxx

Note:

Following shall not be increased or decreased from the book profit

- (i) Revaluation surplus from asset in accordance with the Ind-AS 16&38
- (ii) Gain or loss from investment in equity instruments designated at fair value through OCI in accordance with the Ind-AS 109

Means MAT not applicable on notional profit or loss of above 2 items it will be applicable in the year in which such asset or investment is retired, disposed, realized or transferred.

Important points:

- i. For above adjustments, Net Profit should be computed as per Schedule III of Companies Act, 2013.
- ii. For Electricity / Banking / Insurance Companies, profit shall be computed as per respective Act.
- iii. Provision for Gratuity / Leave Salary / Warranty based on Actuarial Valuation is ascertained liability, so not to be added back.
- iv. If unit of Assessee is located in International Finance Service Centre [IFSC], then MAT is applicable @ 9%.
- v. If Assessee is liable for MAT, then also Advance Tax provisions, Interest u/s234A / B / C are applicable.

d) **Non-Applicability of MAT**

- i. Life Insurance Companies.
- ii. Companies who have exercised the option u/s 115BAA or 115BAB.

e) **Sec 115JAA: MAT credit**

- i. If MAT > Normal Income Tax, then excess shall be treated as MAT Credit.
- ii. MAT Credit can be set-off & c/f for 15 years.
- iii. It can be set-off in the year in which Normal Income Tax > MAT up to the extent of difference between Normal Income Tax & MAT in that year.
- iv. In case of conversion of company into LLP, MAT Credit of company would not be allowed to LLP.
- v. The amount of MAT credit will be reduced by:
Foreign Trade Credit allowed against MAT

(-)

Foreign Trade Credit allowed against Normal Tax

Refer Question No 3 to 21
from Workbook

2. **Optional Tax rates**

a) **Sec 115BA: 25% Tax in Case of Certain Domestic Manufacturing Co**

Assessee	Domestic Manufacturing Company - Setup & Registered on or after 01/03/2016
Tax Rate	- Income u/s 115BA shall be taxable @ 25% - Income covered under chapter XII (i.e. Special income u/s 111A, 112, 112A etc.) shall be taxable @ special Tax rates only.
Surcharge Cess	- Surcharge shall be @ 7%/12% depending on total income of company - Health & Education Cess will be always @ 4%
MAT	- Company is required to pay MAT - Company can carry forward and utilize MAT credit as per section 115JAA
Conditions	- Company has been setup & registered on or after 01-03-16. - Company is engaged in the business of manufacture or production of any article or things. - Company should not claim benefit of: a) Sec 10AA b) Sec 32(1) (iia), 32AD c) Sec 33AB, 33ABA d) Sec 35(1)(ii), (iia), (iii), 35(2AA), 35(2AB) (i.e. contributions to others) e) Sec 35AD, 35CCC, 35CCD f) Any deduction in respect of certain incomes under Chapter VIA deductions (except Sec 80JJAA) - Depreciation on any block of assets entitled to more than 40% shall be restricted to 40% on WDV of such block of assets.
Option	- Option has to be exercised by way of filing Form No 10-IB up to due date of ROI u/s 139(1) - Once the option exercised it cannot be withdrawn for the same or any other PY - However, the company which as opted for Sec 115BAA, in that case option under this section may be withdrawn.

b) Sec 115BAA: Tax in Case of Certain Domestic Co (w.e.f AY 20-21)

Assessee	Domestic Companies	
Tax Rate	Income u/s 115BAA shall be taxable @ 22%	
Surcharge & Cess	- Surcharge shall be @ 10% irrespective of total income of company - Health & Education Cess will be always @ 4%	
Effective Tax Rate	Income u/s 115BAA	22% + 10% + 4% = 25.168%
	Other Incomes (Like IFHP, IFOS etc.)	22% + 10% + 4% = 25.168%
	Incomes covered under Chapter XII (i.e., Special Income u/s 111A, 112, 112A etc.)	Special Rate + 10% + 4%
MAT	a) Company opting for sec 115BAA not required to pay MAT b) B/F MAT cannot be set off against income u/s 115BAA. Therefore, if Assessee has b/f MAT credit, it should exhaust the MAT credit and there after opt for sec 115BAA in subsequent PY. c) Company should not claim following deductions: - Sec 10AA - Sec 32(1) (iia), 32AD - Sec 33AB, 33ABA - Sec 35(1)(ii), (iia), (iii), 35(2AA), 35(2AB) (i.e. contributions to others) - Sec 35AD, 35CCC, 35CCD	
Conditions	- Any deduction in respect of certain Income u/s Chapter VIA (except Sec 80JJAA, 80LA, 80M) a) Company cannot set-off any B/F loss or unabsorbed depreciation which is attributable to deduction referred above. Such loss unabsorbed depreciation shall be deemed to have been already given full effect to and no future deduction of such loss shall be allowed for any subsequent year. b) If the above conditions are not satisfied in any PY the option will be invalid for the PY and subsequent PY's and normal provisions shall apply.	
Option	- The beneficial provision of this section shall apply only if the option is exercised in the FORM-10IC up to due date of ROI u/s139(1) for AY 20-21 or subsequent AY. - Once the option is exercised it would apply to subsequent AY's. - Further, once the option is exercised for any PY it cannot be withdrawn for the same or any other PY.	

c) Sec 115BAB: Tax in Case of Certain New Domestic Manufacturing Companies (w.e.f AY 20-21)

Assessee	Domestic Manufacturing Company setup & registered on or after 1st October, 2019 and commences manufacturing business on or before 31st March, 2024	
Tax Rate	Income u/s 115BAB shall be taxable @ 15%.	
Surcharge & Cess	- Surcharge will be @ 10% irrespective of total income. - Health & Education cess (HEC) will be @ 4% always.	
Effective Tax Rate	Manufacturing Income u/s 115BAB	15% + 10% + 4% = 17.16%

	Income cover u/s XII (i.e. special income u/s 111A, 112, 112A etc.)	Special rate + 10% + 4%
	STCG on transfer of depreciable assets	15% + 10% + 4% = 17.16%
	STCG on transfer of non-depreciable assets	22% + 10% + 4% = 25.168%
MAT	- Company opting for sec 115BAB is not required to pay MAT. - Since this sec applies to Newly setup Companies, there is no question of brought forward MAT credit.	
Conditions	a) Company has been setup & registered on or after 1st October, 2019 and commence manufacturing business on or before 31st March, 2023. b) It should not be formed by splitting up or reconstruction of a business already in existence. c) P&M should be New. Exception: 20% of total P&M can be second hand. - Imported P&M shall be treated as new only for this sec. d) Company does not use any building previously used as a hotel or a convention Centre. e) Company is not engaged in any business other than manufacturing or production of any article or thing and research relating to, or distribution of such article or thing manufactured or produced by it. Business of Manufacture or production of any article or things does not Include business of: - Development of Computer software - Mining - Conversion of marble block or similar items into slabs - Bottling of gas into cylinder - Printing books or production of cinematograph film - Any other notified business Note: Business of power generation or distribution shall be treated as manufacturing business. f) Company should not claim following deductions/ exemptions: - Sec. 10AA - Sec. 32(1) (ia), 32AD - Sec. 33AB, 33ABA - Sec. 35(1) (ii), (ia), (iii), 35(2AA), 35(2AB) (i.e. contributions to others) - Sec. 35AD, 35CCC, 35CCD - Chapter VI-A (except: sec. 80JJAA, 80M) g) Company cannot setoff any loss or unabsorbed depreciation attributable to deduction referred above. Such loss or unabsorbed depreciation shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any	

	subsequent year. If above conditions not satisfied in any PY- the option will be invalid for that PY and subsequent PY's and normal provisions of the Act shall apply.
Exercising the Option	- The beneficial provisions of this section apply only if the option is exercised in FORM 10-ID on or before due date of furnishing first ROI u/s 139(1). - Once the option is exercised it would apply to subsequent AYs. - Further, Once the option is exercised for any PY it can't be withdrawn for the same or any other PY.
Other Points	- If it appears to AO that, owing to the close connection between the company and any other person or for any other reason, the course of business is so arranged that the business transacted between them produces more profit than ordinarily expected to the Company, Excess profit computed by AO to treated as income to the Co. and taxable @ 30%+10%+4%. - If transaction is > 20 cr. It will be covered in specified domestic transaction and transfer pricing shall apply.

Refer Question No 22, 23
from Workbook

3. SEC 79: C/F & set-off losses in case of certain companies

- Where a change in shareholding has taken place during the PY in the case of a closely held company,
- No loss incurred in any year prior to the PY shall be carried forward and set off against the income of the PY,
- Unless on the last day of the PY, the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred.

4. Sec. 79A: No set off of losses consequent to search, requisition and survey

Set off of loss (including unabsorbed depreciation) shall not be allowed from the undisclosed income while computing total income for the previous year if following conditions are satisfied:

- Total income of the Assessee includes undisclosed income.
- Such undisclosed income is consequent to a search u/s 132 or a requisition u/s 132A or a survey u/s 133A [other than u/s 133A(2A)].

Refer Question No 24 to 27
from Workbook

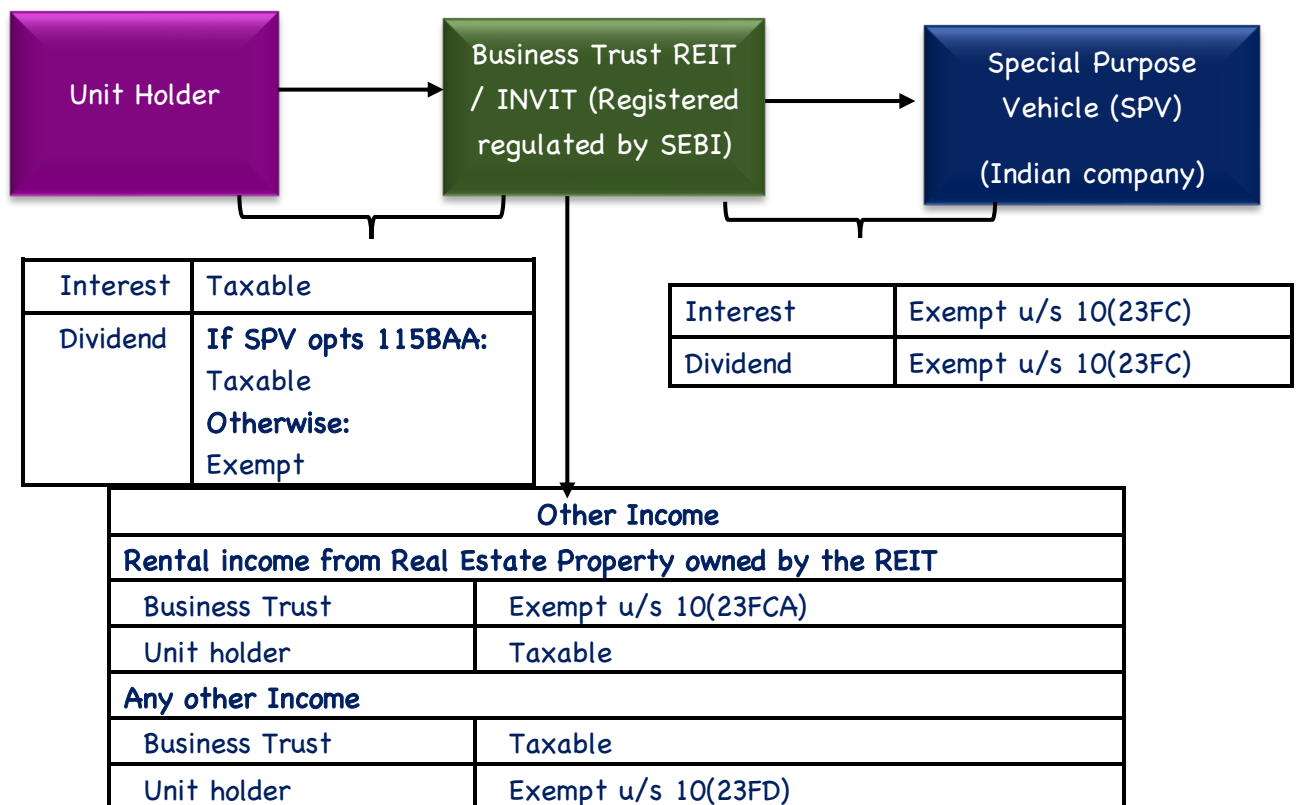
5. Sec 115QA: Taxation on buyback of Shares /Specified Securities

Buyback of shares By Domestic Company [Listed / Unlisted] on/after 01/10/2024	Buyback of shares By Foreign Company	Buyback of specified securities by any company
Company Payment of additional income-tax would not be applicable in the hands of the company.	Company Not Taxable	Company Not Taxable

Shareholder The sum paid by a domestic company for purchase of its own shares would be treated as dividend and taxable under the head "Income from Other Sources" in the hands of shareholders. No deduction for expenses would be available against such dividend income.	Shareholder Capital Gain u/s 46A will arise	Shareholder Capital Gain u/s 46A will arise
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3. Sec 115UA: Taxation of Business Trust

1. Basics



Meaning Business Trust & SPV

Business Trust: It means Real Estate Investment Trust [REIT] or Infrastructure Investment Trust [INVIT] which is registered & regulated by SEBI & units of which are listed on an RSE.

SPV: It means an Indian Co. in which Business Trust holds $\geq 50\%$ shareholding.

b. Taxability of income in the hands Business Trust & Unit holder

Dividend Income from SPV:

Business Trust	Unit Holders	
Exempt u/s 10(23FC)	If SPV opts 115BAA @22%: Taxable @ of following:	
	NR / FC	10%
	Others	Normal Tax Rate
	If SPV not opted for 115BAA: Exempt	
Note: SPV is not required to deduct		Note: Business Trust is required to deduct TDS u/s

TDS.	194LBA in case SPV opted for 115BAA:	
	NR/FR	10%
	Others	10%

Interest income from SPV:

Business Trust	Unit Holders	
Exempt u/s 10(23FC)	Taxable	
	NR / FC	5%
	Others	Normal Tax Rate
Note: SPV is not required to deduct TDS	Note: Business Trust is required to deduct TDS u/s 194LBA	
	NR / FC	5%
	Others	10%

Rental income from Real Estate property owned by Business Trust (REIT)

Business Trust	Unit Holders	
Exempt u/s 10(23FCA)	Taxable at Normal tax Rates	
Note: Payer is not required to deduct TDS.	Note: Business Trust is required to deduct TDS u/s 194LBA	
	NR / FC	Rates in Force
	Others	10%

Any other income

Business Trust	Unit Holders	
Taxable at following	Exempt u/s 10(23FD)	
LTCG u/s 112A		
LTCG u/s 112		
STCG u/s 111A		
All Other Income		

Note Points:

- Income distributed by Business Trust to its unit holders shall be of the same nature & in same proportion in hands of unit holders as it had been received by Business Trust.
- Taxability on transfer of units of business trust by unit holders

If units held for up to ➤ 36 months (if transfer before 23/07/24) ➤ 12 months (if transfer on/after 23/07/24)	➤ STCG u/s 111A, taxable @ 20%
If units held for up to ➤ 36 months (if transfer before 23/07/24) ➤ 12 months (if transfer on/after 23/07/24)	➤ LTCG u/s 112A, taxable @ 12.5% in excess of ₹1,25,000

- Business Trust is compulsorily required to file ROI u/s 139(4E).
- Repayment of debt/Amount paid against redemption of units to unit holders**

Any sum other than following

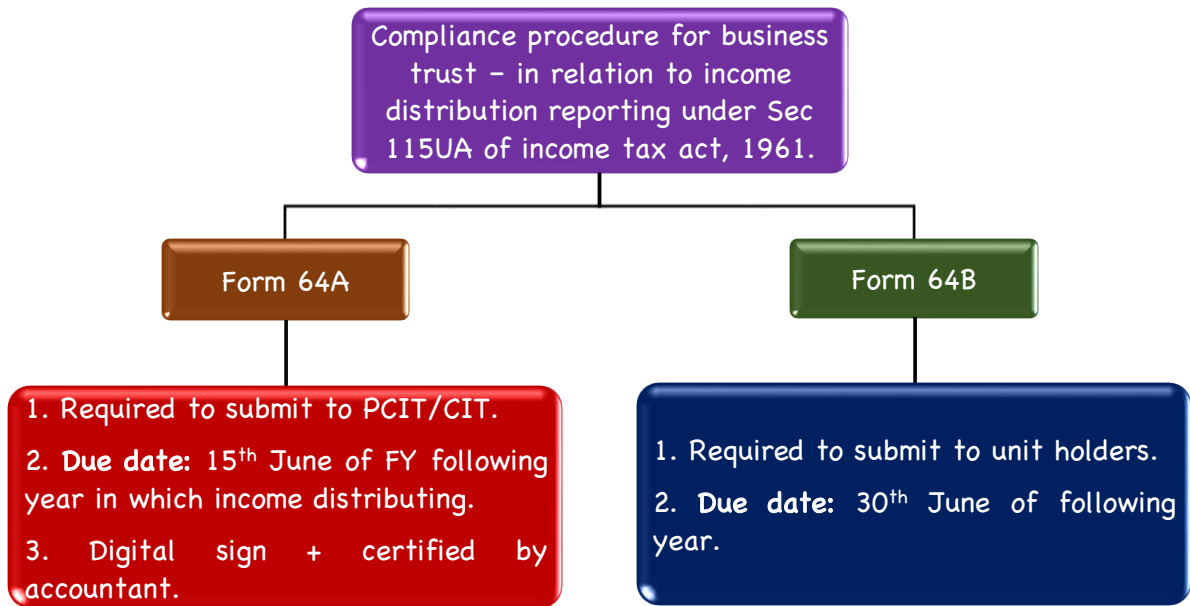
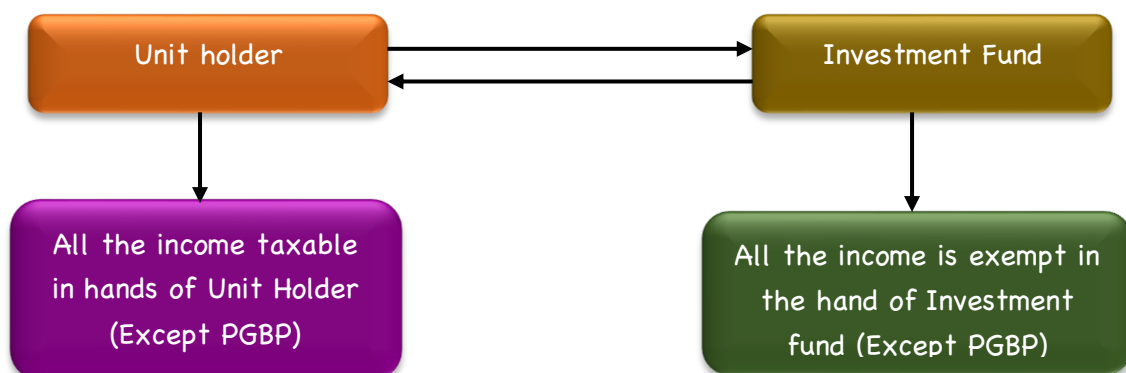
- ✓ Interest & dividend
- ✓ Rental income
- ✓ Any other income

**Refer Question No 28
from Workbook**

Received by a unit holder from a business trust is chargeable to tax in the hands of unit holders under the head IFOS u/s 56(2) (xii).

Specified sum is to be taxable U/H IFOS shall be computed in the following manner.

Specified sum = A	- B	- C
Aggregate sum distributed by business trust to the unit holder during the PY / earlier PY Any sum other than following • Interest & dividend • Rental income • Any other income	Amount at which such unit was issued by the business trust	Amount charged to tax used this section in any previous year.
(which shall be zero if Sum of B & C is greater than A)		

Business Trust – Compliance**4. Sec 115UB: Taxation of Investment fund****1. Basics****2. Taxability of Income in the hands of Investment Fund & Unit Holders****PGBP Income of the Fund**

Investment Fund		Unit Holders
Taxable		Exempt u/s 10(23FBA) Note: investment fund is not required to deduct TDS.
Company	30%	
Firm	30%	
Others	MMR	

Any other Income of the Fund

Investment Fund	Unit Holders	
Exempt	Taxable at Normal tax Rates	
	Note: Investment Fund is required to deduct TDS u/s 194LBB	
	NR / FC	Rates in force
	Others	10%

Note Points:

- If Other Income earned by Fund during PY has not been paid / credited to Unit Holder, same shall be deemed to be credited to Unit Holder on last day of PY & taxable in the hands of Unit Holder.
- Income distributed by Investment Fund to its Unit Holders shall be of the same nature & in same proportion in the hands of Unit Holders as it had been received by Investment Fund.
- Carry Forward of Losses of Investment Fund

PGBP Loss	Can be c/f only by Investment Fund	
Other Loss	If units held for ≥ 12 months by unit holder	Can be c/f only by unitholder
	If units held for < 12 months by unit holder	Cannot be c/f by unitholder

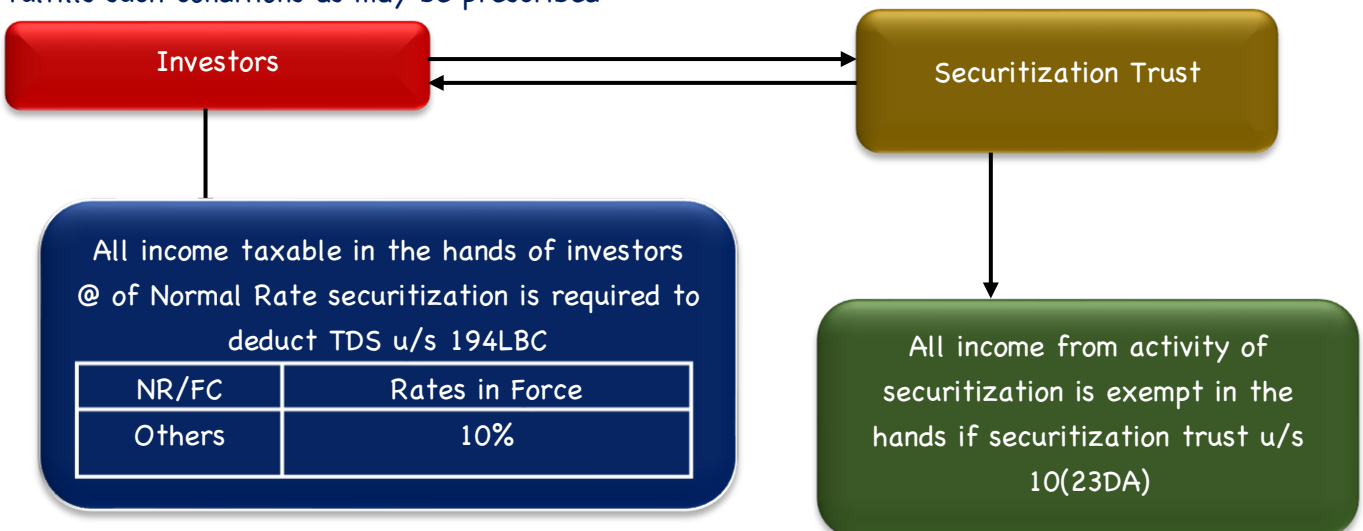
- Investment Fund is compulsorily required to file ROI u/s 139(4F).

Refer Question No 29, 30
from Workbook

5. Sec 115TCA: Taxation of Securitization Trust

Meaning of securitization trust:

Means trust being special purpose distinct entity or special purpose vehicle (as per guidelines on securitization of standard assets issued by RBI) or trust set up by securitization company which fulfills such conditions as may be prescribed

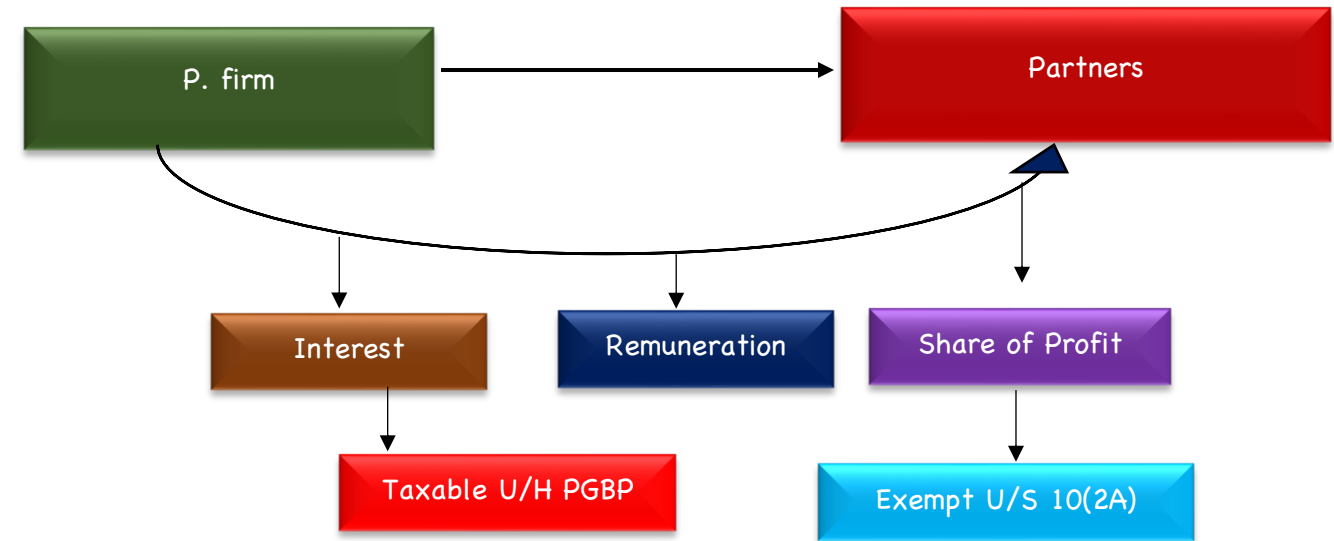


Note Points:

If Other Income earned by Securitization Trust during PY has not been paid / credited to Investor, same shall be deemed to be credited to Investor on last day of PY & taxable in the hands of Investor.

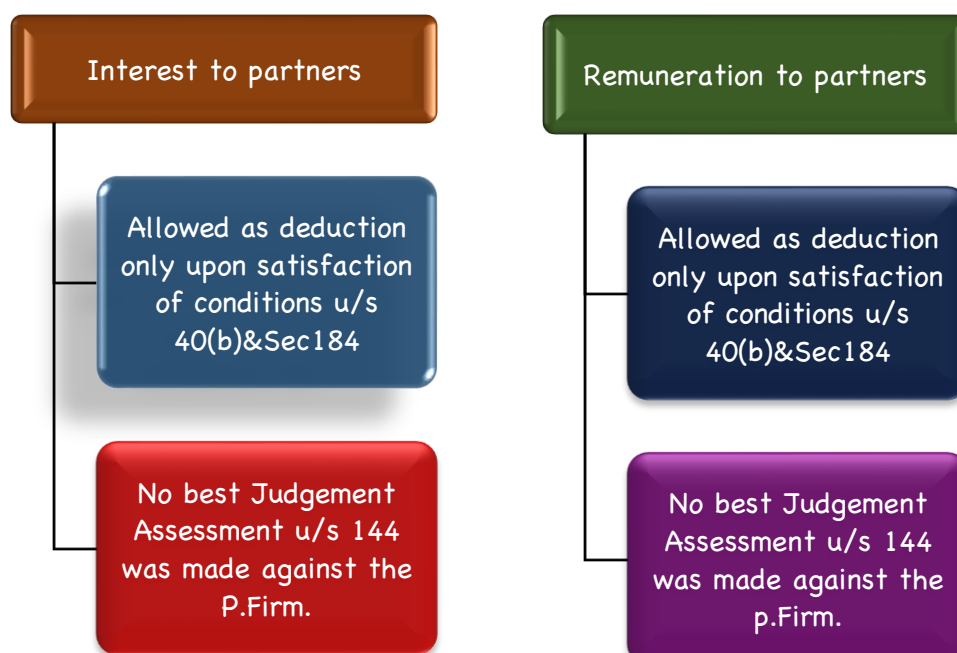
6. Partnership firm/LLP

Sec 40(b):



P. firm		Under PGBP		
P&L A/C		A	B	C
To Interest	Limit u/s 40b	Interest		
To Remuneration		Remuneration		
To NP ↓				

To the extent it was allowed as deduction in the hands of p. Firm, same will be taxable in the hands of partners U/S PUBP



Sec 40b (3conditions)

- Authorized by partnership deed.
- prospective period only.
- Should not exceed 12% Pa.

Sec 184 (4conditions)

- Authorized by P. deed.
- Profit Sharing Ratio must be mentioned in deed.
- ROI + Deed.
- Reconstitution happens- Revised Partnership deed.

Sec 40b (4conditions)

- Authorized by P.deed.
- Prospective period only.
- Should be paid to working Partners (part/full time)
- Remuneration Restricted to following Amount.

Book profit

→ First 6,00,000 of Book profit Book loss*

→ On balance book profit

* In case of book loss, Maximum Remuneration Allowable u/s 40b - ₹ 3,00,000

Allowable Remuneration

₹ 3,00,000 (or) 90% of Book Profit

Whichever is higher.

60% of Book profit

Computation of Book profit

Particulars	Amount
Net profit	XXXX
(+) Remuneration to partners	XXXX
(+)/ (-) other PGBP adjustments	
disallowable expenses	
disallowable Income	XXXX
Book Profit [PGBP before allowable Remuneration U/S 40(b)]	XXXX

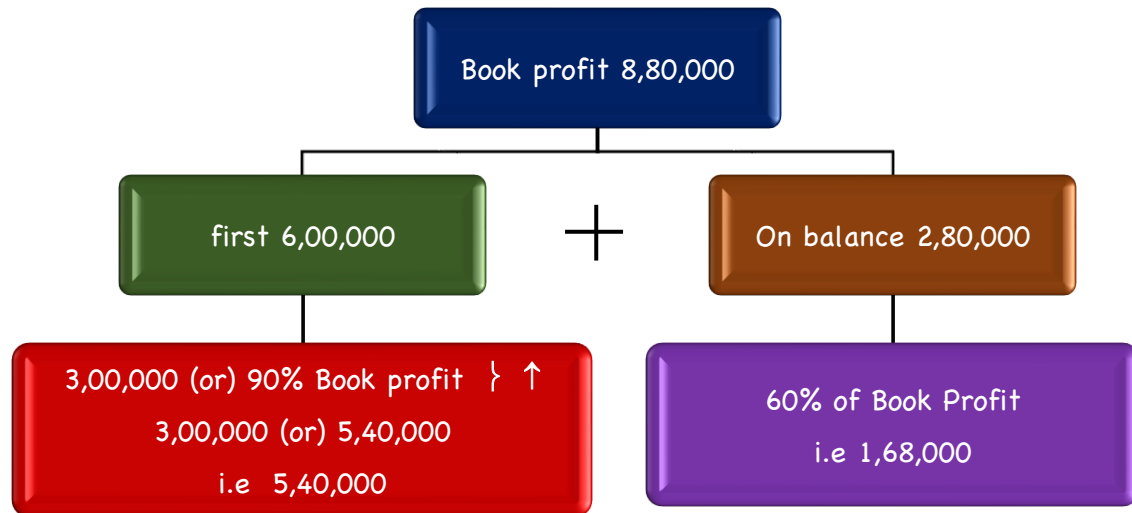
Example:

P. Firm
P&L A/C

To salaries	10,00,000	By sales	20,00,000
To income Tax	2,00,000	By profit on Sale of Asset	20,00,000
To Remuneration Paid to partners	2,00,000	By Rent from House property	1,00,000
To Interest paid to Partners (18%)	1,80,000		
To NP	7,20,000		
	23, 00,000		23, 00,000

- Book profit and PGBP of P. Firm?

Particulars	Amount
Net profit	7,20,000
(t) Remuneration to partners	22.00,000
(+)/ (-) other PGBP adjustments	
(-) profit on sale of Asset	(2,00,000)
(-) Rent from HP	(1,00,000)
(+) Income Tax	2,00,000
(+) Interest	60,000
Book profit	8,80,000



Total Allowable Remuneration u/s 40b = 7,08,000

In our Example, Firm Paid only ₹2,00,000 as Remuneration i.e. within the limits of sec40b. Allowable Remuneration is ₹2,00,000

PGBP - P.Firm

NP	7,20,000
(+) Interest	60,000
(+) Income tax	2,00,000
(-) profit on sale of Asset	(2,00,000)
(-) Rent from Hp	(1,00,000)
PGBP	6,80,000

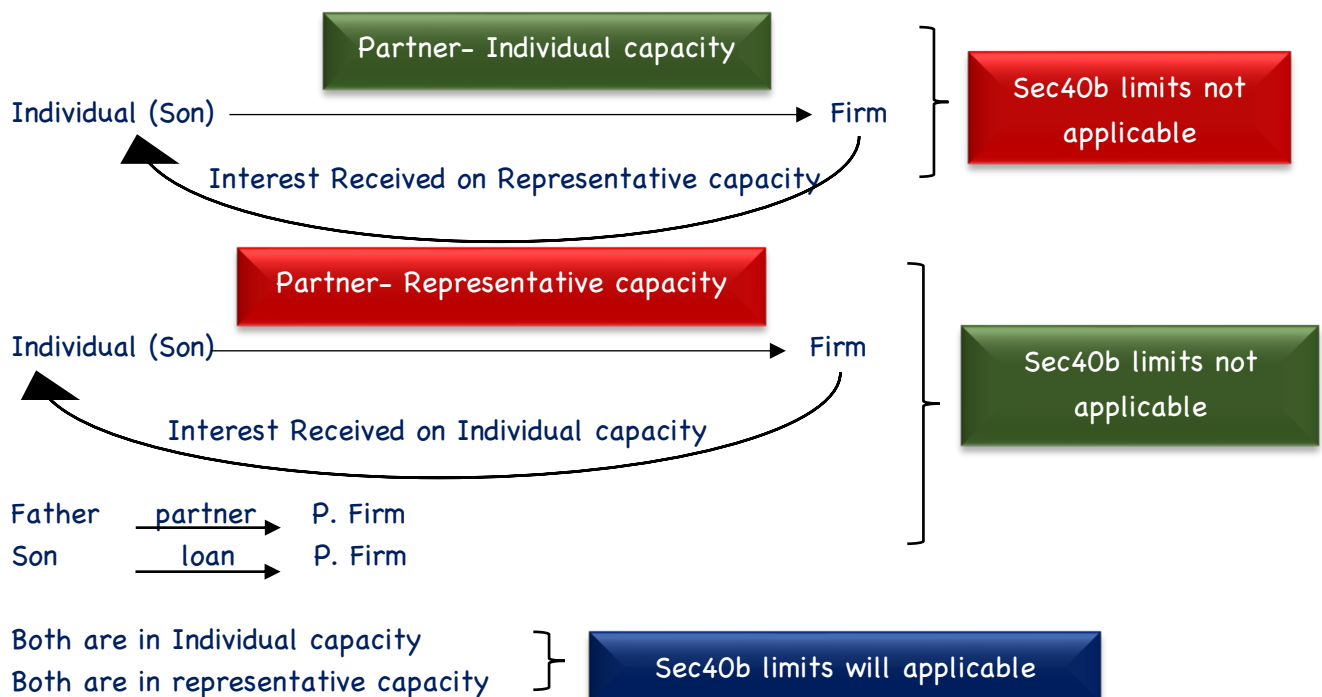
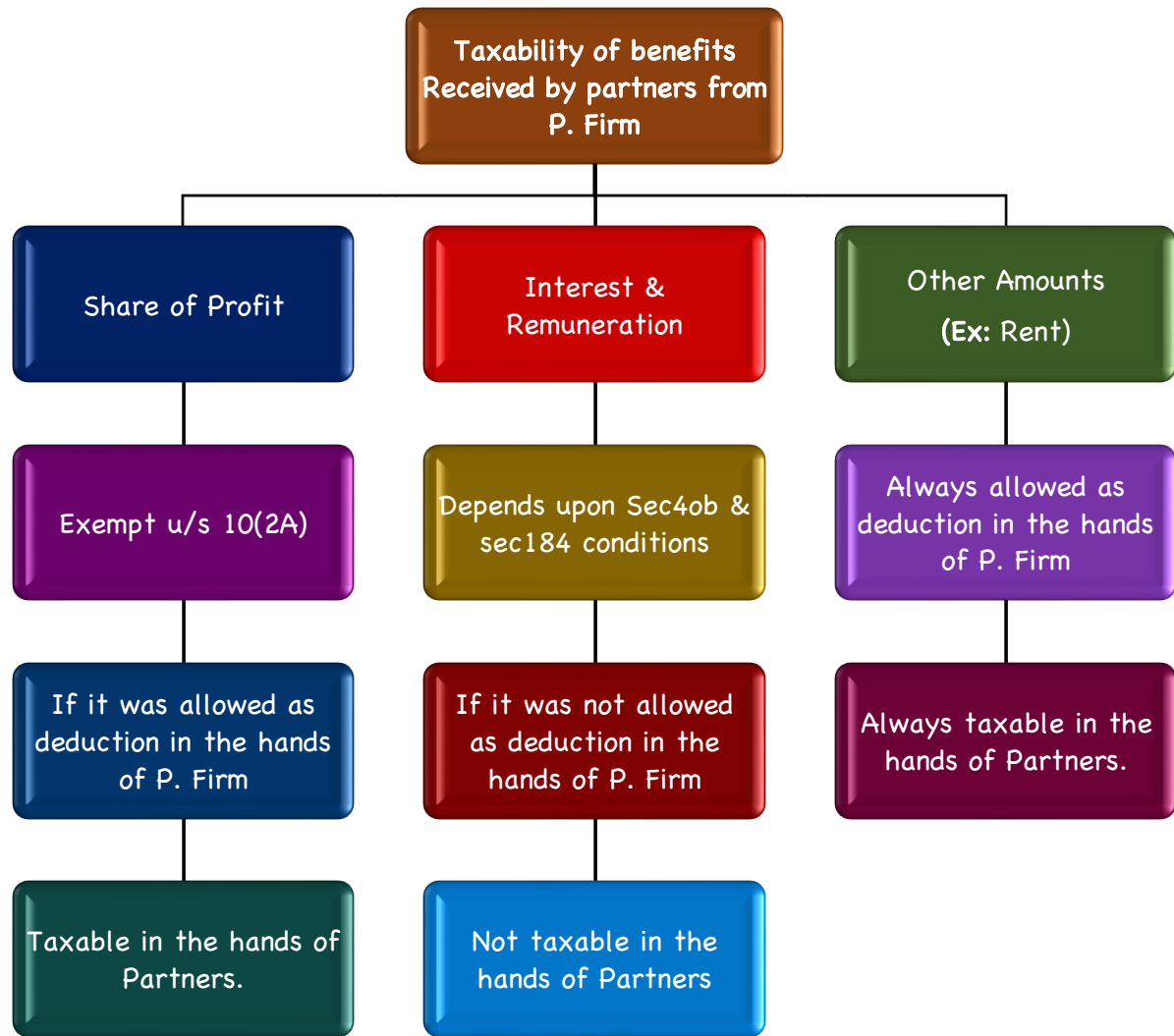
[or]

Book Profit/PGBP before Remuneration	8,80,000
(-) Allowable Remuneration	(2,00,000)
	<u>6,80,000</u>

PGBP-partners

Interest	1,20,000
Remuneration	<u>2,00,000</u>
	3,20,000

Refer Question No 31, 32,33
from Workbook



7. Taxation of Local Authorities

Taxable Income	Exempted Income u/s 10(20)
Supply of Commodity or Service [Except Water or Electricity] outside its own jurisdiction area.	1. Income from House Property 2. Income from Capital Gains 3. Income from Other Sources 4. Business Income a) Supply of Commodity / Service within its jurisdiction area. b) Supply of Water or Electricity within or outside its jurisdiction area.

8. Taxation of Political Parties

If all the conditions are satisfied	Taxable	Income from B&P
	Exempt	All others (including donations)
If any of the conditions not satisfied	All Incomes are Taxable	

Conditions

- Must maintain Books of A/c's & Documents.
- Must get its Books of A/c's Audited.
- Must file ROI up to due date.
- Must keep & maintain record of each voluntary contribution [Donation] exceeding ₹20,000 received by it. [Name & Address of Donor]
- Must receive donation exceeding ₹2,000 only by A/c Payee Cheque / DD / ECS / Electronic Mode / Electoral Bond

Refer Question No 34,35
from Workbook

9. Taxation of Electoral Trust

Voluntary Contribution [Donation]	Exempt if at least 95% of Aggregate Donation of CY along with surplus b/f from earlier years is distributed to any Political Party
All other income	All Incomes are Taxable

Other points for donation

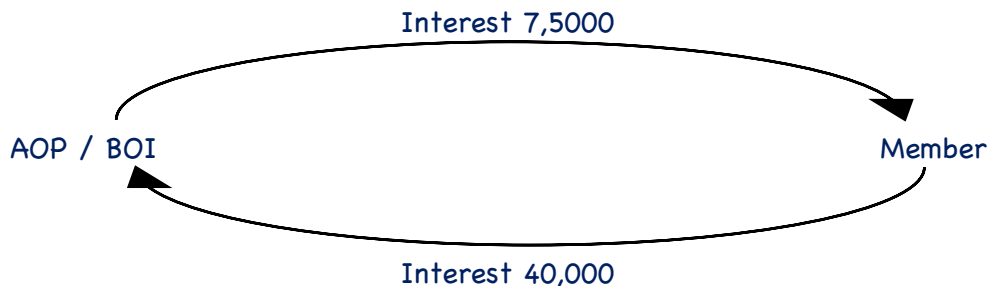
Can receive Donation from	Cannot received Donation from
Indian Citizen	Individual who is not a citizen of India
Company registered in India	Foreign Entity
Firm / HUF / AOP / BOI Resident in India	Any other Electoral Trust
	Government Company
	Foreign Source
Electoral Trust shall receive donations only by A/c Payee Cheque / DD / ECS / Electronic Mode.	

10. Taxation of AOP / BOI

1. Sec 40(ba)

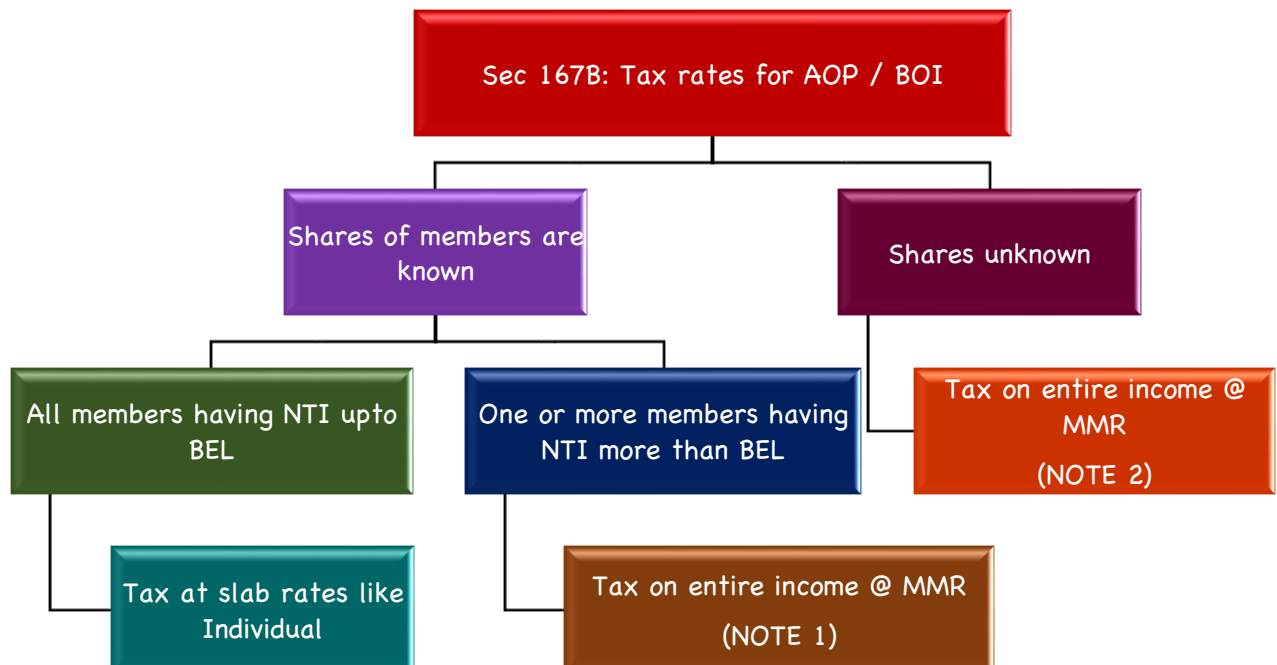
Interest, salary, bonus, commission paid by AOP / BOI while computing PGBP shall be disallowed.

Ex:



If any interest received from the member to whom any interest paid then only Net interest shall be disallowed.

2. Sec 167B: Tax rates for AOP / BOI



While computing NTI of member – his share from AOP / BOI shall be excluded.

Note 1:

Total income of AOP / BOI ₹ 8,00,000

Members	PSR
Mr. B	25%
A Inc (F Company)	55%
Mr. K	20%

In this case, 55% of Income (share of Income of foreign company) of AOP / BOI shall be taxable @ 43.68% [8L X 55% X 43.68% = 1,92,192] and remaining Income shall be taxable at MMR [8L X 45% X MMR].

If any member is chargeable to tax at rate higher than MMR, then such members share shall be taxable at such higher rate in the hands of AOP / BOI and remaining Income of AOP / BOI shall be taxable at MMR.

Note 2:

If any member is chargeable to tax at rate higher than MMR, then entire Income of AOP / BOI shall be taxable at such higher rate.

Note: 3

- Losses of AOP / BOI C/F by such AOP / BOI only.
- If AOP / BOI pays tax as per slab rates, then **special tax rates** will be applicable for special Incomes (I.e. LTCG U/S 112A, 112, STCG U/S 111A).
- If AOP / BOI pays tax as per MMR, the **MMR/ high rate** will be applicable for special income.

3. Sec 67A: Computation of members share in total Income of AOP / BOI

Step 1: Compute NTI of AOP / BOI [This shall be computed after disallowing salary, Interest paid to member as per Sec 40(ba)]

Step 2: Net taxable Income of AOP / BOI XXXX
 (-) Interest / Remuneration paid to members (XXXX)
This amount shall be allowed to members in their PSR XXXX

Step 3: Amount allocated in step 2 (share of profit) XXXX
Add: Interest, salary to respective member XXXX
Members shares in total income of AOP / BOI XXXX

If AOP / BOI paid tax @ MMR	If AOP / BOI paid tax @ slab rates
Then members share shall not be included in total Income of members	• Then members share calculated u/s 67A shall be included in total Income of members. • Rebate u/s 86 Can be claimed by member.

4. Sec 86: Rebate in respect of members share of AOP / BOI

Computation of total Income & Tax of member

Particulars	Amount
Other Income	XXX
Add: Share of Income from AOP / BOI	XXX
Total Income	XXX
Tax liability (Including SC & HEC)	XXX
Less: Rebate u/s 86	
$\text{Tax liability X } \frac{\text{Share of Income from AOP / BOI}}{\text{Total Income}}$	(XXX)
Tax payable by members	XXX

No Rebate if the tax payable by AOP / BOI is NIL

Interest to members:

Member	Interest received	
Individual capacity	Individual capacity	Interest disallowed U/S 40(ba).
Representative capacity	Representative capacity	Interest disallowed U/S 40(ba).
Individual capacity	Representative capacity	Sec 40 (ba) not applicable so full interest is allowed.

11. Assessment of Mutual Concerns

1. Principal of Mutuality is that no person can trade with himself and make profit out of himself
2. In mutual association, person contributes money, achieves object and divide surplus
3. Division of surplus may not be immediate; it may be divided on dissolution or in form of reduction of future contribution. Also not necessary to be divided on pro-rata basis.
4. Such persons may form an association or company. Income arise activities in mutual characters shall not be considered as profit and not taxable.

5. Assessment of income of mutual concern

- Where the mutual concern is a trade, professional association (Sec 44A)
- Where the mutual concern is a mutual insurance society (Carrying insurance business) (sec 44)

a) Income of Trade and Professional Association (Sec 44A)

- Income derived by such association from specific service provided to its member shall not be considered as mutual and treated as taxable income u/s 28 under the head PGBP.
- Other income such as entrance fees, periodic subscription fees, would be outside the scope of income and not taxable.
- As surplus arising from the process of advancement of common interest of members is not included in income and concerned expenditure shall also not allowed.
- Any deficit arise from such advancement process shall be allowed as deduction u/s 44A.
 - **Deficit** = Expenses Incurred less Contribution Received from members
 - Deficit can be deducted from Income from any other head
Max. Deficit can be deducted from other head = up to 50% of Taxable Income of such head. (after setting off brought forward loss under other section)

Note: Any income (other than IFHP/Income received for rendering of specific services/interest or dividend income from investments) of professional institution registered u/s 10(23A) shall be exempt.

Refer Question No 36, 37
from Workbook

b) Insurance Business

The Profits and gains of any business of insurances, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed in accordance with the rules contained in the first Schedule of the Income Tax Act, 1961 [sec. 44]

i. Life Insurance Business

Tax on Profits and gains of life insurance business [Sec. 115B]

- Where the total income of an Assessee includes any profits and gains from life insurance business, the income-tax payable shall be the aggregate of:
 - ✓ The amount of income-tax calculated on the amount of profits and gains of the life insurance business included in the total income @ 12.5%; and
 - ✓ The amount of income-tax with which the Assessee would have been chargeable had the total income of the Assessee been reduced by the amount of profits and gains of the life insurance business.
- The provision of Sec. 115JB (i.e., MAT Provisions) shall not apply to any income accruing or arising to a company from life insurance business.

ii. Other insurance business

The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938, to be furnished to the Controller of Insurance, Subject to the following adjustments:

- Any expenditure or allowance disallowed U/S 30 to 43B
- Any gain or loss on realization of investments shall be added or deducted, as the case may be, if such gain or loss is not credited or debited to the profit and loss account;
- Any provisions for diminution in the value of investment debited to the profit and loss account, shall be added back.
- Amount carried over to a reserve for unexplained risks shall be allowed as a deduction.

As per rule 6E, any business of insurance other than life insurance, the amount carried over to a reserve for unexpired risks (including any amount carried over to any additional reserve) shall not exceed:

Nature of insurance	Ceiling
Fire insurance or engineering insurance and which provides insurance for terrorism risks.	100% of the net premium income of such business of the previous year.
Fire insurance or miscellaneous insurance other than above	50% of the net premium income of such business of the previous year.
Marine insurance	100% of the net premium income of such business of the previous year.

iii. **Non-resident person carrying of insurance business**

The profit and gains of the branches in India of a person not resident in India and carrying on any business of insurance shall be calculated on the basis of reliable in respect of such activity. However, the absence of reliable data, profit, may be deemed to be that proportion of the world income of such person, which corresponds to the proportion, which his premium income derived from India bears to his total premium income.

c) **Income of Members' Clubs**

- ✓ Any income arising from members is not taxable.
- ✓ Income arising from non-member is taxable.
- ✓ If Club is incorporated as company, Income in nature of business received from members as well as non-members may be taxable.

12. Tax on Income from patent [Sec 115BBF]

Where the total income of an eligible Assessee includes any income by way of royalty in respect of a patent developed and registered in India, tax @ 10% shall be payable on such royalty income.

1. Eligible Assessee means a person resident in India and who is a patentee.
2. Developed means at least 75% of the expenditure incurred in India by the eligible Assessee for any invention in respect of which patent is granted under the Patents Act, 1970.

13. Tax on Income from transfer of Carbon Credits [Sec 115BBG]

Where the total income of an Assessee includes any income by way of transfer of carbon credits, tax @ 10% shall be payable on the income by way of transfer of carbon credits.

No deduction for expenditure: No deduction in respect of any expenditure or allowance shall be allowed to the Assessee while computing his income by way of transfer of carbon credit.

Refer Question No 38,39
from Workbook

TRUST

1. Charitable or Religious Trusts

A trust or institution can choose to opt for an exemption either under the first regime i.e., under section 10(23C) or the second regime i.e., under section 11, as it deems appropriate depending on its objects and activity.

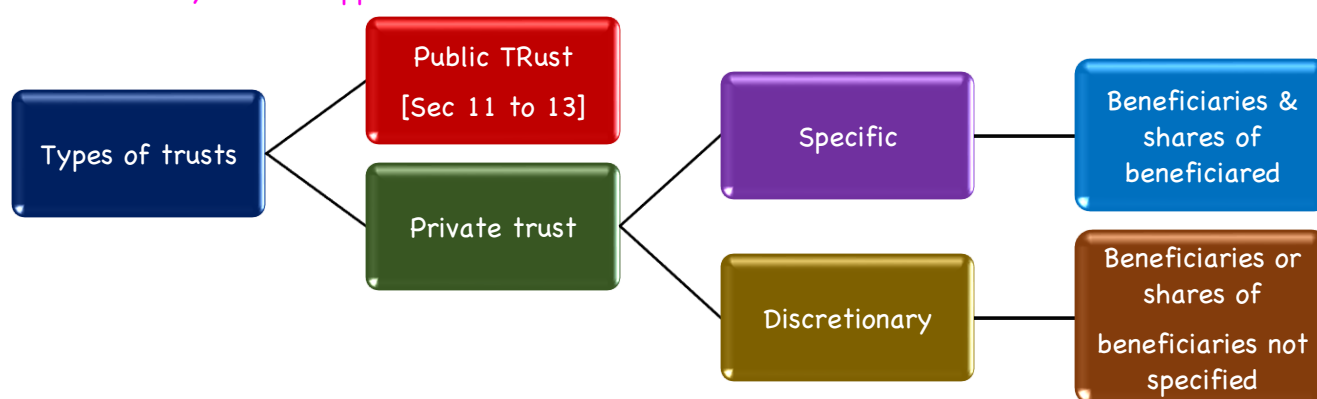
Exemption provisions in respect of charitable or religious trusts	
Section 10(23C) – First Regime	Sections 11 to 13 – Second Regime
University or other educational institution, hospital or other medical institution, other fund or institution for charitable purposes, any trust or institution wholly for public religious purposes or wholly for religious and charitable purposes.	Trust for charitable or religious purposes

The Finance (No.2) Act, 2024 has introduced changes regarding tax exemptions for trusts under two different regimes:

- First Regime:** Approval under the First Regime (sections 10(23C) (iv), (v), (vi), and (via)) will be discontinued from 1st October 2024. Trusts can no longer apply for approval or renewal under this regime after that date. However, trusts that received approval before 1st October 2024 can continue to claim exemption under the First Regime until their approval expires.
- Second Regime:** From 1st October 2024, trusts wishing to claim exemption must apply for registration under the Second Regime instead of the First.

In short, after 1st October 2024, trusts must apply for registration under the Second Regime to avail exemptions, and the First Regime will no longer accept new applications.

It is important to note that, the trust which were approved or made application for approval before 1st October 2024 and got approval, thereafter, are eligible to claim exemption under first regime till the validity of such approval.



- Exemption in respect of income of universities, hospitals, educational institutions, medical institutions etc. [Section 10(23C)] – First Regime**

Section	Activity Scope	Exemption Conditions
10(23C)(iiiab)	Education	Wholly or substantially financed by the Government.
10(23C)(iiiac)	Medical	Wholly or substantially financed by the Government.

10(23C)(iiiad)	Education	Aggregate annual receipts do not exceed ₹5 crore.
10(23C)(iii ae)	Medical	Aggregate annual receipts do not exceed ₹5 crore.
10(23C)(iv)	Charitable purpose, which is important for India & its states	Trust or institution approved on or before 1st October 2024 and application for approval was filed before the said date and got approval thereafter.
10(23C)(v)	Wholly for public religious purposes or wholly for public religious & charitable purposes	
10(23C)(vi)	Education, whose aggregate annual receipts exceed ₹5 crore	Trust or institution approved on or before 1st October 2024 and application for approval was filed before the said date and got approval thereafter.
10(23C)(via)	Medical, whose aggregate annual receipts exceed ₹5 crore	

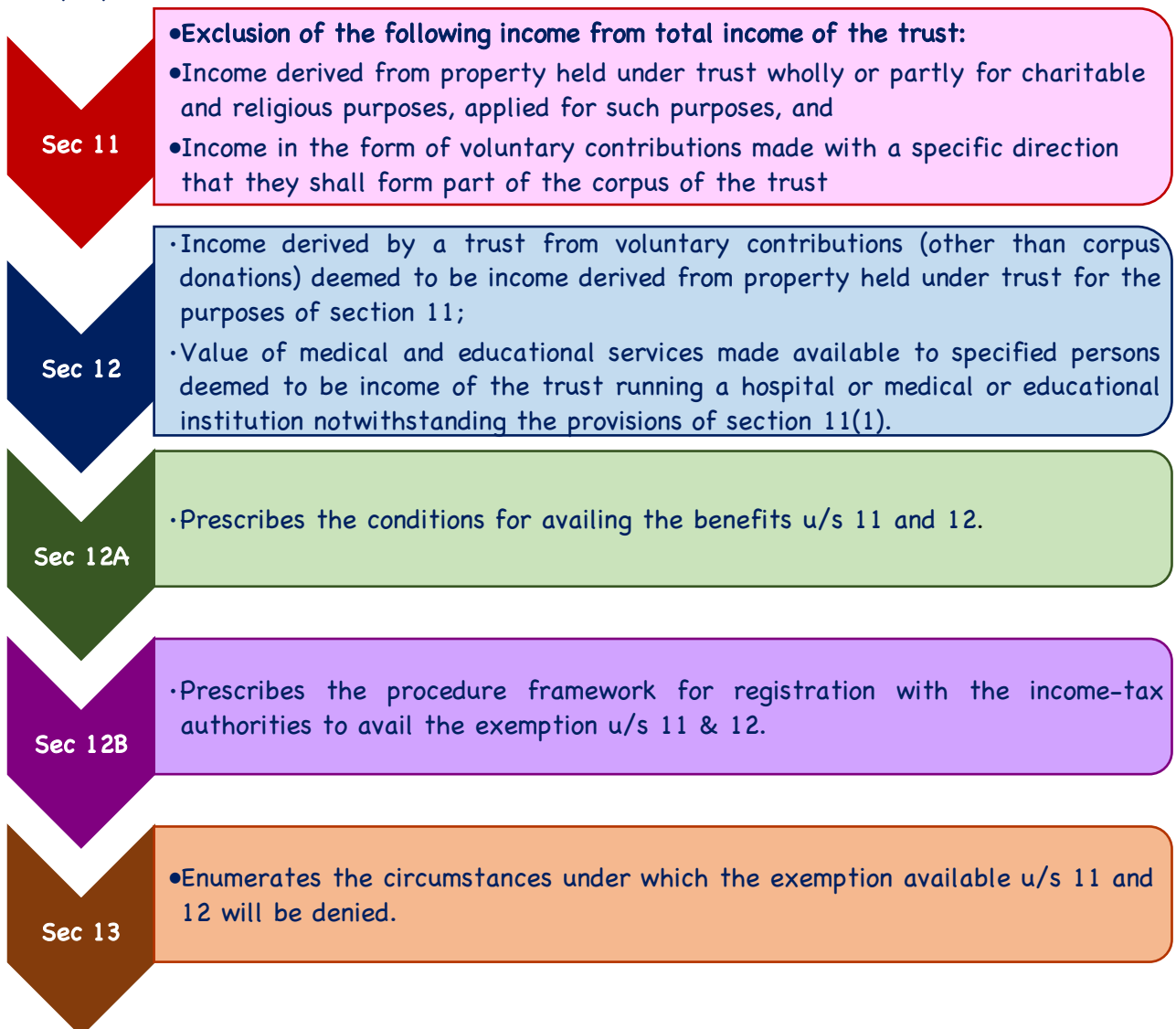
Note:

1. If the **government grant** to a university or other educational institution, hospital or other institution during the relevant previous year **exceeds 50% of the total receipts** (including any voluntary contributions), of such university or other educational institution, hospital or other institution, as the case may be.
2. Where a person has receipts from an institution specified in sub-clause (iiiad) as well as from an institution specified in sub-clause (iii ae), whose **combined receipts** exceeds ₹ 5 crores, then, the said person shall not be eligible for exemption under the respective sub-clauses (iiiad) & (iii ae).
3. The conditions and norms for availing the exemption under section 10(23C) (iv), (v), (vi) & (via) **[First regime]** are largely similar as those for availing exemption under section 11 to 13 **[Second Regime]**.

Refer Question No 1,2
from Workbook

2. Charitable or Religious Trusts and Institutions [Sections 11 to 13] – Second Regime

The second regime of exemption is available under the Section 11. It is imperative to note that an assessee can opt to avail exemption only under one of the regime depending upon its objects and purpose.

**2. Sec 2 (15): Charitable Means**

- Relief of poor
- Education
- Yoga
- Medical relief
- Preservation environment (including watersheds, forests & wildlife).
- Preservation of monuments or places or objects of artistic or historic interest.
- Advancement of any other object of general public utility.

Advancement of any other object of general public utility **not be charitable purpose**, but it is treated as charitable purpose if aggregate receipt from business activity is **not more than 20%** of the total receipts.

Note:

- As per CBDT there is no need to cancel registration even if business receipts are more than 20% of the total receipts. Exemption will not be available for that year.
- As per CBDT promotions of games & sports are also treated as charitable purpose

Refer Question No 3, 4
from Workbook

3. Sec 11(1): Income of The Trust Charitable or Religious Trust

Following incomes of the trust shall be exempt from tax:

- Corpus donation (if it is deposited in mode prescribe u/s 11(5)).
- 15% of gross income (set aside/ standard deduction).
- Income applied for charitable or religious purpose in India (out of remaining 85% on Income)

Note 1:

- a) If 85% of income could not applicable in current PY, For the reason that whole or any part of income has not received during PY (**outstanding**)

Assessee submit a declaration to AO up to due date of ROI u/s 139 (1) that, such income shall be actually applied in the year of receipt or in the immediately next year, then such amount is as deemed to be applied in current PY.

If such amount not applied in the year of receipt or in the immediately next year then such amount shall be treated as income of the next year in which such amount received and taxable @ 30% u/s 115BBI.

- b) For any other – Assessee submit a declaration to AO up to due date ROI u/s 139(1) that income could not apply in current PY due to any reason (**like bumper donation received in last month**) and such income will be actually applied in the next PY, then such amount is treated as deemed to applied in current PY.

If such amount is not applied in the next year, the such amount shall be treated as income is the next year and taxable @ 30% u/s 115BBI.

Note 2:

Any amount donated to any other trust registered u/s 12AA/12AB or institution u/s 10(23C) shall be treated as application for charitable or religious purposes only to the extent of 85% of such amount paid but if such amount is donated as corpus of such trust / institution then it is not treated as application.

Note 3:

For the purpose of computing application of trust, PGBP provisions of section 40A (3), 40A (3A) & 40 (a)(ia) shall apply here also.

- 40A(3)/40A(3A)**– Expenditure paid in a single day to a single person more than ₹ 10,000 in any mode other than A/C payee cheque or DD or ECS not treated as application. If deduction allowed in earlier year on due basis and in current year if payment made more than ₹ 10,000 in cash then such amount will be treated as income of current PY.
- 40(a)(ia)**– If any amount paid or credited to resident and if TDS not deducted in PY or deducted but not paid to govt. up to due date of ROI then 30% of such expenditure not allowed as application for trust. The same would be treated as application in the year in which TDS deposited.

Note 4:

If trust having temple, mosque, gurdwara, church or other notified u/s 80G, received any donation for repair or renovation of such places then trust may treat such sum as corpus donation if following conditions are satisfied: –

- Such amount should be utilized only for repair or renovation,
- Such amount should not be donated to any person,
- Maintains such corpus as separately identifiable, and
- Invested/ deposited in modes specified u/s 11(5).

If any of condition is violated, then such sum shall be treated as income of the PY in which the violation takes place.

Note 5:

Amount applied out of corpus fund shall not be treated as application in current year.

Note 6:

Amount applied from any loan or borrowing shall not be treated as application in current year. However, when such loan or borrowing is repaid from the income of any subsequent PY, such repayment shall be allowed as application in the PY in which it is repaid and to the extent it is repaid.

Condition:

Repayment of loan is made within a period of 5 years from the end of the previous year in which such application was made from loan of borrowing

Refer Question No 5
from Workbook

Note 7:

If any application of earlier PY's shall not allowed to set-off in current PY. It means excess application shall not allowed to be C/F and set-off.

Note 8:

Any sum payable any trust or institution shall be considered as application of income in the PY in which such sum is actually paid by it (irrespective of method of accounting followed by trust).

Example: Balaji trust regularly follow accrual system of accounting. Trust purchased computer for trust purpose on 28/03/26 for ₹20 lakhs and payment to vendor made on 16/07/26. In this case application of ₹20 lakhs are allowed in 26 – 27.

Refer Question No 6
from Workbook

4. Sec 11(2): Exemption if Income Accumulation for specific purpose.

Where 85% of income is not applied during P.Y. but accumulated or set apart, then such set-apart income is not included in income, if following conditions are satisfied:

- Assessee should furnish statement to A.O at least 2 months prior to the due date of ROI u/s 139(1), stating the purpose & period for which such income is accumulated [maximum period can be 5 years].
- Such money be deposited in sec 11(5) modes (safe investments)
- Such money should not be donated to another trust.

Provided that in computing the period of 5 years, the period during which the income could not be applied for the purpose, due to an order of any court, shall be excluded.

Note: Exemption u/s 11(2) shall not be available, if

- Statement to A.O not filed up to due date of ROI. Or
- Return of income not filed up to due date of ROI.

Refer Question No 7
from Workbook

5. Sec 11(3): Exemption withdraw if conditions not satisfied

Any income referred u/s 11(2)–

- Is applied to purpose other than the purposes for which it was accumulated, then it shall be taxable in the P.Y. in which it is so applied, or
- Ceases to remain invested in modes as per sec, 11(5), then it shall be taxable in the P.Y. in which it so ceases, or
- Is not utilized within specific time then it shall be taxable in the last year of specific period.
- If donated to any trust then it is taxable in the year in which it is so donated.

Note: Income taxable u/s 115BBI @ 30% in the year of violation

6. Sec 11(4) / (4A): Business Income of Trust

If business is incidental to the attainment of main objective of trust & separate books of A/Cs are maintained. If A.O. finds any concealed income in respect of business, then exemption u/s 11(1)/11(2) shall not be available in respect of such concealed income.

Refer Question No 8,9
from Workbook

7. Sec 11(5): Safe investment mode for trust

- Investment in government saving certificates, units of UTI, CG/SG securities, debentures of any company which is guaranteed by govt., units of mutual fund, equity shares of a 'depository', Stock certificate as defined in sovereign gold bonds scheme, 2015, shares of NSDC, shares of stock exchange or subsidiary of stock exchange.
- Deposits with post office savings banks, schedule banks or Co. Op banks. Or Industrial development bank.
- Investment or deposits in any public sector company.
- Investment in bonds of approved financial corporation / Public companies providing long term finance.
- Investment in Immovable property.

Refer Question No 10
from Workbook

8. Sec 11(6): Depreciation not allowed

If cost of asset is already claimed as application, then depreciation on such asset shall not be considered as application while computing income of PY.

9. Sec 11(7): Exemption u/s 10 Not Available

Where trust claim exemption u/s 11, then exemption u/s 10 shall not be available trust can claim exemption u/s 10(1) [Agriculture income] with sec11 exemption but other exemption of sec 10 not available.

Note: So, either trust / Institution can claim exemption u/s 11/12 or u/s 10(23C) (iv) / (v)/ (vi)/ (via).

10. Sec 12A: Condition for Applicability of Sec 11 & 12

Exemption u/s 11&12 available if:

- Trust should be registered u/s 12AA/12AB.
- If total (before claiming exemption u/s 11&12) is more than basic exemption then trust required to maintain books of account & documents and get it audited from auditor and furnish report within time given u/s 44AB.
- Returns of the trust filed u/s 139(4A) up to due date of return filing.

Procedure & Timelines for availing exemption under section 12AB

Case	Time limit for making the application	Time limit for passing order by the PC/ Commissioner [Section 12AB (3)]	Validity Period	Registration Granted is applicable from
Re- registration of the institutions or funds which were already registered under section 12A/section 12AA. prior to 1.4.2021	Within 3 months from April 1,2021 in Form No. 10A	Order to be passed within 3 months from end of the month when application was made.		A.Y. from which registration was earlier granted [Proviso to Section 12A(2)]

Renewal of registration/ w.e.f. 1.10.2024, approval for trust/ institution already registered under section 12AB or approved u/s10(23C)(iv)/(v)/(vi)/(via) and whose period of 5 years is due to expire.	at least 6 months prior to the expiry of the five- year validity in Form No. 10AB.	within 6 months from the end of the month (w.e.f. 1.10.2024, quarter) in which application was received after satisfying himself about the genuineness of activities and compliance of other laws, as are material for the purpose of achieving its objects. For this purpose, the PC or C shall call for such documents or information and make inquiries as he thinks necessary.		A.Y. immediately following the F.Y. in which application is made [Section 12A(2)]
Final registration where a trust/ institution is provisionally registered u/s 12AB or provisionally approved u/s10(23C) (iv) / (v) / (vi) / (via) as the case may be	At least 6 months prior to the expiry of the provisional registration or approval or Within six Months of commencement of activities, which is earlier, in Form No. 10AB.	within 6 months from the end of the month (w.e.f. 1.10.2024, quarter) in which application was received after satisfying himself about the genuineness of activities and compliance of other laws, as are material for the purpose of achieving its objects. For this purpose, the PC or C shall call for such documents or information and make inquiries as he thinks necessary.	5 years [Section 12AB(1)(a)] Where the total income of a trust or institution without giving effect to the provisions of section 11 and 12 does not exceed ₹ 5 crores during each of the two P.Y's, preceding the P.Y. in which application is made, the registration would be valid for 10 Years.	First of the A.Y. for which it was provisionally registered [Proviso to section 12A(2)]
To revive inoperative registration of trust/ institution on account of grant of approval as provided in first proviso to section 11(7)	At least 6 months prior to the commencement of the AY from which the said registration is sought to be made operative in Form No. 10AB.	If not satisfied, pass an order in writing rejecting such application and also cancelling its registration after giving opportunity of being heard.		A.Y. immediately following the F.Y. in which application is made [Section 12A(2)]
The trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration.	Within a period of 30 days from the date of the said adoption or modification, in Form No. 10AB			A.Y. immediately following the F.Y. in which application is made [Section 12A(2)]
In any other case (for e.g., first time applications) [See Note below]	At least 1 month prior to the commencement of the previous year relevant to the assessment year in which	Within 1 month from the end of the month in which the application is made order to be passed for provisional registration without detailed enquiry.	3 years [Section 12AB(1)(c)]	the A.Y. for which registration is sought in Form 10A, where the application is filed within the

	the registration is sought in Form No. 10A.			stipulated time limit
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Note – A trust which has already commenced its activities and has not availed exemption under first regime or second regime for any P.Y. ending on or before the date of such application, need not first apply for provisional registration in Form 10A. It can at any time after the commencement of such activities directly apply for final registration in Form 10AB. If not satisfied, he can pass an order in writing rejecting such application after affording it a reasonable opportunity of being heard. The trusts/funds/institutions which have not commenced activities are required to get provisional registration and will fall within the scope of section 12AB(1)(c).

Refer Question No 11, 12
from Workbook

Note – Section 12AB(4) has been amended to state that an incomplete application for the registration of a trust or institution will not be regarded as a “specified violation” nor will serve as grounds for the cancellation of registration.

11. Sec 13(1): denial of exemption u/s 11 & 12

Exemption u/s 11 & 12 not available in following cases;

- Income from trust for private religious purpose.
- Income from trust for the benefit of any particular religious community or caste.
- Income of trust the benefit of specified person (relative), such part of the income.
- Fund of the trust deposited or invested in modes other than 11(5), to the extent of such deposits or investments.

Meaning of specified person (relative)

- Author / Founder of trust.
- Any person whose total contribution to trust or institution, during relevant PY exceeds ₹ 1,00,000 or in aggregate up to end of relevant PY exceeds ₹ 10,00,000.
- Where the founder / donor is HUF, member of HUF.
- Trustee or manager of trust.
- Relative of any founder, donor, Member, trustee, manager.
- Any concern in which any of the above person has a substantial interest.

Relatives means person person's referred u/s 56(2)(x)

12. Sec 13(6): Educational & Medical Facility to Specified person

A charitable or religious trust running an educational or medical institution (like a school, college, or hospital) will not lose its exemption under Section 11 just because it provides benefits to specified persons (as defined in Section 13(3), like trustees or relatives).

However, if the trust provides educational or medical services free of cost or at a concessional rate to these specified persons, the value (FMV) of those services will be treated as income for the trust. This income will not be exempt under Section 11.

13. Sec 11(1A): Capital Gain deemed to be applied for charitable purpose.

Where any capital is asset transferred by trust & Net consideration is utilized for acquisition of another capital asset then following capital gain shall be exempt.

- ✓ If net consideration fully utilized, then capital gain is fully exempt.
- ✓ If net consideration partly utilized, then exemption will be limited to so much of appropriate fraction of the amount utilized for the acquiring the new asset as exceeds the appropriate fraction of cost of the transferred asset.

Refer Question No 13
from Workbook

14. Sec 115BBI: Tax specified incomes

Following specified incomes are taxable @ 30%

- Income accumulated or set apart in excess of 15% where such accumulation is not allowed under any specific provision.
- Deemed income as per Explanation-1 of section 11(1)
- Deemed Income as per section 11(3)
- Income applied for the benefit of specified person as section 13(1).
- Income not deposited /invested in modes specified in 11(5) as per section 13(1).
- Income used for any purpose outside India.

Note: In this section income computed without any deduction in respect of any expenditure or allowance or set off of any loss.

Refer Question No 14
from Workbook

15. Sec 13(10): Calculation of income in case of Certain violations

If a trust or institution violates specific conditions, its income will be **taxable**, with a deduction allowed only for **expenditures (other than capital)** incurred in India for its objectives.

a) Violations include:

- Income from trade or commerce exceeding 20% of total receipts while pursuing General public utility objectives.
- Failure to maintain required books of accounts.
- Failure to get books audited and submit the audit report on time.
- Failure to file the income tax return within the prescribed time.

b) Conditions for Deducting Revenue Expenditure: The expenditure must not come from

- The trust's corpus from the previous financial year.
- Any loan or borrowing.
- Any asset for which depreciation was previously claimed.
- Contributions or donations made to other persons.

c) Disallowances:

- **Capital expenditures** are not deductible.
- Disallowance under **Section 40(a)(ia)** applies if tax is not deducted or paid on time.
- Disallowance under **Sections 40A (3) and 40A(3A)** for cash payments exceeding ₹10,000.
- No other deductions or set-offs can be claimed under different provisions of the Act.

16. Tax rate of the trust

Same as individual (slab rate).

17. Sec 115BBC: Tax on Anonymous donation received by trust

Anonymous donation means any donation where person receiving such contribution does not maintain record of donor.

Taxable anonymous donation

Actual amount of Anonymous donation	xxx
Less:	
i. 5% of total donation (Includes corpus donation)	
ii. ₹1,00,000	

Whichever is higher	(xxx)
This is taxable @30%	xxx

If Anonymous donation not taxable u/s 115BBC, this amount is added to other income & will be chargeable @ Normal provisions of income tax subject to sec 11 & 12.

Example

I Situation	II Total donations during the year (₹)	III Anonymous donations received during the year (₹)	IV Exemption [5% of total donations or ₹ 1,00,000, whichever is higher] (₹)	V Anonymous donations taxable@30% (₹)	VI Donations subject to tax at normal rates (₹)
A	15,00,000	4,00,000	1,00,000	3,00,000	12,00,000
B	30,00,000	7,00,000	1,50,000	5,50,000	24,50,000
C	40,00,000	10,00,000	2,00,000	8,00,000	32,00,000

Note:

- However, the above provision does not apply to a trust or institution created or established wholly for religious purposes.
- Anonymous Donations:** For trusts or institutions that are **partly religious and partly charitable**, anonymous donations will only be taxed if, the donation is specifically directed for **educational institutions or medical institutions** run by the trust

Refer Question No 15
from Workbook

Total income of trust - Format

Particulars	Amount
Gross receipts of trust (other than corpus donation & anonymous donation taxable u/s 115BBC)	XXX
Capital gain on transfer of capital asset	XXX
Total	XXX
Less: 15% accumulated and set apart (standard deduction)	(XX)
Less: Application of Income for trust purpose	(XX)
Less: Capital gain deemed applied u/s 11(A)	(XX)
Less: Deemed application (outstanding or any other reason)	(XX)
Less: Income Accumulation u/s 11(2)	(XX)
Income taxable at normal Tax rates Add:	XXX
Anonymous Donation Taxable at special rate of 30%	XXX
Add: Income taxable u/s 115BBI at special rate of 30%	XXX
Total Income	XXX

Refer Question No 16 to 20
from Workbook

18. Sec 115TA - TF: Tax on accreted income (Exit tax)

Circumstances where levy of tax on accreted income is attracted:

The accreted income of a specified person shall be taxable at the maximum marginal rate@34.944% on -

1. Conversion into a form not eligible for grant of registration under section 12AA or section 12AB or approval under section 10(23C) (iv) / (v) / (vi) / (via); or
 - a) Registration Cancelled
 - b) Modify Objects
 - Not applied for fresh registration in that PY
 - Applied for fresh registration but application rejected
2. Merger with an entity not having similar objects and registered under section 12AA or section 12AB or approved under section 10(23C) (iv) / (v) / (vi) / (via); or
3. Non-distribution of assets on dissolution to any other specified person within a period of 12 months from the end of the month in which the dissolution takes place.

W.e.f. A.Y. 2025-26, new section 12AC has been inserted to provide that where a trust or institution approved under the first regime or registered under the second regime, as the case may be, merges with another trust or institution, the exit tax provisions contained in Chapter XII-EB i.e., exit tax would not apply if -

- The other trust or institution has same or similar objects.
- The other trust or institution is approved under the first regime or registered under the second regime; and
- The said merger fulfils the conditions as may be prescribed.

$$\text{Exit Tax} = \text{Accreted income} \times 34.944\%$$

Accreted income:

Aggregate FMV of Total Assets of Trust	xxx
(-) Total Liabilities of Trust	(xxx)
Accreted Income	xxx

Note:

1. Following Assets & Liabilities in respect of them shall not be considered in Accredited Income

- Assets acquired out of Agricultural Income.
- Assets acquired from Date of Creation of Trust to Date on which Registration becomes effective u/s 12AA / 12AB.
- Assets distributed on Dissolution to Other Trust / Institution registered u/s 12AA / 12AB / 10(23C) within 12 months from end of month of Dissolution.

2. Valuation Date of Assets & Liabilities

Conversion of Trust into Non-Eligible Form	Date of conversion
Merger into Entity not having similar objects or not registered u/s 12AA / 12AB	Date of Merger
Non-Distribution of Assets on Dissolution within 12 months	Date of Dissolution

3. Valuation of Assets

Aggregate FMV of all Assets in Balance Sheet on Valuation Date but not include:

- 3 Assets mentioned above.
- TDS / TCS / Advance Tax
- Deferred Revenue Expenditure

Assets	FMV
Quoted Shares & Securities	Average of lowest & highest price on Valuation Date in RSE. [If no trading on Valuation Date, then immediately preceding Valuation Date]
Unquoted Shares & Securities	Unquoted Equity Share $\frac{A + B - L}{PE} \times PV$ Here, A = Book Value of All Assets [other than covered in B] B = FMV of Shares, Securities, Immovable Property, Bullion, Jewellery, Precious Stones [Ignore TDS / TCS / Advance Tax / Deferred Revenue Expenditure]
	L = Book Value of Liabilities but not include following: Paid-up Equity Share Capital Reserves & Surplus / Dividend Provision for Tax Provision for Unascertained Liabilities Contingent Liabilities PE = Total Paid-up Equity Share Capital of Company PV = Paid-up Value of Equity Shares held by Trust
	Other Unquoted Shares & Securities Open Market Value as per Valuation Report of Merchant Banker or Accountant.
Immovable Property	Higher of: - Stamp Duty Value [SDV] - Open Market Value
Any Other Asset	Open Market Value

4. Valuation of Liabilities

Book Value of Liabilities in Balance Sheet of Trust on Valuation Date but not include following:

- Corpus / Capital / Accumulated Fund
- Reserves & Surplus
- Provision for Tax
- Provision for Unascertained Liabilities
- Contingent Liabilities

5. Other points

- Exit Tax shall be in addition to Normal Income Tax.
- Exit Tax shall be paid to CG within 14 days from:

Conversion of Trust into Non- Eligible Form	Registration Cancelled	ITAT Appeal Period Expires or ITAT Order Received
	Modify Objects	Application Rejected ITAT Appeal Period Expires or ITAT Order Received
		Not Applied for Fresh Registration End of PY
Merger	Date of Merger	

Non-Distribution of Assets on Dissolution within 12 months	Date of expiry of such period of 12 months
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- c. If Exit Tax is not paid within 14 days, Interest is leviable @1% per month or part of month on amount of such tax not paid from Date after 14 days till the Date on which Tax is actually paid.
- d. Principal Officer / Trustee & the Trust will also deemed to be Assessee in Default [If Tax not paid within 14 days]

Refer Question No 21, 22
from Workbook

TAX PLANNING

- **Tax Planning:** Tax planning means reducing tax liability by taking advantage of the legitimate concessions and exemptions provided in the tax law. It involves the process of arranging business operations in such a way that reduces tax liability.

Example: Investment in 80C, 80CCD or reinvestment u/s 54,54EC etc.

- **Tax Avoidance:** Tax avoidance means taking undue advantage of the loopholes, lacunae or drafting mistakes for reducing tax liability and thus avoiding payment of tax which is lawfully payable. Generally, it is done by twisting or interpreting the provisions of law and avoiding payment of tax.

Tax avoidance considers the loopholes of law. Though it has a legal sanction, it means following the provisions of law in letter but killing the spirit of the law.

Example: Sale and leaseback of assets, so that the depreciation is diverted but the asset remains with assessee.

- **Tax Evasion:** Tax evasion means avoiding tax by illegal means. Generally, it involves suppression of facts, falsifying records, fraud or collusion. It is an attempt to evade tax liability with the help of unfair means. Tax evasion is illegal and would result in punishment by way of penalty, fines and sometimes prosecution.

Example: Record bogus expenses etc.

- **Tax Management:** It means planning affairs in such a manner, so that the tax obligation is managed properly.

Example: Advance tax is paid properly to avoid interest; Return filed on time so refund can be processed earlier.

Refer Question No 1 to 6
from Workbook

Points	Tax planning	Tax Avoidance	Tax Evasion	Tax Management
Benefit	arises in long run also.	arises in short run.	benefits do not arise, but it causes penalty and prosecution.	Penalty, interest & prosecution can be avoided.
Treatment of Law	It uses benefits of the law.	It uses loopholes in the law.	It overrules the law.	It implements the law.
Practice	It is tax saving.	It is tax hedging.	It is tax concealment	It is tax administration.
Need	It is desirable	It is avoidable	It is objectionable	It is essential.
Morality	It is moral in nature.	It is immoral in nature	It is illegal.	It is duty.

1. Basic Approaches of Tax planning

- a. **Reducing taxable income:** As a rule, higher the income or profit, higher the tax liability on such income or profit. Gross income is total profits or income from all sources, and taxable income is such gross income less adjustments allowable under various tax laws and other provisions.
- b. **Deferring payment of taxes to the extent possible:** An underestimated dimension of tax planning is timing investments and financial transactions so that the tax liability for such transactions arises at the farthest possible time.

While this does not reduce the amount of tax payable, it delays tax outgo. Individuals may not need to resort to such a strategy, but delayed pay-out is valuable for small businesses that very often face cash flow difficulties.

Refer Question No 7
from Workbook

2. Basic Objectives of Tax planning

The basic objectives of tax planning are

- a. Reduction of Tax liability
- b. Minimization of litigation
- c. Productive investment
- d. Healthy growth of economy
- e. Economic stability

Refer Question No 8
from Workbook

3. Essentials of Tax Planning

- a) **Up-to-date Knowledge** of tax laws along with circulars, notifications, clarifications and administrative instructions issued by the CBDT.
- b) **Disclosure of full and true** material information
- c) **Avoid sham transactions** or make-believe transactions or colorable devices
- d) Foresight of future development or changes and enterprise's goal. The planning should be **flexible** enough to adjust statutory negation.

Refer Question No 9
from Workbook

4. Types of Planning

- a) **Short-range and long-range tax planning:**

Short-range planning refers to planning to achieve some specific or limited objective of particular fiscal year.

E.g., Assessee whose income is likely to register unusual growth in particular year as compared to the preceding year, may plan to subscribe to the PPF/NSC's within the prescribed limits in order to enjoy substantive tax relief.

Long range planning involves entering into activities, which may not pay off immediately.

E.g., when an Assessee transfers his equity shares to his minor son, he knows that income from shares will be clubbed with his own income. But clubbing would cease after his son attains majority.

- b) **Permissive tax planning:** Permissive tax planning is tax planning under the express provisions of tax laws. Tax laws of our country offer many exemptions and incentives.
- c) **Purposive tax planning:** Purposive tax planning is based on the basis of circumvention of the law. The permissive tax planning has the express sanction of the Statute while the purposive tax planning does not carry such sanction.

E.g., if Assessee manages his affairs in such way that his income is **taxable in the hands of other** person without attracting clubbing provision.

Refer Question No 10,11
from Workbook

5. Areas of Tax planning

Some of the important areas where planning can be attempted in an organized manner are

- a) Form of organization/ownership pattern
- b) Locational aspects
- c) Nature of business
- d) Tax planning in respect of corporate restructuring
- e) Tax planning in respect of financial management
- f) Tax planning in respect of employee's remuneration
- g) Tax planning in respect of specific managerial decisions
- h) Tax planning in respect of non-resident

Refer Question No 12 to 29
from Workbook

6. Tax Heaven

- a) Many fiscally sovereign territories and countries use tax and non-tax incentives to attract activities in the financial and other services sectors.
- b) These territories and countries offer the foreign investor an environment with a no or only nominal taxation which is usually coupled with a reduction in regulatory or administrative constraints.
- c) The activity is usually not subject to information exchange because, for example, of strict bank secrecy provisions. These jurisdictions are known as tax havens.
- d) In other words, any country which modifies its tax laws to attract foreign capital could be considered a tax haven.
- e) The **central feature of a haven** is that its laws and other measures can be used to evade or avoid the tax laws or regulations of other jurisdictions.
- f) A tax haven is a state or a country or territory where income tax is levied at a low rate or no tax at all is levied.

Four key factors are used to determine whether a jurisdiction is a tax haven:

1. **Imposes no or only nominal taxes:** Tax havens impose nil or only nominal taxes (generally or in special circumstances) and offer themselves, or are perceived to offer themselves, as a place to be used by non-residents to escape high taxes in their country of residence.
2. **Lack of transparency:** Transparency ensures that there is an open and consistent application of tax laws among similarly situated taxpayers and that information needed by tax authorities to determine a taxpayer's correct tax liability is available (e.g., accounting records and underlying documentation). A lack of transparency in the operation of the legislative, legal or administrative provisions is another factor used to identify tax havens.
3. **Lack of effective exchange of information with foreign tax authorities:** Whether there are laws or administrative practices that prevent the effective exchange of information for tax purposes with other governments on taxpayers benefiting from the no or nominal taxation.
4. **No requirement for a substantive local presence of the entity:** The absence of a requirement that the activity be substantial is important because it suggests that a jurisdiction may be attempting to attract investment and transactions that are purely tax driven.

Refer Question No 30
from Workbook

7. Tax planning cell

Various organizations have separate tax planning departments to plan their transactions with a view of attracting the least incidence of tax.

Organization of such a cell can be justified on the following grounds:

- a. **Complexity and volume of work:** Where the volume of tax work to be handled is large and highly complex, then it is required to appoint a special tax expert along with the required staff.
- b. **Separate documentation:** Documentation is an indispensable ingredient of tax management. An assessee has to keep reliable, complete and updated documentation for all the relevant tax files so that the documentary evidence can be made available at a short notice whenever it is required.
- c. **Data Collection:** The staff concerned with taxation has to collect and keep on collecting data relating to latest circulars, case laws, rules and provisions, and other government notifications to keep abreast of the current developments.
- d. **Integration:** Tax planner should be consulted by all the departments of the company to know the impact of taxation on their decisions. It would be necessary to integrate and properly link all the departments of the company with the tax planning department.
- e. **Constant Monitoring:** In order to obtain the intended tax benefits, persons connected with tax management should ensure compliance of all the pre-requisites, like procedures, rules etc. Besides, there should be constant monitoring, so that all the tax obligations are discharged and penal consequences avoided.
- f. **Developing tax effective alternatives:** Tax laws provide various options for entering into a transaction. A tax planner could guide management in taking important decisions, by considering varieties of alternatives and choices.
- g. **Take advantage of variance allowances and deductions:** An expert tax manager has to keep track of the provisions relating to various allowances, deductions, exemptions, and rebates so as to initiate tax planning measures.

Refer Question No 31
from Workbook

GAAR

1. General Anti – Avoidance Rules (GAAR)

- a. Generally, tax avoidance is legally permissible, if it is within the four corners of the Act, and is not a colorable device. However, many tax-planning/ avoidances are prima-facie in conflict of the objectives of the Act or may be primarily designed to reduce the tax liability.
- b. The provisions of this Chapter shall apply in addition to, or in lieu of, any other basis for determination of tax liability. Specific Anti-Avoidance Rules (SAAR) would be applicable in respective cases. Some examples of SAAR are clubbing of income, depreciation in case of some special cases, section 50C/43CA etc.
- c. The provisions of GAAR override the provisions of Double Taxation Avoidance Agreement (DTAA)
- d. GAAR would apply in respect of tax benefit in aggregate by all enterprises an arrange in an AY exceeds 3 crores.
- e. GAAR not applicable in case of: -
 - i. FII who has invested in securities in India with prior permission of competent authority and has not taken any benefit under DTAA, or
 - ii. Investment made by Non-resident in off-shore derivative instruments of FII.

2. Sec 95: Applicability of GAAR

- a. GAAR provides that an arrangement entered into by an assessee may be declared to be an impermissible avoidance arrangement and the consequence in relation to tax arising there from may be determined subject to the provisions of this Chapter.
- b. GAAR provisions are applicable from AY 2018-19
- c. The section starts with a non-obstante clause which means, if there is a conflict with provisions in other sections, then this section shall prevail over other conflicting provisions.

Example: 1

Facts:

M/s India Chem Ltd. is a company incorporated in India. It sets up a unit in a Special Economic Zone (SEZ) in F.Y. 2017-18 for manufacturing of chemicals. It claims 100% deduction of profits earned from that unit in F.Y. 2018-19 and subsequent years. Is GAAR applicable in such a case?

Interpretation:

There is an arrangement of setting up of a unit in SEZ which results into a tax benefit. However, this is a case of tax mitigation where the tax payer is taking advantage of a fiscal incentive offered to him by submitting to the conditions and economic consequences of the provisions in the legislation e.g., setting up the business unit in SEZ area. Hence, the Revenue would not invoke GAAR as regards this arrangement.

Example: 1A

Facts:

In the above example 1, let us presume M/s India Chem Ltd. has another unit for manufacturing chemicals in a non-SEZ area. It then diverts its production from such manufacturing unit and shows the same as manufactured in the tax exempt SEZ unit, while doing only process of packaging there. Is GAAR applicable in such a case?

Interpretation:

This is a case of misrepresentation of facts by showing production of non-SEZ unit as production of SEZ unit. Hence, this is an arrangement of tax evasion and not tax avoidance. Tax evasion, being unlawful, can be dealt with directly by establishing correct facts. GAAR provisions will not be invoked in such a case.

Example: 1B**Facts:**

In the above example 1A, let us presume that M/s India Chem Ltd. does not show production of non-SEZ unit as a production of SEZ unit but transfers the product of non-SEZ unit at a price lower than the fair market value and does only some insignificant activity in SEZ unit. Thus, it is able to show higher profits in SEZ unit than in non-SEZ unit, and consequently claims higher deduction in computation of income. Can GAAR be invoked to deny the tax benefit?

Interpretation:

As there is no misrepresentation of facts or false submissions, it is not a case of tax evasion. The company has tried to take advantage of tax provisions by diverting profits from non-SEZ unit to SEZ unit. This is not the intention of the SEZ legislation. However, such tax avoidance is specifically dealt with through transfer pricing regulations that deny tax benefits. Hence, the Revenue would not invoke GAAR in such a case.

Example: 1C**Facts:**

In the above example 1B, let us presume, that both units in SEZ area (say A) and non-SEZ area (say B) work independently. M/s India Chem Ltd. started taking new export orders from existing as well as new clients for unit A and gradually, the export from unit B declined. There has not been any shifting of equipment from unit B to unit A.

The company offered lower profits from unit B in computation of income. Can GAAR be invoked on the ground that there has been shifting or reconstruction of business from unit B to unit A for the main purpose of obtaining tax benefit?

Interpretation:

The issue of tax avoidance through shifting / reconstruction of existing business from one unit to another has been specifically dealt with in the relevant section of deduction of the Act. Hence, the Revenue would not invoke GAAR in such a case.

3. Sec 96: Impermissible Avoidance Agreement

IAA means an arrangement which satisfies two conditions:

- Main purpose/ one of the main purposes of which is to obtain a tax benefit and
- It:
 - a. Creates rights/ obligations which are not ordinarily created between persons dealing at arm's length or
 - b. Results (directly or indirectly) in misuse or abuse of provisions of this Act or
 - c. Entered/ carried in a manner, which are not ordinarily employed for Bonafide purposes or
 - d. Lacks commercial substance or
 - e. Deemed to lack commercial substance.

4. u/s. 97A Transaction shall be deemed to lack Commercial substance if:

Transaction shall be deemed to lack commercial substance		
S.no	Nature of Transaction	Example
1	Substance of the transaction differs significantly from its Form (Form v/s Substance)	A transaction has been stated to be a sale and lease transaction, but in substance it is only a make and believe story.
2	The only purpose of selection of such Location of asset/transaction/place of residence of any party is to obtain tax benefit and there is no substantial commercial purpose for selecting such Location of asset/ transaction/ place of residence of any party.	A transaction between A Ltd. of Netherlands and B Ltd. of Hongkong is executed through a conduit C Ltd. in a Tax Heaven.
3	Arrangement does not significantly affect business risk/ net cash outflows of any party to the arrangement but only attributes tax benefits	X Ltd. Located in tax holiday area taken a P&M on rent of ₹ 4 Crores from sister concern and given it on rent to another sister concern for rent of ₹ 10 Crores.
4	Transaction involves: i. Round Tripping, which includes any arrangement in which, through series of transactions: • funds are transferred among parties • such transactions have no substantial commercial purpose other than obtaining tax benefit. It is irrelevant that: • funds involved in round trip financing can be traced to any funds transferred/ received (direct nexus not relevant) • time or sequence in which funds are transferred/received • Manner/Made in which funds are transferred/ received	a. A group company in profit, obtains loan from market and gives loan to sister concern interest free, and claims it to be for business purposes. b. A company (X Ltd.) purchases shares of group company, from another group company at a high value and sells it to another group company at low value. This results in a loss to X Ltd. This transaction can be vice-versa. c. A group company in profit, obtains loan from market. Uses the loan for business. and gives loan to sister concern out of own funds. (direct nexus not relevant)
ii.	An accommodating party ie, a party, the main reason for whose participation is to obtain (directly or indirectly) a tax benefit. It is irrelevant that the accommodating party is associated person or not.	A Ltd. sells shares to subsidiary company B Ltd, at a lower value and books a loss (A Ltd. wanted a loss), B Ltd. transfers the shares at a higher value in the market and books a profit (Subsidiary wanted a profit). Here B Ltd. is the accommodating party.
iii.	Elements have the effect of offsetting or cancelling each other	Cross transfer in Clubbing Topic
iv.	A transaction conducted through one or more persons and disguises the value/ location/ source/ ownership/ control of funds	A share capital is invested in India by a company in Mauritius, the source of investment in Indian company is not disclosed

Further, it has been provided that following shall be irrelevant for deciding whether a transaction lacks commercial substance or not:

- Period/time for which arrangement exists.
- Fact of payment of taxes, directly or indirectly, under the arrangement.
- Fact that an exit route (including transfer of any activity/business/operations) is provided by the arrangement.

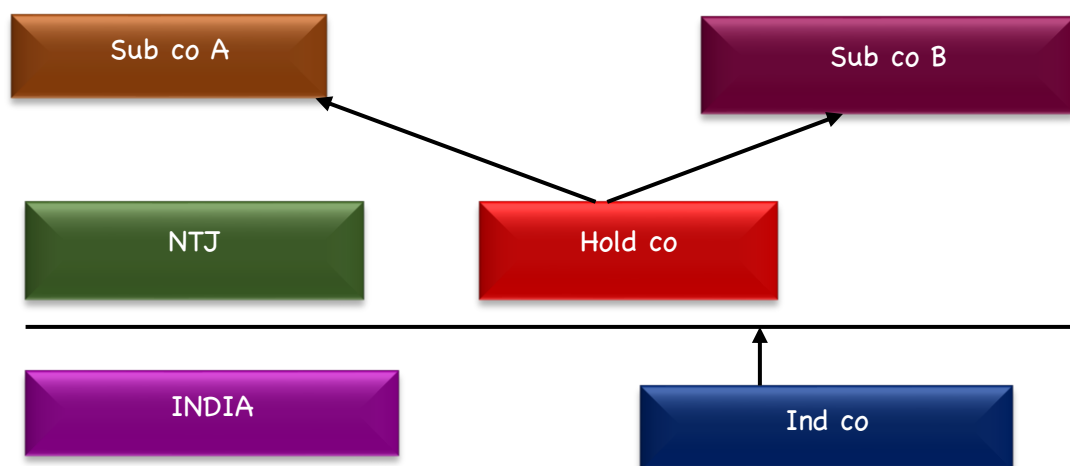
While treating a transaction as IAA:

- An equity may be treated as debt or vice-versa
- Capital receipt may be treated as revenue receipt or vice-versa.
- Expenditure/ deduction/ relief/rebate may be recharacterized

Example 2

Facts:

An Indian company (Ind co) has set up a holding company (Holdco) in a no tax jurisdiction outside India (say NTJ) which has set up further subsidiary companies (Sub co A and Sub co B) which pay dividends to Holdco. Such dividends are not repatriated to Ind co. Can GAAR be invoked to look through Holdco to tax dividends in the hands of Ind co?



Interpretation:

Declaration / repatriation of dividend is a business choice of a company. India does not have anti-deferral provisions in the form of Controlled Foreign Company (CFC) rules in the I.T. Act. Accordingly, GAAR would not be invoked in such a case.

Example 2A

Facts:

In the above example 2, dividend is accumulated in Holdco for a number of years and subsequently, Holdco is merged into Ind co through a cross-border merger. Can GAAR be invoked on the ground that the merger route has been adopted to avoid payment of tax on dividend in India?

Interpretation:

It is true that if Holdco declares dividends to Ind co before merger, then, such dividend would have been taxable in India. But the timing or sequencing of an activity is a business choice available to the taxpayer. Moreover, sec. 47 of the Act specifically exempts capital gains on cross border merger of a foreign company into an Indian company. Hence, GAAR cannot be invoked when taxpayer makes a choice about timing or sequencing of an activity to deny a tax benefit granted by the statute.

Example 3**Facts:**

The merger of a loss-making company into a profit making one results in losses setting off profits, a lower net profit and lower tax liability for the merged company. Would the losses be disallowed under GAAR?

Interpretation:

As regards setting off of losses, the provisions relating to merger and amalgamation already contain specific anti-avoidance safeguards. Therefore, GAAR would not be invoked when SAAR is applicable.

Example 4**Facts:**

A choice is made by a company by acquiring an asset on lease over outright purchase. The company claims deduction for lease rentals in case of acquisition through lease rather than depreciation as in the case of purchase of the asset. Would the lease rent payment, being higher than the depreciation, be disallowed as expense under GAAR?

Interpretation:

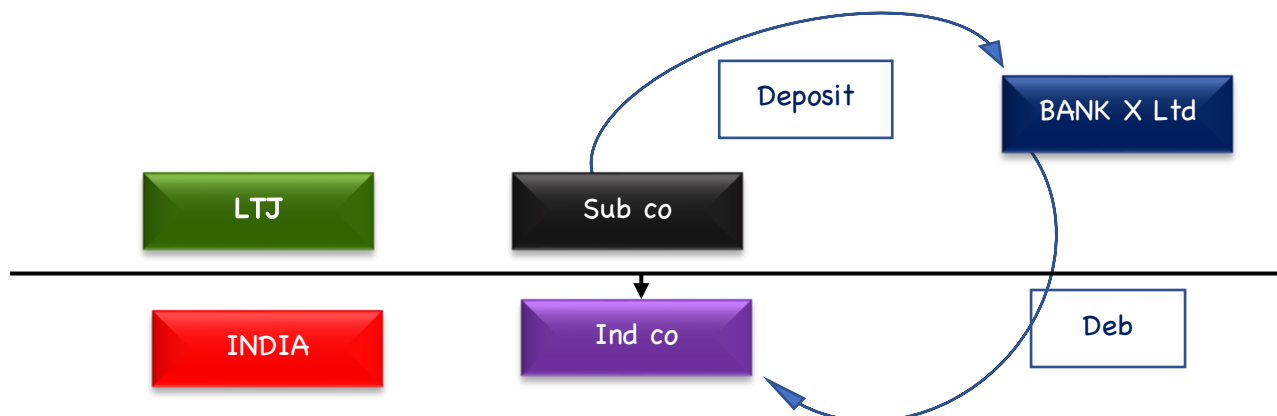
GAAR provisions, would not, prima facie, apply to a decision of leasing (as against purchase of an asset). However, if it is a case of circular leasing, i.e. the taxpayer leases out an asset and through various sub-leases, takes it back on lease, thus creating a tax benefit without any change in economic substance, Revenue would examine the matter for invoking GAAR provisions.

Example 5**Facts:**

1. X Ltd. is a banking institution in LTJ (low tax jurisdiction);
2. There is a closely held company Sub co in LTJ which is a wholly owned subsidiary of another closely held Indian company Ind co;
3. Sub co has reserves and, if it provides a loan to Ind co, it may be treated as deemed dividend u/s 2(22)(e) of the Act.
4. Sub co makes a term deposit with X Bank Ltd. and X Bank Ltd. bank based on this security provides a back-to-back loan to Ind co.

Say, India-LTJ tax treaty provides that interest payment to a LTJ banking company is not taxable in India.

Can this be examined under GAAR?

**Interpretation:**

This is an arrangement whose main purpose is to bring money out of reserves in Sub co to India without payment of due taxes. The tax benefit is saving of taxes on income to be received from Sub co by way of dividend or deemed dividend. The arrangement disguises the source of funds by

routing it through X Bank Ltd. X Bank Ltd. may also be treated as an accommodating party. Hence the arrangement shall be deemed to lack commercial substance.

Consequently, in the case of Ind co, the loan amount would be treated as dividend income received from Sub co to the extent reserves are available in Sub co; and no expense by way of interest would be allowed.

In the case of X Bank Ltd, exemption from tax on interest under the DTAA may not be allowed as X Ltd is not a beneficial owner of the interest, provided the DTAA has anti-avoidance rule of beneficial ownership. If such anti-avoidance rule is absent in DTAA, then GAAR may be invoked to deny treaty benefit as arrangement will be perceived as an attempt to hide the source of funds of Sub co.

Example 6

Facts:

Ind co incorporates a Sub co in a NTJ with equity of US\$100. Sub co has no reserves; it gives a loan of US\$100 to Ind co at the rate of 10% p.a. which is utilized for business purposes. Ind co claims deduction of interest payable to Sub co from the profit of business. There is no other activity in Sub co. Can GAAR be invoked in such a case?

Interpretation:

The main purpose of the arrangement is to obtain interest deduction in the hands of Ind co and thereby tax benefit. There is no commercial substance in establishing Sub co since without it there is no effect on the business risk of Ind co or any change in the cash flow (apart from the tax benefit). Moreover, it is a case of round tripping which means a case of deemed lack of commercial substance. Hence, it would be treated as an impermissible avoidance arrangement.

Consequently, in the case of Ind co, interest payment would be disallowed by disregarding Sub co. No corresponding relief would be allowed in the case of Sub co by way of refund of taxes withheld, if any.

Example 7

Facts:

A large corporate group has created a service company to manage all its non-core activities. The service company then charges each company for the services rendered on a cost-plus basis. Can the mark up in the cost of services be questioned using GAAR.

Interpretation:

There are specific anti avoidance provisions through transfer pricing regulations as regards transactions among related parties. GAAR will not be invoked in this case.

Example 8

Facts:

Y Tech Ltd. is a company resident of country C1. It enters into an agreement with Z Energy Ltd., an Indian company for setting up a power plant in India. It is a composite contract for an agreed price of US\$ 100 million.

The payment has been split in the following parts as per separate agreements

1. US\$ 10 million for design of power plant outside India (payment for which is taxable at 10% on gross basis)
2. US\$ 70 million for offshore supplies of equipment etc. (not taxable as no role is played by any PE in India. These are not subject to import duty)
3. US\$ 20 million for local supplies and installation charges (taxable on net income basis) It is found that the fair market value of offshore design is about USD 30 million: therefore, it is under invoiced.

On the other hand, offshore supplies were over invoiced. The arrangement resulted in significant tax benefit to the taxpayer.

Can GAAR be invoked in such a case?

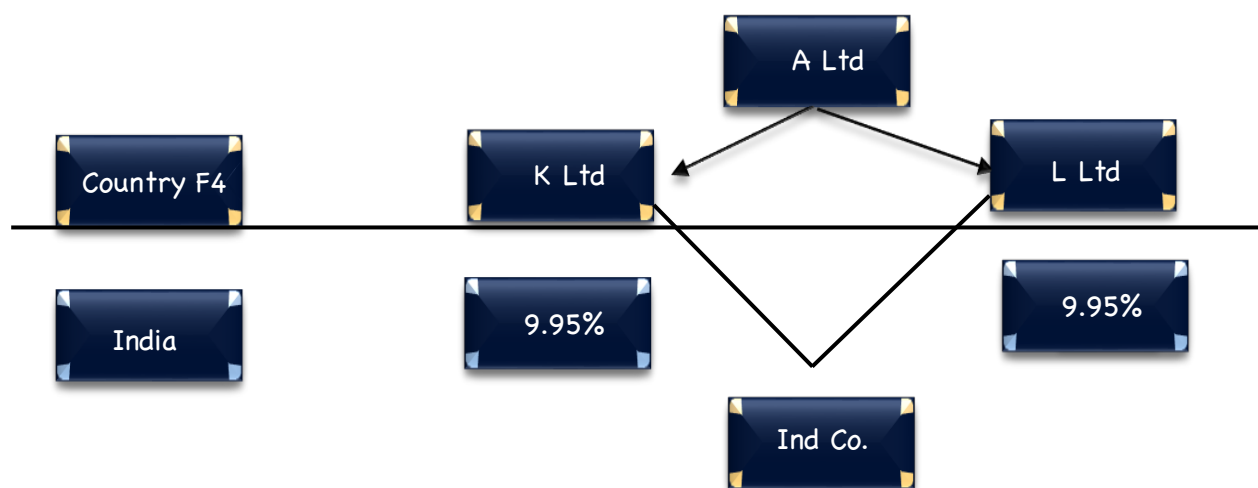
Interpretation:

The allocation of price to different parts of the contract has been decided in such a manner as to reduce tax liability of the foreign company in India. Both conditions for declaring an arrangement as impermissible are satisfied.

1. The main purpose of this arrangement is to obtain tax benefit; and
2. the transactions are not at arm's length. Consequently, GAAR may be invoked and prices would be reallocated. However, determination of arm's length price should be based on transfer pricing regulations under the Act, if enterprises are AE's.

Example 9

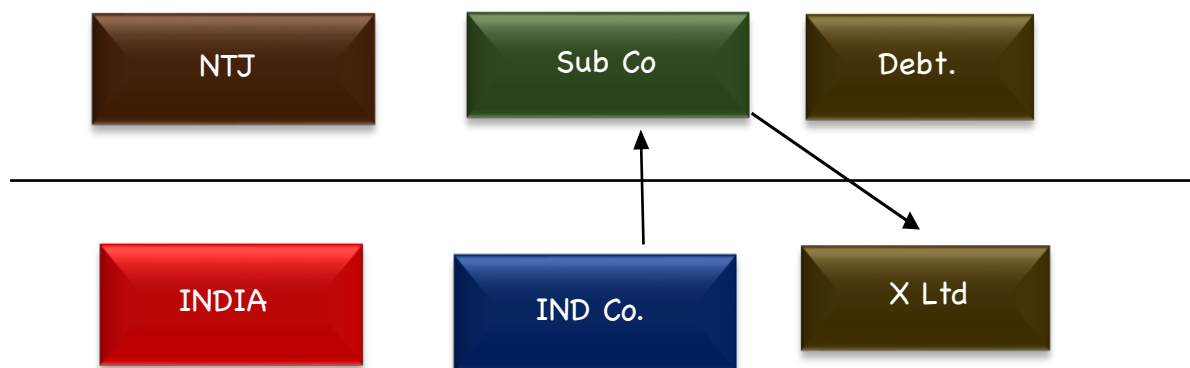
Facts:



Under the provisions of a tax treaty between India and country F4, any capital gains arising from the sale of shares of Ind co, an Indian company would be taxable only in F4 if the transferor is a resident of F4 except where the transferor holds more than 10% interest in the capital stock of Ind co. A company. A Ltd., being resident in F4, makes an investment in Ind co through two wholly owned subsidiaries (K Ltd. and L Ltd.) located in F4. Each subsidiary holds 9.95% shareholding in the Indian Company, the total adding to 19.9% of equity of Ind co. The subsidiaries sell the shares of Ind co and claim exemption as each is holding less than 10% equity shares in the Indian company. Can GAAR be invoked to deny treaty benefit?

Interpretation:

The above arrangement of splitting the investment through two subsidiaries appears to be with the intention of obtaining tax benefit under the treaty. Further, there appears to be no commercial substance in creating two subsidiaries as they do not change the economic condition of investor A Ltd. in any manner (i.e. on business risks or cash flow), and reveals a tainted element of abuse of tax laws. Hence, the arrangement can be treated as an impermissible avoidance arrangement by invoking GAAR. Consequently, treaty benefit would be denied by ignoring K and L, the two subsidiaries, or by treating K and L as one and the same company for tax computation purposes.

Example 10**Facts:**

Ind co incorporates a Sub co in a NTJ (Low Tax Jurisdiction) with equity of US \$100. Sub co gives a loan of US \$ 100 to another Indian company (X Ltd.) at the rate of 10% p.a. X Ltd. claims deduction of interest payable to Sub co from the profit of business. There is no other activity in Sub co. Can GAAR be invoked in such a case?

Interpretation:

The arrangement appears to be to avoid payment of tax on interest income by Ind co in case loan is directly provided by Ind co to X Ltd. The arrangement involves round tripping of funds even though the funds emanating from Ind co are not traced back to Ind co in this case. Hence, the arrangement may be deemed to lack commercial substance. Consequently, in the case of Ind co, Sub co may be disregarded and the interest income may be taxed in the hands of Ind co.

Example 12**Facts:**

The merger of a loss making company with a profit making one results in losses setting off profits, a lower net profit and lower tax liability for the merged company. Would the losses be disallowed by applying GAAR?

Interpretation:

As regards setting off of losses, the provisions relating to merger and amalgamation already contain specific anti-avoidance safeguards. Therefore, GAAR need not be invoked when SAAR is applicable, though as per CBDT Circular No. 7/2017 dated 27.01.2017, GAAR and SAAR can co-exist. Further, since merger and amalgamation would be carried out under the order of the National Company Law Tribunal (NCLT), GAAR need not be invoked if the NCLT has explicitly and adequately considered the tax implication while sanctioning the merger scheme.

Refer Question No 1,2
from Work book

5. Sec 144BA: Reference to Principal Commissioner or Commissioner in Certain Cases

A.O. to make reference to PC/C at any stage of Asst./ Reassessment proceedings, on the basis of material & evidence available to declare an arrangement as IAA and determine its consequence

The PC/C to issue notice to assessee for submitting objections and providing an opportunity of being heard within a period not exceeding 60 days

If assessee does not furnish objection to the notice within prescribed time

PC/C to issue such directions as he deems fit for declaring the arrangement to be an IAA

If assessee objects to the proposed action

If PC/C is not satisfied with the explanation of the assessee

PC/C to make reference to the AP for declaring arrangements as IAA

If PC/C is satisfied with the explanation of the assessee

PC/C to communicate the same to the AO by order in writing with a copy to the assessee

AP to give an opportunity of being heard to the assessee

For further inquiry, direct the PC/C to make such inquiry and furnish report

Call for and examine such records relating to the matter as it deems fit

Require the assessee to furnish such docs and evidence as it may direct

AP to issue directions for declaration as an IAA and specifying the PY's in respect of which it is so declared within 6 months from the end of the month of receipt of reference#

No appeal shall lie against such directions

AO to complete the proceeding in accordance with such directions and provisions of chapter X-A

Prior approval of the PC/C required for passing assessment order, if any tax consequences have been determined in the order as per the provisions of Chapter X-A

Directions binding on the assessee, PC/C and subordinate IT authorities

PC/C	Principal Commissioner/ Commissioner	AP	Approving Panel
IAA	Impermissible Avoidance Arrangement	AO	Assessing Officer

The approving panel shall issue directions within a period of 6 months from the end of the month in which the reference was received.

6. Sec 98: Consequence of IAA

If any arrangement is declared to be IAA, then the consequences shall be determined in such manner as is deemed appropriate, in the circumstances of the case. Circumstances of case may result in denial of any tax benefit or benefit under DTAA. The impact of treating a transaction as IAA may result into following illustrative situations: -

- a. disregarding, combining or re-characterizing any step in, or a part or whole of, the IAA;
- b. treating the IAA as if it had not been entered into or carried out;
- c. disregarding any accommodating party or treating any accommodating party and any other party as one and the same person [treating accommodating party as benami];
- d. deeming persons who are connected persons in relation to each other to be one and the same person for the purposes of determining tax treatment of any amount: [holding concerns as benami]
- e. reallocating amongst the parties to the arrangement-
 - any accrual, or receipt, of a capital or revenue nature; or
 - any expenditure, deduction, relief or rebate;
- f. Treating-
 - the place of residence of any party to the arrangement: or
 - the situs of an asset or of a transaction, at a place other than the place of residence. location of the asset or location of the transaction as provided under the arrangement, or
- g. considering or looking through any arrangement by disregarding any corporate structure [lifting of corporate veil/ disregarding the alter-ego]

Refer Question No 3
from Work book

LIABILITY IN SPECIAL CASES

1. Tonnage Taxation

Qualifying Company	Indian Company [POEM in India] engaged in business of operating ships (including inland vessel); and Owns at least one Qualifying Ship. Note: - A qualifying company may opt tonnage tax scheme by making an application to JCIT in the prescribed manner and form. - Application required to be made within 3 months of date of incorporation or date on which it becomes qualifying company. - Application received on or after 01.04.2025 has to be disposed of within 3 months from end of quarter in which application received. - Books of accounts and Audit u/s 44AB is mandatory.	
Qualifying Ship	Seagoing ship or vessel of 15 net tonnage or more but exclude - a seagoing ship or vessel if the main purpose for which it is used is for the provision of goods or services of a kind normally provided on land - factory ships - fishing vessels - harbour and river ferries - pleasure craft - offshore installations - qualifying ship which is used as a fishing vessel for a period of more than 30 days during a P.Y.	
What about PGBP Income of Qualifying Company from Shipping Business?	- The company has 2 options - PGBP Provisions [Section 28 to 43D]; (or) - Tonnage Income as per Tonnage Tax Scheme - This scheme is optional. - Where an assessee opts for tonnage tax but wishes to opt out of the same within 10 years from the date on which he exercised option, he shall not be eligible to opt into tonnage tax for a period of 10 years from date of opting out.	
Calculation of Tonnage Income	Daily Tonnage Income X No. of days on which ship is operated in PY Daily Tonnage Income	
	Qualifying Shipping Net Tonnage [in tones]	Daily Tonnage Income
	up to 1000	₹70 for each 100 tones
	> 1000 but up to 10,000	₹700 + ₹53 for each 100 tones exceeding 1000 tones
	> 10,000 but up to 25,000	₹5,470 + ₹42 for each 100 tones exceeding 10,000 tones

	> 25,000	₹11,770 + ₹29 for each 100 tones exceeding 25,000 tones
	Note: a) Tonnage shall be rounded off to the nearest multiple of 100 tones. b) Deductions, Set-off of any loss shall not be allowed against Tonnage Income. c) Tonnage Income shall not be liable to MAT.	
Conditions for Applicability of Tonnage Tax Scheme	- Minimum 20% of book profits (same as 115JB) derived from core and eligible incidental activities every year shall be transferred to Tonnage Tax Reserve A/C in each PY. - Reserve Amount shall be utilized only for acquiring a new ship before expiry of 8 years. If amount not utilized within 8 years, it shall be deemed as Income of 9th year. - If ship transferred within 3 years from end of PY in which it acquired, its proportionate amount shall be deemed as income in year of transfer. - Failure to create Tonnage Tax Reserve A/C for 2 consecutive PY's will render tonnage scheme invalid from 3rd PY. Shortfall in Reserve <u>Taxable Amount:</u> $\text{Relevant shipping Income} \times \frac{\text{Shortfall in Reserve}}{\text{Minimum Reserve to be created}}$ Consequences of Misutilization / Non-Utilization <u>Taxable Amount:</u> $\text{Relevant Shipping Income} \times \frac{\text{Amount misutilized / non-utilized}}{\text{Total Reserve created during the year}}$ - Income from incidental activities exceeds 0.25% of Turnover from core activities, Such excess will not form part of relevant shipping income for the purposes of this chapter and shall be taxable under the other provisions of this Act. - If a company has chosen the tonnage tax scheme, it should not charter more than 49% of the net tonnage of the qualifying ships it operates in any given year. - If the company charters more than 49% of the net tonnage of the qualifying ships in a year, the company will not be eligible for the tonnage tax scheme for that year. Instead, the income will be calculated as if the company never opted for the scheme.	

Refer Question No 1 to 3
from Workbook

2. Sec 159: Legal Representatives

- a. **Liability of Legal Representatives:** When a person dies, their legal representatives are responsible for paying any debts or taxes the deceased owed, as if the deceased were still alive.
- b. **Limit of Liability:** The legal representative's liability is limited to the assets available in the deceased's estate.
- c. **For the purpose of making an assessment including an assessment, reassessment or re computation u/s 147:**
 - i. Any tax proceedings that were ongoing against the deceased before their death will continue against the legal representative from where they left off.
 - ii. The legal representative can also be involved in any proceedings that could have been taken against the deceased if they were still alive.
 - iii. All tax laws will apply to the legal representative in the same way as they would have applied to the deceased.
- d. The legal representative of the deceased shall be deemed to be an assessee.

3. Sec 168: Executors

- a. **Income of the Deceased's Estate:** The income from a deceased person's estate is taxed in the hands of the executor:
 - i. If there is only one executor, the income is taxed as if the executor is an individual.
 - ii. If there are multiple executors, the income is taxed as if they are an association of persons.
 - iii. The executor's residency status (resident or non-resident) will depend on whether the deceased was a resident or non-resident during the year of death.
- b. **Separate Assessment for Executor:** The executor's income is assessed separately from their own personal income.
- c. **Assessment Period:** Separate tax assessments will be made for each completed year (or part of a year) between the date of the deceased's death and the date the estate is fully distributed to the beneficiaries.
- d. Executor includes an administrator or other person administering the estate of a deceased person.
- e. An executor in respect of tax paid or payable by him shall be recovered by him from the estate or from the beneficiaries (Sec 169).

Common Note points for Sec 159 & Sec 168:

- In the year of the death of the assessee, there are two assessment (i) up to date of death, sec, 159 is applicable (ii) after the date of death, Sec 168 or other sections are applicable.
- Representative u/s 159 and Executors u/s 168 may be same person.

4. Sec 160: Representative Assessee

Representative assessee means:

In respect of the income	Representative Assessee
i. of a minor, lunatic or idiot	A guardian or manager who is entitled to receive or is in receipt of such income on behalf of such minor, lunatic or idiot.
ii. which is received by ➤ the Court of Wards; ➤ the Administrator-General;	Such – ➤ Court of Wards; ➤ Administrator-General;

➤ the Official Trustee; or ➤ any receiver or manager,	➤ Official Trustee; or ➤ Receiver or Manager
iii. which is received by trustee [appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise (including any valid wake deed)] on behalf of or for the benefit of any person.	Such trustee or trustees
iv. which is received receives or entitled to receive by trustee (appointed under an oral trust) on behalf of or for the benefit of any person	Such trustee or trustees

Note: Every representative assessee shall be deemed to be an assessee

Refer Question No 4
from Workbook

5. Sec 162: Right of representative assessee to recover tax paid

- A **representative assessee** who pays any tax on behalf of another person (the **principal**) can:
 - ✓ **Recover** the amount paid from the principal or,
 - ✓ **Retain** an amount equal to what was paid from any money they hold for the principal.
- If the representative assessee thinks they might be liable to pay tax on behalf of the principal, they can **retain** an estimated amount from the principal's money.
- If there's a **disagreement** between the principal and the representative assessee, the representative can get a **certificate** from the Assessing Officer that states the amount they can retain. This certificate acts as proof for retaining that amount.
- The amount recoverable from such representative assessee at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such representative assessee may, at such time, have in his hand's additional **assets** of the principal.

Refer Question No 5
from Workbook

6. Sec 178: Company in Liquidation

a. Notice to Assessing Officer:

- A liquidator (someone managing a company being wound up) must inform the tax authorities (Assessing Officer) of their appointment within 30 days.

b. Restrictions on Assets:

- The liquidator cannot sell or dispose of any assets of the company without permission from the Chief Commissioner or Commissioner until notified by the Assessing Officer.
- Once notified, the liquidator must set aside an amount equal to the amount specified by the tax authorities before selling any assets.

c. Exceptions: The liquidator can sell assets for:

- Paying the company's taxes,
- Paying secured creditors whose debts have legal priority over government debts,
- Paying reasonable costs of the company's winding-up, as approved by the Chief Commissioner or Commissioner.

- d. **Personal Liability:** If the liquidator fails to follow these rules, they will be personally liable for the company's tax debt, but only up to the amount they were told to set aside.
- e. **Joint Liability for Multiple Liquidators:** If there are multiple liquidators, they are all jointly and individually responsible for following these rules.

7. Sec 179: Liability of Directors of private company

- a. **Director's Liability for Company's Tax:** If a private company owes taxes that cannot be recovered, every director of the company during the relevant year will be personally liable to pay the tax.
- b. **Exemption for Directors:** A director will not be liable if they can prove that the failure to recover the tax was not due to their own neglect, misconduct, or breach of duty in handling the company's affairs.

Refer Question No 6
from Workbook

8. Sec 269SS: Mode of Accepting loans, Deposits or advance

Any person should take / accept Loan or Deposit or Advance in relation to Immovable Property only by A/c Payee Cheque, DD, ECS or any Electronic Mode if the aggregate amount (including outstanding amount) is ₹ 20,000 or more.

a) Non-applicability

- i. If Loan / Deposit / Advance is taken from / by
 - ✓ Government
 - ✓ Banks / Co-operative Bank / Post Office
 - ✓ Government Company
 - ✓ Corporation established by Central / State / Provincial Act
 - ✓ Person having only Agriculture Income
 - ✓ Any other as notified by CBDT

b) Penalty [Sec. 271D]

- i. If Assessee fails to comply with above provisions, penalty will be 100% of such Loan /Deposit / Advance.
- ii. It shall be imposed by JC. (w.e.f 01.04.2025 penalty shall be imposed by AO)

Note: However higher limit of 2,00,000 is applicable in case of any deposit/loan where

- a. Such deposit is accepted by a primary agricultural credit society (PACS) or a primary cooperative agricultural and rural development bank (PCARD) from its member or
- b. A loan is taken from a primary agricultural credit society or a primary cooperative agricultural and rural development bank by its member.

9. Sec 269ST: Mode of Undertaking Transactions

Any person shall receive amount of ₹2,00,000 or more

- a) In aggregate from a person in a day;
- b) In respect of a single transaction;
- c) In respect of transactions relating to one event

only by A/c Payee Cheque, DD, ECS or any Electronic Mode.

a) Non-applicability

- a. Transactions covered u/s 269SS.
- b. Any receipt by Government, Banks, Co-operative Bank or Post Office.
- c. Cash withdrawals by any person from Bank, Co-operative Bank or Post Office.

Refer Question No 7
from Work book

b) Penalty u/s 271DA

- a. If Assessee fails to comply with above provisions, penalty will be 100% of such receipt.
- b. It shall be imposed by JC. (w.e.f 01.04.2025 penalty shall be imposed by AO)

10. Sec 269T: Mode of Repayment of certain Loans or Deposits

Any person should repay Loan / Deposit (with Interest) or Advance in relation to Immovable Property only by A/c Payee Cheque, DD, ECS or any Electronic Mode if the aggregate amount (including outstanding amount) is ₹ 20,000 or more.

a) Non-applicability

If Loan / Deposit / Advance is taken from / by

- a. Government
- b. Banks / Co-operative Bank / Post Office
- c. Government Company
- d. Corporation established by Central / State / Provincial Act

b) Penalty U/S 271E

- a. If Assessee fails to comply with above provisions, penalty will be 100% of such Loan / Deposit / Advance.
- b. It shall be imposed by JC. (w.e.f 01.04.2025 penalty shall be imposed by AO)

Note: however higher limit of 2,00,000 is applicable in case of any deposit/loan where

- A deposit is paid by a primary agricultural credit society (PACS) or a primary cooperative agricultural and rural development bank (PCARD) to its member or
- A loan is repaid to a primary agricultural credit society or a primary cooperative agricultural and rural development bank by its member.

11. Sec 269SU: Acceptance of payment through prescribed e-mode

Person carrying on business, shall provide facility for accepting payment through prescribed electronic modes, if his Turnover of last year more than ₹ 50 crore

Prescribed Electronic Modes

- a. Debit Card powered by RuPay:
- b. Unified Payments Interface (UPI) (BHIM-UPI); and
- c. Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code)

Penalty u/s 271DB: If assessee fails to follow Sec. 269SU then he shall be liable to pay penalty sum of ₹ 5000, for every day during which such failure continues. It shall be imposed by J.C. (w.e.f 01.04.2025 penalty shall be imposed by AO)

12. Sec 283: Service of notice when family is disrupted or firm, etc., is dissolved

When a Hindu undivided family (HUF) undergoes a partition and the Assessing Officer records this under Section 171, **tax notices** regarding the family's income should be served on:

- The last manager of the family.
- If the last manager is deceased, then on all the **adults** who were members of the family just before the partition.

Similarly, if a **firm** or **association of persons (AOP)** is dissolved, the **tax notices** for the firm or AOP's income can be served on:

- Any **partner** (who is not a minor) of the firm.
- Any **member** of the association, as applicable, right before its dissolution.

13. Sec 284: Service of notice in the case of discontinued business

When an assessment is to be made under Section 176 (discontinued business), the Assessing Officer can serve a notice on the person whose income is being assessed.

- ✓ For a firm or association of persons, the notice can be served on any member of the firm or association at the time it was discontinued.
- ✓ For a company, the notice is served on the principal officer of the company.

Refer Question No 8
from Workbook

14. Sec 285: Submission of Statement by and having liaison office

A **non-resident** with a **liaison office** in India (set up according to RBI guidelines under the Foreign Exchange Management Act, 1999) must submit a **statement** to the **Assessing Officer**.

- ✓ The statement should be in **Form 49C** and include the required details.
- ✓ It must be submitted **eight months from the end of financial year**, reporting on the activities during that year. (Within prescribed period as per Income Tax rules).

15. Sec 285A: Furnishing of information or documents by an Indian in certain cases

If a **share or interest** in a **foreign company or entity** gets most of its value from assets located in India, and if that company/entity holds those assets through an **Indian concern** (company or entity in India), then the **Indian concern** must:

- Provide information or documents to the income-tax authority in **Form 49D**
- This must be done within the prescribed period as required for determining income arising in India under Section 9(1)(i).

Example:

XYZ Ltd. is a foreign company incorporated outside India, and it owns shares in **ABC India Pvt. Ltd.**, a company based in India. Let's say **XYZ Ltd.** derives a large portion of its value from real estate assets located in India, specifically through its 100% stake in **ABC India Pvt. Ltd.**, which owns several properties in major cities like Delhi and Mumbai.

- According to the tax laws, if a foreign company holds significant assets in India (through an Indian company or entity), the value of those foreign shares is considered to be **substantially derived** from India.
- As per the law, **ABC India Pvt. Ltd.**, as the Indian concern, is required to **submit certain information/documents** to the Indian income-tax authorities (in **Form 49D**).

This is done to help determine any income that accrues or arises in India for tax purposes, such as capital gains when the shares in XYZ Ltd. are sold or the assets are sold.

16. Sec 285B: Submission of Statements by producers of cinematograph films

Any person carrying on the production of a cinematograph film or engaged in any **specified activity** during the financial year, they must:

- Submit a **statement** to the income-tax authority in the required **form** (Form 52A) and
- within 30 days from the end of such financial year or within 30 days from the date of the completion of the production of the film, whichever is earlier.
- The statement should include details of all payments **over ₹50,000** made or due to any person engaged in the production or activity.

Refer Question No 9
from Workbook

17. Sec 287: Publication of information respecting Assessee in certain cases

If the **Central Government** believes it's in the **public interest** to publish details about certain Assessee, including their names and other details related to legal proceedings or prosecutions, it can do so in a way it chooses.

a) Penalty Publication: Names won't be published until

- The time for filing an appeal to the **Commissioner (Appeals)** has passed, or
- If an appeal is filed, it has been decided.

b) In case of firms, companies, or associations:

- The government may also publish the names of **partners, directors, managers, etc.**, if it believes the situation warrants it.

18. Sec 288: Appearance by authorized representative

An assessee (taxpayer) who needs to attend before any income-tax authority or the Appellate Tribunal can attend through an **authorized representative**. However, this does not apply when the assessee is required to personally appear under Section 131 for examination under oath or affirmation.

An authorized representative is someone whom the assessee has authorized in writing. This includes:

1. **Related Persons or Employees:** A person related to the assessee or someone regularly employed by the assessee.
2. **Bank Officers:** An officer of a scheduled bank with which the assessee maintains a current account or regular dealings.
3. **Legal Practitioner:** A lawyer who is entitled to practice in any civil court in India.
4. **Accountants (Refer Note 1)**
5. Any person who has passed specific **accountancy examinations** recognized by the income tax authorities.

Recognized Accountancy Examinations (Rule 50): Certain qualifications and examinations are recognized for accountants to act as authorized representatives:

- a. **National Diploma in Commerce** awarded by the All-India Council for Technical Education, provided it includes advanced accountancy and auditing as subjects.
- b. **Government Diploma in Company Secretary ship** issued by the Department of Company Affairs.
- c. **Final Examination of the Institute of Company Secretaries of India.**
- d. **Final Examination of the Institute of Cost and Works Accountants of India.**
- e. **Departmental Examinations** conducted by the Central Board of Direct Taxes for probationary or promoting assessing officers.
- f. **Revenue Audit Examination** conducted by the Office of the Comptroller and Auditor General of India.
6. **Educational qualifications prescribed by the Board**, such as a degree in Commerce or Law from universities recognized by the income tax authorities. This includes degrees from Indian universities and certain foreign universities (e.g., universities in the UK, Ireland, and Pakistan).
7. any other person as may be prescribed.

Note 1:

An Accountant i.e., a chartered accountant as defined in section 2(1)(b) of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under section 6(1) of that Act. However, the following persons are not included in the definition of "accountant" –

	Assessee	Person
(i)	Company	A person who is not eligible for appointment as an auditor of the said company under section 141(3) of the Companies Act, 2013, namely,
		(a) A body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008;
		(b) an officer or employee of the company
		(c) a person who is a partner, or who is in the employment, of an officer or employee of the company
		(d) 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
		(ii) is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding 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, in excess of ₹ 1 lakh.
		(e) 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.
		(f) a person whose relative is a director or is in the employment of the company as a director or key managerial personnel.
		(g) 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
		(h) 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
		(i) any person whose subsidiary or associate company or any other form of entity, is engaged as on the date of appointment in consulting and specialized services as provided in section 144 of the Companies Act, 2013.
(ii)	Individual	The assessee himself or his relative
(iii)	Firm	Partner of the firm or his relative
(iv)	AOP	Member of the AOP or his relative
(v)	HUF	Member of the HUF or his relative
(vi)		(1) The author of the trust or founder of the institution or his relative

	Trust or Institution	(2)	Any person who has made a substantial contribution to the trust or institution, i.e., any person whose total contribution up to the end of the relevant previous year exceeds ₹ 50,000, or his relative
		(3)	Where such author, founder or person is a HUF, a member of the HUF or relative of such member
		(4)	Any trustee of the trust or manager of the institution, or relative of the trustee or manager
(vii)	Any other person		The person who is competent to verify the return under section 139 in accordance with the provisions of section 140 or his relative.

No person shall be qualified to represent an assessee:

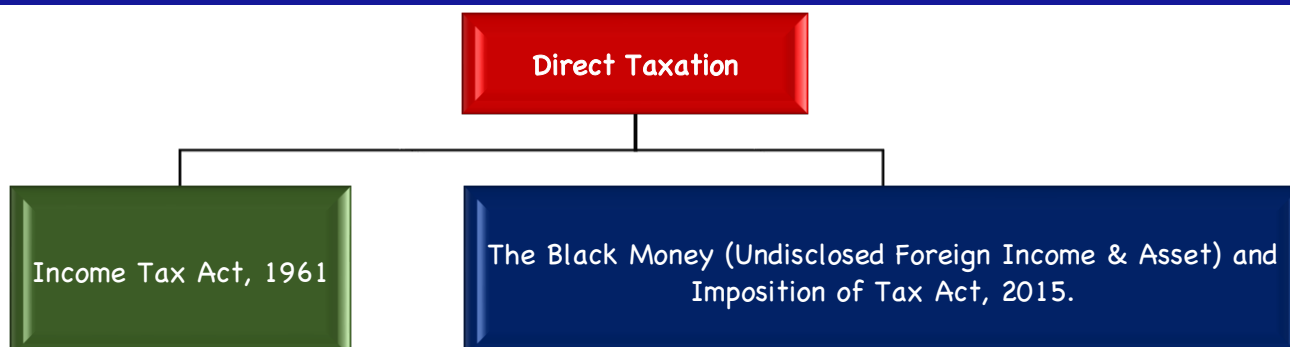
Person, who has been	Disqualification for
Dismissed or removed from Government service after 01-04-1938	All times
Convicted of an offence connected with any income- tax proceeding or on whom a penalty has been imposed under this Act, other than a penalty imposed on him u/s 271(1)(ii) or 272A(1)(d)	Such time as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may by order determine
An insolvent	The period during which the insolvency continues
Convicted by a court for an offence involving fraud	A period of 10 years from the date of conviction
If any person who is a legal practitioner or an accountant is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him, an order passed by that authority shall have effect in relation to his right to attend before an income-tax authority as it has in relation to his right to practice as a legal practitioner or accountant, as the case may be.	

Relative in relation to an individual, means: (for Sec 288 Purpose)

- spouse of the individual;
- brother or sister of the individual;
- brother or sister of the spouse of the individual;
- any lineal ascendant or descendant of the individual;
- any lineal ascendant or descendant of the spouse of the individual;
- spouse of a person referred to in (b) to (e);
- any lineal descendant of a brother or sister of either the individual or the spouse of the individual.

BLACK MONEY

1. Introduction



- The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 had been **introduced in the Parliament on 20-03-2015** which thereafter received **President's assent on 26th May 2015** and **notified in the month of July 2015**.
- The Act extends to the whole of India.

2. Sec 3: Chargeability

Provides that tax @ 30% shall be charged on every assessee (who was **resident in India** in the year of acquisition of the undisclosed foreign asset) for every assessment year in respect of total undisclosed foreign income and asset of the previous year.

3. Sec 4: Scope of total undisclosed foreign income & asset

- ✓ The total undisclosed foreign income and asset of any previous year of an assessee shall be:
 - i. the **income** from a source located outside India, which has not been disclosed in the return of income furnished u/s 139 of the Income-Tax Act.
 - ii. the **income** from a source located outside India, in respect of which a return is required to be furnished u/s 139 of the Income-Tax Act but no return of income has been furnished u/s 139 of the Income-tax Act; and
 - iii. the **value** of an undisclosed asset located outside India.
- ✓ Any **variation** made in the income from a source outside India in the assessment or reassessment of the total income of any previous year, of the assessee under the Income-tax Act in accordance with the provisions of section 29 to section 43C (Profits and gains of business or profession) or section 57 to section 59 (Income from other sources) or section 92C (Transfer pricing) of the said Act, shall **not be included** in the total undisclosed foreign income.
- ✓ **To avoid double taxation**, the income included in the total undisclosed foreign income and asset under this Act shall not form part of the total income under the Income-Tax Act.

Refer Question No 1
from Workbook

4. Sec 5: Computation of total undisclosed foreign income & asset

- In computing the total undisclosed foreign income and asset of any previous year of an assessee:
 - ✓ **No deduction** in respect of any expenditure or allowance or set off any loss shall be allowed to the assessee, whether it is allowable in accordance with the provisions of the Income-tax Act.

For immovable property:

The amount of deduction in case of an immovable property shall be the amount which bears to the value of the asset as on the first day of the financial year in which it comes to the notice of the Assessing Officer, the same proportion as the assessable or assessed foreign income bears to the total cost of the asset.

Example:

A house property located outside India was acquired by an assessee in the previous year 2010-11 for ₹ 50 lakh. Out of the investment of ₹ 50 lakh, ₹ 20 lakh was assessed to tax in the total income of the previous year 2010-11 and earlier years. Such undisclosed asset comes to the notice of the Assessing Officer in the year 2025-26. If the value of the asset in the year 2025-26 is ₹ 1 crore, the amount chargeable to tax shall be ₹ 60,00,000 i.e.: ₹ 1,00,00,000 - (₹ 20,00,000 / ₹ 50,00,000) = ₹ 60,00,000.

Definitions:

- **Sec. 2(11) Undisclosed asset located outside India** means an asset (including financial interest in any entity) located outside India, held by the assessee in his name or in respect of which he is a beneficial owner, and he has no explanation about the source of investment in such asset or the explanation given by him is in the opinion of the Assessing Officer unsatisfactory
- **Sec. 2(12) Undisclosed foreign income and asset** means the total amount of undisclosed income of an assessee from a source located outside India and the value of an undisclosed asset located outside India, referred to in section 4, and computed in the manner laid down in sec 5.
- Value of an undisclosed asset means the fair market value of an asset (including financial interest in any entity) determined in such manner as may be prescribed.

Refer Question No 2,3
from Workbook

5. Sec 6: Tax Authorities

- The Income-Tax Authorities shall be the tax authorities for the purposes of this Act.
- Every such authority shall exercise the powers and perform the functions of a tax authority under this Act in respect of any person within his jurisdiction.
- The jurisdiction of a tax authority under this Act shall be the same as he has under the Income-Tax Act
- The tax authority having jurisdiction in relation to an assessee who has no income assessable to income-tax under the Income-Tax Act shall be the tax authority having jurisdiction in respect of the area in which the assessee resides or carries on its business or has its principal place of business.

Refer Question No 4
from Workbook

6. Sec 7: Change of Incumbent

The tax authority who succeeds another authority as a result of change in jurisdiction or for any other reason, shall continue the proceedings from the stage at which it was left by his predecessor. The assessee in such a case may be given an opportunity of being heard, if he so requests in writing, before passing any order in his case. (Same as Sec 129 of Income Tax Authorities Chapter).

7. Sec 10: Assessment

- The Assessing Officer may, on receipt of an information from an income-tax authority or any other authority under any law for the time being in force or on coming of any information to his notice, serve on any person, a notice requiring him, on the specified date, to produce such

accounts or documents or evidence as the Assessing Officer may require for the purposes of this Act.

- b. **No separate return** is required to be filed under this Act.
- c. There is **no time limit for issuance** of the aforesaid notice. The Assessing Officer may issue such notice any time on the basis of information.
- d. The Assessing Officer may, from time to time, serve **further notices** requiring the production of such other accounts or documents or evidence as he may require.
- e. The Assessing Officer may make such inquiry, as he considers necessary, for the purpose of obtaining full information in respect of undisclosed foreign income and asset of any person for the relevant financial year or years.
- f. The Assessing Officer, after considering such accounts, documents or evidence, as he has obtained, and after taking into account any relevant material which he has gathered and any other evidence produced by the assessee, shall by an order in writing, assess the undisclosed foreign income and asset and determine the sum payable by the assessee.
- g. **Sec. 11:** Such order shall be made **within 2 years from the end of the financial year** in which the notice was issued by the Assessing Officer
- h. **Sec. 10(4) Best Judgment Assessment:** If any person fails to comply with all the terms of the notice, the Assessing Officer shall, after taking into account all the relevant material which he has gathered, make the assessment of undisclosed foreign income and asset to the best of his judgment and determine the sum payable by the assessee.
Before making such an assessment, an opportunity of being heard is required to be given to the assessee.
- i. Aggrieved with the order of the Assessing Officer, the assessee may file appeal or rectification petition or revision petition (**which are in line with the Income-Tax Act**)

	Income-Tax Act	Black Money Act
Rectification	Sec. 154	Sec. 12
Notice of Demand	Sec. 156	Sec. 13
Appeals to Commissioner (Appeals)	Sec. 246A to 250	Sec. 15 to 17
Appeals to Tribunal	Sec. 252 to 255	Sec. 18
Appeals to High Court	Sec. 260A	Sec. 19
Appeals to the Supreme Court	Sec. 261	Sec. 21
Revision	Sec. 263 / 264	Sec. 23 / 24
Recovery of Tax	Sec. 220	Sec. 30
Tax Recovery Officer	Sec. 222 to 232	Sec. 31 to 39
Interest	Sec. 234 to 234C	Sec. 40
Power regarding discovery, inspection etc.	Sec. 131	Sec. 8

Refer Question No 5
from Work book

8. Sec 35: Liability of Manager of a company

Every person being a **manager** at any time during the financial year shall be **jointly and severally liable** for the payment of any amount due under this Act in respect of the company for the financial year, if the amount cannot be recovered from the company.

However, if the **manager proves** that non-recovery cannot be attributed to any neglect, misfeasance or breach of duty on his part in relation to the affairs of the company, then aforesaid provision shall not be applied.

9. Sec 36: Joint and Several liability of participants

Every person, being a **participant** in an unincorporated body at any time during the financial year, or the representative assessee of the deceased participant, shall be **jointly and severally liable**, along with the unincorporated body, for payment of any amount payable by the unincorporated body under this Act and all the provisions of this Act shall apply accordingly.

However, if the partner of LLP proves that non-recovery cannot be attributed to any neglect, misfeasance or breach of duty on his part in relation to the affairs of the partnership, then aforesaid provision shall not be applied.

✓ Participant means—

- a partner in relation to a firm; or
- a member in relation to an association of persons or body of individuals

10. Penalties & Prosecutions

Nature of default	Sec.	Penalty	Sec.	Prosecution With fine
Fails to disclose foreign income and asset	41	300% of Tax u/s 10	51(1)	3 years to 10 years (Note 1)
Fails to furnish return of income before expiry of the relevant assessment year (Note 2)	42	₹ 10 lakh	-	-
Fails to disclose foreign asset or income in the return of income (Note 2)	43	₹ 10 lakh	50	6 months to 10 years (Note 1)
Attempt to evade payment of tax, interest and penalty	44	Tax in arrear	51(2)	3 years to 10 years
Failure to: - answer any question put to him by a tax authority - sign any statement made by him in the course of any proceedings which a tax authority may legally require him to sign; - attend or produce books of account or documents at the place or time, at certain place and time in response to summons issued u/s 8	45	₹ 50,000 to ₹2,00,000		

Makes a statement or delivers an account or statement which is false			52	6 months to 10 Years (Note 1)
Abets or induces another person to make and deliver an account or a statement or declaration which is false			53	6 months to 10 years (Note 1)
Second and subsequent offences			58	3 Y to 10 Y (Note 3)

Note 1: with fine.

Note 2: However, this section shall not apply in respect of an asset or assets (other than immovable property) where the aggregate value of such asset or assets does not exceed ₹20,00,000.

Note 3: fine of ₹5,00,000 to ₹1 crore.

Note 4: An order imposing a penalty shall be made with the approval of the Joint Commissioner, if:

- ✓ the penalty exceeds ₹ 1,00,000 and the tax authority levying the penalty is in the rank of Income-tax Officer; or
- ✓ the penalty exceeds ₹ 5,00,000 and the tax authority levying the penalty is in the rank of Assistant Commissioner or Deputy Commissioner.

11. Rounding off

- a) The amount of undisclosed foreign income and asset computed shall be rounded off to the nearest multiple of ₹ 100.
- b) Any amount payable or receivable by the assessee shall be rounded off to the nearest multiple of ₹10.

Refer Question No 6
from Workbook

12. Agreement with foreign countries or specified territories [Sec. 73]

The Central Government may enter into an agreement with the Government of any other country:

- a) for **exchange of information** for the prevention of evasion or avoidance of tax on undisclosed foreign income chargeable under this Act or under the corresponding law in force in that country, or investigation of cases of such evasion or avoidance.
- b) for **recovery of tax** under this Act and under the corresponding law in force in that country.

13. Value of an undisclosed asset [Section 3(2)]

The value of an undisclosed asset is its Fair Market Value (FMV) determined as per **Rule 3** of the Black Money (Undisclosed Foreign Income and Assets) & Imposition of Tax Rules, 2015.

a. Rule 3 – General Rule

For most assets, FMV = Higher of cost of acquisition or market value on valuation date.

b. Rule 3(1):

1	Bullion, Jewellery & Precious Stones and Artistic Works (Archaeological collections, paintings, sculptures, drawings, etc.)	FMV = Higher of i. Cost of acquisition, OR ii. Open market price on valuation date (Valuation report from a recognized foreign valuer may be used)
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2	Shares and Securities	➤ Quoted Shares/Securities FMV = Higher of: - Cost of acquisition, OR - Average of highest & lowest quoted price on valuation date (If not traded that day → use last traded date) ➤ Unquoted Equity Shares FMV = Higher of: - Cost of acquisition, OR - Value as per Net Asset Value (NAV) formula: $FMV = (A + B - L) \times PV / PE$ Where: A = Book value of assets (other than bullion, jewellery, precious stone, artistic work, shares, securities and immovable property) subtract: - Income tax already paid, after adjusting any tax refund claimed - unamortised amount of deferred expenditure which does not represent the value of any asset; B = FMV of bullion, jewellery, precious stone, artistic work, shares, securities and immovable property. L = Book value of liabilities but not including the following amounts, namely: - the paid-up equity share capital; - Amount kept aside for paying dividends (preference shares and equity shares) - Reserves & surplus (even if negative) except depreciation reserve. - Provision for tax (excess amount) only the excess provision over actual tax payable is excluded. - Provisions for unascertained liabilities - contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares; PE = total amount of paid-up equity share capital as shown in the balance sheet. PV = the paid-up value of such equity shares. ➤ Unquoted Shares/Securities (Other than Equity) FMV = Higher of: - Cost of acquisition, OR - Open market value on valuation date (Valuer's report allowed)
3	Immovable Property	FMV = Higher of: - Cost of acquisition, OR - Market value on valuation date (Valuation report from recognized foreign valuer)

4	Bank Account	FMV = Total deposits made since opening of the account. Note: Deposits made from withdrawals of the same account are ignored.
5	Interest in Partnership Firm / AOP / LLP	FMV = Net worth of asset (A + B - L) Allocate: - Capital portion → in ratio of capital contribution - Remaining assets → as per profit-sharing ratio or dissolution agreement.
6	Any Other Asset	FMV = Higher of: - Cost of acquisition / amount invested, OR - Open market value on valuation date.

c. Rule 3(2): FMV of Asset Transferred Before Valuation Date

If an asset (not a bank account) was sold or transferred before the valuation date, then:

FMV = Higher of:

- Cost of acquisition, or
- Actual sale price

Note: Transferred without consideration or for inadequate consideration

FMV = Higher of:

- Cost of acquisition, or
- Market value on the date of transfer

d. Rule 3(3): FMV when New Asset is Bought Using Money from Old Asset / Bank Account

- First, calculate FMV of the old asset / bank account normally by using rule 3(1) or 3(2).
- Then **reduce** the amount that was used to buy the new asset.
- This avoids **taxing the same money twice**.

Example: House A located in a country outside India was bought in 1995 for ₹15 lakh. It was sold in 2000 for ₹ 22 lakh. This amount was deposited in a bank account in that country. In the year 2001 another House B was purchased for ₹ 35 lakh. The investment in House B was made through withdrawal from the bank account in the foreign country. House B has not been transferred before the valuation date and its value on the valuation date is ₹48 lakhs. If the value of foreign bank account as computed under Rule 3(1) is ₹60 lakhs, the fair market value (FMV) of the assets would be computed in the following manner:

1. House A (Old Asset)

- Bought for ₹15 lakh
- Sold for ₹22 lakh
FMV = Higher of cost or sale price = ₹22 lakh
- Entire ₹22 lakh was deposited in bank
FMV of House A = ₹22 lakh – ₹22 lakh = NIL

2. Foreign Bank Account

- Total value as per rules = ₹60 lakh
- Used ₹35 lakh to buy House B
FMV of Bank Account = ₹60 lakh – ₹35 lakh = ₹25 lakh

3. House B (New Asset)

- Bought for ₹35 lakh
- Value on valuation date = ₹48 lakh
FMV = Higher of cost or market value = ₹48 lakh

e. Rule 3(4) & (5): Rate of conversion of currency used to determine FMV of an asset

- Asset Value is in an RBI-permitted foreign currency: Use RBI reference rate on the valuation date.
- Asset Value is in a non-permitted currency
 - ✓ Local currency → US Dollar (USD)
 - Use the exchange rate given by the Central Bank of that country
 - If Central Bank rate is not available → use rate of **any regulated bank** of that country
 - ✓ USD → Indian Rupees (₹)
 - Use RBI reference rate on the valuation date

f. Relevant Date for determination of market value and conversion of currency

Case	Relevant Date for Market Value & Currency Conversion
Asset declared under Section 59	1st July 2015
Any other case	1st April of the previous year

Refer Question No 7,8
from Workbook

DISPUTE RESOLUTION COMMITTEE

1. Introduction

The **Income-Tax Settlement Commission (ITSC)** ceased operations from February 1, 2021, meaning no new applications for case settlements could be made from that date. To address **pending cases**, the Central Government established seven Interim Boards for Settlement in August 2021.

From **April 1, 2021**, a new **Dispute Resolution Scheme** came into effect, allowing for the constitution of Dispute Resolution Committees (DRC) under Section 245MA. The DRC aims to **resolve tax disputes early, especially for small and medium taxpayers**.

- The scheme includes specific rules for application procedures, conditions, and the powers of the DRC to reduce penalties or grant immunity.
- The process is designed to provide early resolution and tax certainty, with a focus on avoiding future disputes.
- The system also introduces faceless dispute resolution procedures, emphasizing convenience and transparency for taxpayers.

2. Sec 245MA: Constitution Dispute Resolution Committee (DRC)

Who will constitute?	CG shall constitute a DRC for every region of PCCIT to resolve disputes of specified persons who opts for dispute resolution in respect of dispute arising from variation in specified order.
Constitution	Each DRC shall consist of 3 members, as under: 2 members shall be retired IRS (Income-Tax) Officers, who have held the post of CIT or equivalent for 5 years; and 1 serving officer not below the rank of CIT/PCIT as specified by CBDT. The decision of the DRC shall be by majority.
Time period	3 years
Fee	- CG may fix a sum to be paid as fee to a member - who is retired officer, on a per case basis along with a sitting fee, so as decided by CBDT.
Removal of Members	CG may, by recording reasons in writing & after giving ROBH, remove any member.

Note 1: What do you mean by Specified Order?

It means any order (including draft order)

- Aggregate variations in order doesn't exceed Rs. 10 Lacs.
- Total Income as per ROI for such year does not exceed ₹50 Lacs.
- Such order is not based on
 - Search u/s 132 or Requisition u/s 132A.
 - Survey u/s 133A.
 - Intimation received under agreement referred u/s 90/90A.

Note 2: What do you mean by Specified Person?

Any person who fulfils specified conditions, which are as follows:

1. He is not a person
 - a. Against whom deduction order has been made under Conservation of Foreign Exchange of Prevention of Smuggling Activities Act.
 - b. Against whom prosecution has been initiated & is convicted for any offence under:
 - Indian Penal Code
 - Unlawful Activities (Prevention) Act
 - Narcotic Drugs and Psychotropic Substances Act, 1985
 - Prevention of Benami Transactions Act
 - Prevention of Corruption Act
 - Prevention of Money Laundering Act
 - c. Against whom prosecution has been initiated by Income Tax Authority under this Act.
 - d. Who is notified u/s 3 of Special Court Act.
2. Such other conditions as may be prescribed

3. Application for Resolution for DRC

- a. An application to the DRC shall be made by the person, who opts for dispute resolution u/s 245MA.
- b. Every application in connection with the dispute resolution shall be accompanied by a **fee of Rs. 1,000.**
- c. Time limit for filing application

Case	Time limit
In cases where appeal has already been filed and is pending before the Commissioner (Appeals)	within such time from the date of constitution of the Dispute Resolution Committee, as may be specified by the Board.
in any other case	within one month from the date of receipt of specified order.

4. Powers of DRC

- a. The DRC shall, upon receipt of intimation as per the e-Dispute Resolution Scheme, 2022, and subject to such conditions as it may think fit, grant to the person, waiver of penalty or immunity from prosecution or both, if it is satisfied that such person has:
 - i. Paid the tax due on the returned income in full (if available); and
 - ii. Co-operated with the DRC in the proceedings.
- b. No immunity shall be granted in a case where the proceedings for prosecution have been initiated before the date of receipt of application
- c. Immunity granted shall stand withdrawn if person fails to comply with condition(s) subject to which the immunity was granted.

5. Effect of DRC order by AO

Upon receipt of the order of DRC under this section the AO shall -

- a) In a case where a specified order is a draft of the proposed order of assessment 144C (1) pass an order of assessment, reassessment or re-computation.

- b) In any other case modify the order of assessment, reassessment or re-computation in conformity with the directions contained in the order of the DRC within one month from the end of the month in which such order is received

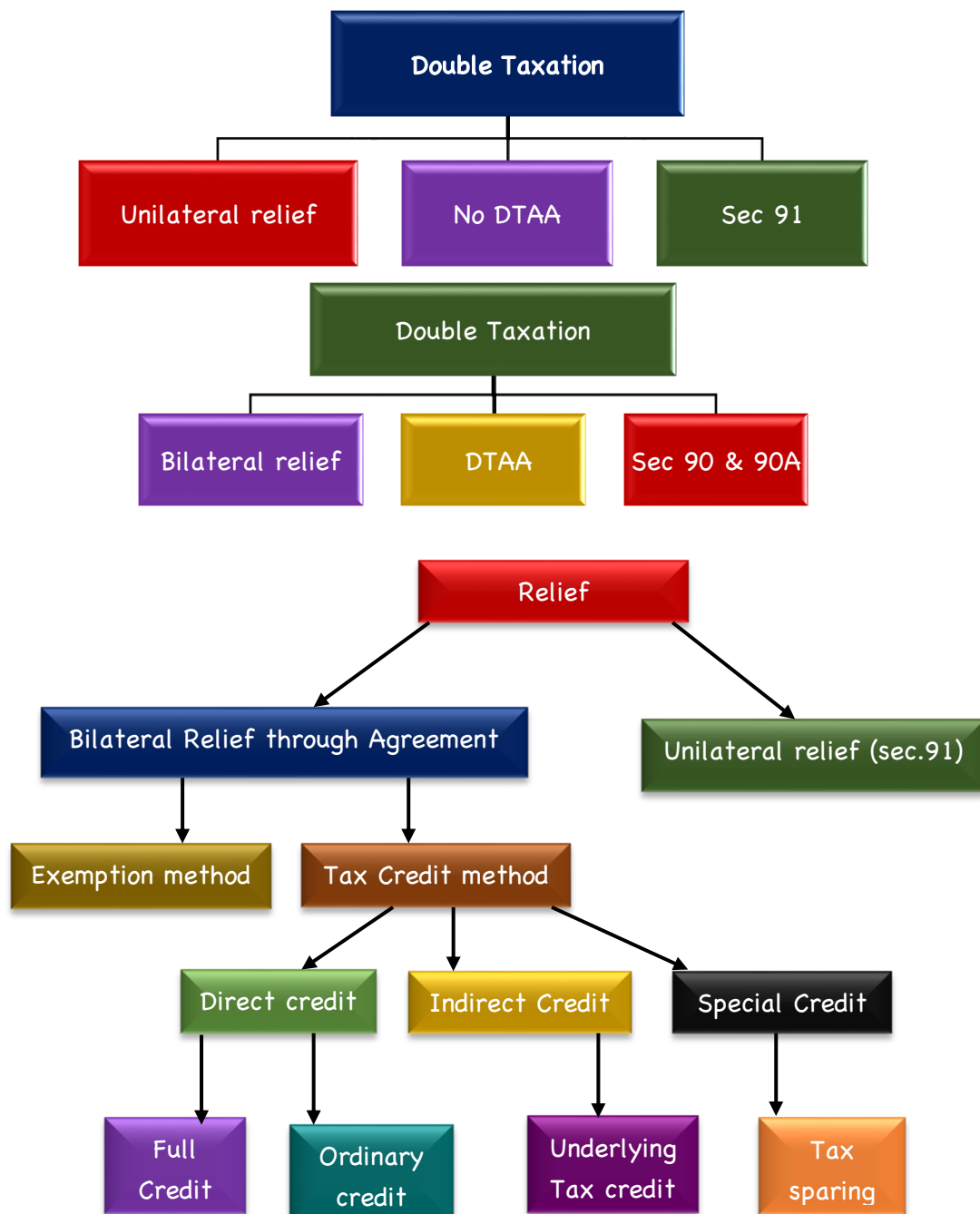
Refer Question No 1,2
from Workbook

DOUBLE TAXATION RELIEF

1. Introduction

Double taxation means the same income getting taxed twice in hands of same Assessee. Any country taxes income on basis of two rules i.e., Residence Rule & Source Rule. Double taxation is possible when Assessee is Resident of one country & derives income from another country.

Example: Mr. X is Resident of India & deriving income from US, then India will tax such income on the basis Resident rule and US will tax such income on the basis of source rule There are two type of Double taxation relief.



1. Exemption Method:

a. Full Exemption Method

Under this method, income earned in the State of Source is fully exempt in the State of Residence.

Example

Mr. Prabhas, a resident has earned the following incomes for the year 2024-25.

- Income from house property in India but received in UK ₹ 7,00,000
- Royalty on patents outside India ₹ 5,00,000
- Past untaxed income brought into India ₹ 2,00,000
- Tax paid in respect of Income (a), (b) and (c) above ₹ 90,000, ₹ 75,000 and ₹ 20,000 respectively.

Calculate tax liability and relief as per tax exemption method

Assume Mr. Prabhas following Normal Tax rates i.e. he opted out from Default tax regime u/s 115BAC.

Solution:

Calculation of tax liability under Full tax exemption method

Particulars	Amount
Income from HP	7,00,000
IFOS	-
Total Income	7,00,000
Tax liability $[2.5L \times 5\% + 2L \times 20\%] + 4\%$	54,600

b. Exemption with Progression

Under this method, income from the State of Source is considered by the State of Residence only for the rate purpose.

Example

An Indian Company has earned income from Indian sources of ₹ 75 Lacs. Income from foreign sources (relief available as per exemption with progression method) is ₹ 35 Lacs. As per the provisions of the Act, in India, an additional surcharge of 7% is levied in addition to normal income-tax liability if the total income exceeds ₹ 1 crore and at the rate of 12% if income exceeds ₹ 10 crores. Therefore, in the present case, total income for rate purpose only will exceed ₹ 1 crore and accordingly, effective rate for tax would be after considering the additional surcharge of 7%. However, the income on which the effective rate (inclusive of surcharge) would apply will be ₹ 75 Lacs only.

Mathematically, it would work in this way:

Particulars	Amount (₹)
Income from India	75,00,000
Income from a foreign county	35,00,000
Total Income	1,10,00,000
Tax on above @ 30%	33,00,000
Add: Surcharge @ 7%	2,31,000
Tax and surcharge	35,31,000
Add: HEC @ 4%	1,41,240
Tax, Surcharge and Cess [A]	36,72,240
Average rate of tax $[\text{₹ } 36,72,240 / \text{₹ } 1,10,00,000 \times 100]$	33.384%
Relief $[\text{₹ } 35,00,000 \times 33.384\%]$ [B]	11,68,440
Tax, Surcharge and Cess [A - B]	25,03,800

Which effectively [$₹ 75,00,000 \times 30\% \times 107\% \times 104\%$]. If foreign income is not considered then tax on ₹ 75,00,000 would be calculated without considering surcharge, in that case, total income would not exceed the threshold limit applicable for charging surcharge.

Refer Question No 1,2,3
from Workbook

2. Credit Method:

a. Full Credit

Total tax paid in the State of Source is allowed as credit against tax payable in the State of Residence.

b. Ordinary Credit

State of Residence allows credit of tax paid in the state of Source restricted to that part of income tax which is attributable to the income taxable in the state of Residence.

Example

Mr. Prabhas, a resident has earned the following incomes for the year 2024-25.

- Income from house property in India but received in UK ₹ 7,00,000
- Royalty on patents outside India ₹ 5,00,000
- Past untaxed income brought into India ₹ 2,00,000
- Tax paid in respect of Income (a), (b) and (c) above ₹ 90,000, ₹ 75,000 and ₹ 20,000 respectively.

Calculate tax liability and relief as per tax credit method. Assume Mr. Prabhas following Normal Tax rates i.e. he opted out from Default tax regime u/s 115BAC.

Solution:

Computation of Tax liability Mr. Prabhas for AY 25-26

Particulars			Amount
Income from HP			7,00,000
Income from other sources			5,00,000
Total Income			12,00,000
Tax liability before relief			
0-2.5L	Nil	Nil	1,79,400
2.5L - 5L	5%	12,500	
5L - 10L	20%	1,00,000	
2L	30%	60,000	
		1,72,500	
(+) H & C @ 4%		6,900	
Less: credit under full credit method			(75,000)
Tax payable after relief			1,79,400
Tax liability before relief			1,79,400
Less: Credit under ordinary credit method i.e. lower of the following			(74,750)
75,000 (or) $\left[1,79,400 \times \frac{5,00,000}{12,00,000} \right]$ ↓			
Tax payable after relief			1,04,650

Refer Question No 4,5,6
from Workbook

c. Tax Sparing

State of Residence allows credit for deemed tax paid on income which is otherwise exempt from tax in the State of Source.

Economic Double Taxation	Juridical Double Taxation
Same income taxed in two or more country but in the hands of different taxpayers e.g. business profits and dividend in different countries	Two or more states levy taxes on same entity on same income

Refer Question No 7
from Work book

d. Underlying Tax Credit

Underlying tax credit method attempts to mitigate the economic double taxation. E.g., The profits earned by the corporates are taxed at their hand and the same is again taxed when it is distributed to shareholders as dividend.

Generally, taxes would have been paid by the Companies on the profits from which the dividends are declared. However, since the person receiving the dividend (Shareholder) is not the same as the person which paid the taxes on the profits, normally credit for such foreign tax would not be available. underlying credit method seeks to address this double taxation and provides a benefit of tax credit to the recipients of the dividend as well.

Under underlying credit method, credit is allowed to resident **not only for the taxes withheld against the dividend income but also for the taxes paid on the underlying profits out of which the said dividend is paid by a company** in the overseas jurisdiction.

The benefit of Underlying Tax Credit is available subject to certain conditions like threshold of shareholding etc. India has such UTC benefits in DTAA's with Australia, Japan, Mauritius, USA, UK etc.

Example

- A Ltd, the parent company, being located in Country X has a subsidiary B Ltd in Country Y
- B Ltd out of its profits of ₹ 10,00,000 paid dividend to A Ltd ₹ 1,00,000
- Other income of A Ltd is ₹ 11,00,000
- Dividend withholding tax rates in Country Y – 15%
- Tax rate in country Y is 25 % and in Country X it is 30%
- DTAA between Country X-Y has an underlying tax credit (UTC) provision.

Solution:

Computation of tax liability

Particulars	A Ltd	B Ltd
Total Income	12,00,000	10,00,000
Tax on above before relief	3,60,000	2,50,000
Less: Tax credit for withholding tax	15,000	0
Tax Liability without relief	3,45,000	
Relief as per underlying tax credit		
Relief [₹ 10,00,000 x rate of tax in foreign country i.e., 25%]	2,50,000	
Tax Payable after relief	95,000	2,50,000

2. Types of DTAA

DTAA can be of two types

- a. limited or
 - b. comprehensive.
- a. **Limited DTAA** are those which are limited to certain types of incomes only e.g. DTAA between India and Pakistan is limited to shipping and aircraft profits only.
 - b. **Comprehensive DTAA**s are those which cover almost all types of incomes covered.

3. Sec 90 / 90A: Agreement with foreign countries [Bilateral Relief]

Section 90 of the Income Tax Act allows the **Indian government** to enter into agreements with foreign countries or specified territories to provide relief or prevent double taxation.

- a. **Relief from Double Taxation:** The government can grant relief for income that is taxed both in India and a foreign country or territory, ensuring that income is not taxed twice.
- b. **Avoidance of Double Taxation:** Agreements can be made to avoid double taxation on income without creating opportunities for tax evasion or avoidance (e.g., through treaty shopping).
- c. **Exchange of Information:** These agreements may facilitate the exchange of information between countries to prevent tax evasion or avoidance and to help investigate tax-related issues.
- d. **Recovery of Taxes:** The agreements may include provisions for recovering taxes due under both Indian law and the law of the foreign country or territory.

Sec. 90A of the Income Tax Act, **any specified association** in India may enter into an agreement with any specified association in the specified territory outside India and Notified by Central Government in the Official Gazette.

Tax Residency Certificate (TRC)

The **Tax Residency Certificate (TRC)** requirement states that an Assessee (taxpayer) who is not a resident of India but wishes to claim relief under a Double Taxation Avoidance Agreement (DTAA) must obtain a certificate from the government of the foreign country (or specified territory) where they are a tax resident.

Additionally, the taxpayer must provide any other documents or information as prescribed by Indian tax authorities.

Under **Rule 21AB**, for claiming relief under sections **90** and **90A** (relating to Double Taxation Avoidance Agreements or DTAA), an Assessee must provide a **Tax Residency Certificate (TRC)**. To claim relief, the Assessee must submit **Form No. 10F** with the following details:

- i. **Status:** Whether the Assessee is an individual, company, firm, etc.
- ii. **Nationality or Country of Incorporation:** For individuals, their nationality; for others, the country or territory where they are incorporated or registered.
- iii. **Tax Identification Number (TIN):** The Assessee tax identification number in their country of residence, or a unique number if no TIN exists.
- iv. **Period of Residential Status:** The duration for which the Assessee is considered a resident of that foreign country or territory.
- v. **Address:** The address of the Assessee in the foreign country during the applicable period.

Application for Certificate of Residence (For Indian Residents): An Indian resident applying for a certificate of residence under a DTAA must use **Form No. 10FA**. If the application is approved, the Assessing Officer will issue a certificate in **Form No. 10FB**.

Note:

1. Provision of DTAA or Income Tax Act whichever is more beneficial to the Assessee shall apply. However, the provisions of GAAR shall apply to the Assessee even if such provisions are not beneficial to him.

Example: If as per DTAA with a foreign country, fee for technical services is to be taxed at the rate of 15% whereas it is taxable u/s 115A of the Act @ 10%, then it will be beneficial to apply sec. 115A.

On the other hand, if as per the provision of DTAA, it is either not taxable or taxable at a rate lower than 10%, then DTAA is applicable.

2. In case of **any conflict** between the provisions of the agreement and the Act, the provisions of the agreement would prevail over the Act. If any matter or income is not covered by the agreement, the Income-tax Act shall be applicable.
3. When **tax rate** is determined under DTAA then tax rate prescribed therein shall have to be followed strictly without any additional taxes thereon in form of surcharge or education cess.
4. The charge of tax in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable, shall not be regarded as less favorable charge or levy of tax in respect of such foreign company.
5. If no tax **liability** is imposed under this Act, the question of relief does not arise.

4. Sec 91: Double Taxation Relief if there is No DATA. (unilateral Relief)**Conditions:**

- a) Assessee is Resident in India.
- b) Income derived from Foreign Country & income not deemed to be accrued or arise in India.
- c) Tax should have been deducted or paid in foreign country.
- d) There should be NO DTAA.

Amount of Relief

Step 1: Compute NTI (Indian + foreign income)

Step 2: Find out Gross Tax (before claiming TDS/TCS, MAT/AMT credit, SA Tax, Advance tax but after adding surcharge & HEC)

Step 3: Find out "Average rate of Tax" on NTI

$$\text{Average Tax rate} = \frac{\text{Gross Tax}}{\text{NTI}} \times 100$$

Step 4: Find out Rate at which tax paid/deducted in foreign country

Note: How to calculate Foreign Tax Rate?

$$\frac{\text{Tax n foreign Country}}{\text{Income in foreign country as per their Tax law}} \times 100$$

Step 5: Find out lower rate from step 3 & 4

Step 6: Relief us 91 = Double taxed foreign Income × Rate in Step 5.

Note:

1. The expression '**such double taxed income**' refers specifically to the portion of income that has been taxed both in India and a foreign country, and for which relief under a Double Taxation Avoidance Agreement (DTAA) can be claimed.

Example

- Foreign income: ₹88,535 (income taxed in the foreign country).
- Income taxed in India: ₹63,141 (after considering allowances, set-off of losses, or deductions under Chapter VIA).

The relief available under the DTAA would only be calculated on the income that has been actually taxed in India (₹63,141 in this case), not on the total foreign income (₹88,535).

2. Relief u/s 91 is to be calculated on income **country-wise** and not on basis of aggregation or amalgamation of income of all foreign countries.

Refer Question No 8 to 28
from Workbook

5. Permanent Establishment (PE)

- a. Permanent establishment means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
- b. Every DTAA has a specific clause, which will deal with an explanation of permanent establishment for the purpose of such DTAA, which has not been defined in the Income Tax Act.
- c. Business Income of a non-resident will not be taxed in India, unless such Non-resident has a permanent establishment in India.
- d. **PE includes:**
 - i. A branch
 - ii. An Office
 - iii. A factory
 - iv. A workshop
 - v. A sales outlet
 - vi. A warehouse
 - vii. A mine on oil or gas well, a quarry, or any other place of extraction of natural resources (not exploration)
 - viii. A placement of management
- e. **PE excludes:** An enterprise shall not be deemed to have a permanent establishment merely by reason of:
 - i. the **use of facilities** solely for the purpose of storage or display of goods or merchandise belonging to the enterprise; (**In Simple terms, just storing or displaying goods**)
 - ii. the **maintenance of a stock** of goods or merchandise belonging to the enterprise solely for the purpose of storage or display; (**In Simple terms, just storing or displaying goods**)
 - iii. the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; (**In Simple terms, Having stock of goods for processing by another company**)
 - iv. the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise; or (**In Simple terms, Activities like buying goods or gathering data for business purposes**).
 - v. the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise. (**In Simple terms, Conducting research, advertising, or similar preparatory activities**)

Refer Question No 29,30,31
from Workbook

As per DTAA business income of NR is taxable in India only if such NR has PE in India but as per Income Tax Act Business income of NR taxable in India if NR having Business Connection (Sec 9) in India.

As per OECD model

permanent establishment **does not include** the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise.

As per UN Model

permanent establishment **does not include** use of facilities for the purpose of storage or display of goods or merchandize belonging to the enterprise. If the goods are delivered then as per UN model PE is said to exist.

6. Foreign Tax Credit [Rule 128]**a) Meaning of foreign Tax Credit**

If India has DTAA with a country (Under Sections 90 or 90A)	Tax covered under the said agreement
Countries without DTAA (under Section 91)	The tax must be similar to an "income-tax" under Section 91

The **Foreign Tax Credit (FTC)** allows Indian residents to claim credit for taxes paid in foreign countries on income that has been taxed both in India and abroad. This credit helps avoid **double taxation** by reducing the tax liability in India based on the foreign tax paid.

b) Eligible Assessee and year of credit

- A resident Indian taxpayer can claim a foreign tax credit if they have paid taxes on income in a foreign country or specified territory.
- The credit can be claimed in the year the foreign income is offered to tax in India.

Example: If you are an Indian resident and earn income from the U.S., you can claim a credit for the U.S. taxes paid on that income when it is taxed in India.

- If the foreign income is **taxed in multiple years**, the foreign tax credit is spread across those years in the same proportion as the income is offered to tax in India.

Example: If you earned ₹10,000 in 2023-24 and paid ₹1,000 as foreign tax, but the income is taxed over 2 years (2023-24 and 2024-25), the foreign tax credit will be applied proportionally over both years based on the taxable income.

c) Exclusions from Foreign Tax Credit:

- No credit for interest, fees, or penalties:** The FTC is only applicable to taxes like income tax, not interest, penalties, or other charges.

Example: If you paid a fine to a foreign government, this would not be eligible for the credit.

- No credit for disputed tax:** If you are disputing the foreign tax, you cannot claim the credit for that tax. However, if the dispute is resolved and you prove the tax has been paid, the credit can be claimed for the year the dispute was settled.

Example: If you are contesting a foreign tax bill and the dispute is resolved in 2024-25, you can claim the FTC for 2024-25 once you show evidence that the tax was paid and the dispute was settled.

d) Documents Required for Foreign Tax Credit

- Income Statement (Form No. 67):**

- ✓ A statement detailing the income from a foreign country or specified territory, which has been offered for tax in India for the relevant financial year.
- ✓ The statement should also include the amount of foreign tax deducted or paid on that income.
- ✓ This document must be verified as per the manner specified in Form No. 67.

- Certificate or Statement from Relevant Authorities:**

The following must be provided to confirm the amount of foreign tax paid or deducted:

- ✓ Certificate from the tax authority of the foreign country or specified territory, stating the nature of the income and the tax paid or deducted.

- ✓ Alternatively, a statement from the person responsible for deducting the foreign tax.
- ✓ If the above documents are not available, the Assessee can provide a self-signed statement.

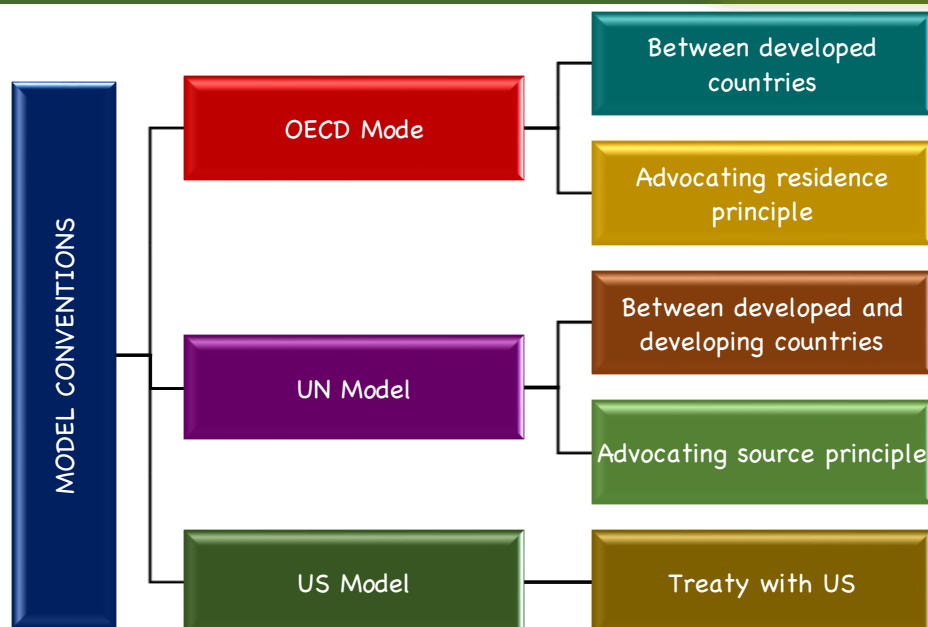
- **Supporting Proof of Payment:**

- ✓ **Online Payment Acknowledgment or Bank Challan:** If the Assessee made the foreign tax payment themselves, they must provide an acknowledgment of online payment or a bank counterfoil/challan as proof of tax payment.
- ✓ **Proof of Deduction:** If the tax was deducted at source, the Assessee must provide evidence of that deduction.

Note: Form No.67 shall also be furnished in a case where the carry backward of loss of the current year results in refund of foreign tax for which credit has been claimed in any earlier previous year or years.

Refer Question No 32 from
Workbook

7. Models of DTAAS



In the absence of any agreement for avoidance of double taxation, the global business environment was affected. Therefore, a need was felt that there must be formulated a convention which would enable avoidance of double taxation. This led to series of model tax conventions by various bodies in different years.

Model tax treaties serve as the starting point (or can be termed as standard format) for negotiations between two countries. Although model treaties are not legally binding, their language often is incorporated with only minor alterations in the text of bilateral treaties. However, sometimes they make changes as per their requirement and relationship with the other country.

Presently, the following are the model tax conventions which are-

a) Organization for Economic Co-operation and Development (OECD) Model

The emergence of present form of OECD Model Convention can be traced back to 1927, when the Fiscal Committee of the League of Nations prepared the first draft of Model Form applicable to all countries. Since then, it has been revised several times and the latest being in the year 2017. OECD Model is essentially a model treaty between two developed nations. This model advocates residence principle, that is to say, it lays emphasis on the right of state of residence to tax the income.

b) United Nations (UN) Model

In 1968, the United Nations set up an Ad hoc Group of Experts from various developed and developing countries to prepare a draft model convention between developed and developing countries. In 1980, this Group finalized the UN Model Convention in its present form. It has further been revised a number of times, the recent ones being in the year 2021. **It gives more weight to the source principle as against the residence principle of the OECD Model.** UN Model is designed to encourage flow of investments from the developed countries to developing countries. It considers sharing of tax-revenue with the country providing capital. **Most of India's tax treaties are based on the UN Model.**

c) US Model

The US Model convention was first published in 1976 and revised several times. US model is used by the United States while entering into tax treaties with various country.

Articles in OECD Model and UN Model

In UN Model, there are VII chapters which contains 31 articles whereas VII chapters of OECD Model contains 32 articles. List of articles are as under:

Article	OECD Model	UN Model
1	Person covered	Person covered
2	Taxes covered	Taxes covered
3	General definitions	General definitions
4	Resident	Resident
5	Permanent establishment	Permanent establishment
6	Income from immovable property	Income from immovable property
7	Business profits	Business profits
8	Shipping, inland waterways transport and air transport	Shipping, inland waterways transport and air transport (Alternative A&B)
9	Associated enterprise	Associated enterprise
10	Dividends	Dividends
11	Interest	Interest
12	Royalties	Royalties
12A	Fee for technical services	Fee for technical services
12B	--	Income from automated digital services
13	Capital gains	Capital gains
14	Deleted	Independent personal services
15	Income from employment	Dependent personal services
16	Director's fee	Director's fee and remuneration of top-level managerial officials
17	Entertainers and sportspersons	Artistes and sportspersons
18	Pensions	Pensions and social security payments (Alternative A&B)
19	Government service	Government service
20	Students	Students
21	Other income	Other income
22	Capital	Capital

23A	Exemption method	Exemption method
23B	Credit method	Credit method
24	Non discrimination	Non discrimination
25	Mutual Agreement procedure	Mutual Agreement procedure (Alternative A&B)
26	Exchange of information	Exchange of information
27	Assistance in the collection of taxes	Assistance in the collection of taxes
28	Members of the diplomatic missions and consular posts	Members of the diplomatic missions and consular posts
29	Entitlement of benefits	Entitlement of benefits
30	Territorial extension	Entry in force
31	Entry in force	Termination
32	Termination	

Refer Question No 33 from
Workbook

NON-RESIDENT

1. Introduction

Residential Status of Individual

i. Residential status of an individual:

a) Basic conditions (sec 6(1)):

B1: 182 Days or more in the relevant previous year

(Or)

B2: 60 days or more in the relevant previous year.

+

365 days or more in 4 years immediately preceding to the RPY.

b) Additional conditions (sec 6(6)):

A1: Resident in India for 2 years out of 10 years immediately preceding to the relevant previous year.

(AND)

A2: Present in India 730 days or more during 7 years immediately preceding the relevant previous year.

Notes:

- ✓ Stay in India Includes stay in Territorial waters.
- ✓ Stay in India need not to be continuous
- ✓ Both date of departure and date of arrival are to be considered as stay in India.

S.NO	Exceptions	Conditions
1	"Indian citizen" who leaves India during relevant previous ➤ For the purpose of employment outside India. ➤ As a member of crew of Indian ship.	Apply B1 only (B2 is not applicable)
2	"Indian citizen" or "person of Indian origin" who comes to India on visit during the relevant previous year.	
	His total income other than income from foreign sources do not exceed ₹15 lakhs during RPY	Apply B1 only (B2 is not applicable)
	His total income other than income from foreign sources exceed ₹15 lakhs during RPY	➤ Apply B1 - OR ➤ Modified B2 (120 days in RPY + 365 days in preceding 4 years in RPY) {Refer note}

Note:

- If B1 satisfy, then check A1 and A2 in order to determine ordinary status.
- If modified B2 satisfy, then directly we can classify that individual as RNOR. (No need to check additional conditions).

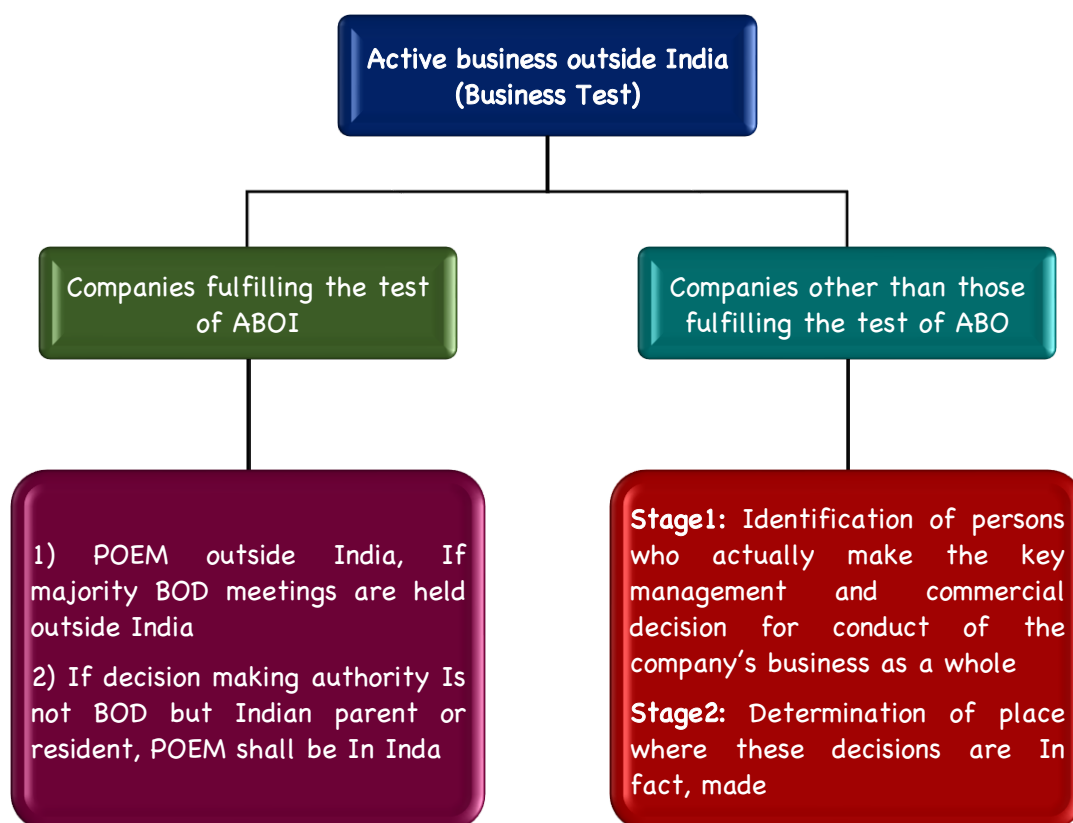
Residential Status of others

Assessee	Condition to be a Resident	Condition to be an Ordinarily resident
HUF	Management is wholly or partly situated in India	Karta satisfies all conditions of sec. 6(6)
Company		
a. Indian Co.	Always resident	Not applicable
b. Other Co.	Place of effective management is in India	
Firm / AOP/ BOI / Any other person	Management is wholly or partly situated in India.	

2. Place of effective management

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.

The determination of POEM is based on the following categorization of foreign companies:



1. A company shall be said to be engaged in "active business outside India" if:

- the passive income is not more than 50% of its total income; and
- less than 50% of its total assets are situated in India; and
- less than 50% of total number of employees are situated in India or are resident in India; and
- the payroll expenses incurred on such employees is less than 50% of its total payroll expenditure.

2. Passive income of a company shall be aggregate of:

- income from the transactions where both the purchase and sale of goods is from / to its associated enterprises; and
- income by way of royalty, dividend, capital gains, interest (except for banking company or public financial institution) or rental income.

CBDT vide Circular no. 8/2017 dated 23.02.2017 also clarified that POEM guidelines shall not apply to a company having turnover or gross receipts of ₹ 50 crores or less in a financial year.

Refer Question No 1
from Workbook

3. Sec 5: Scope of total income

S. No	Particulars	ROR	RBNOR	NR
1	Income received in India / Deemed to receive in India. (Whether accrued in India / outside India) Indian Income	T	T	T
2	Income accruing India / Deemed to accrue In India (Whether received India / outside India) Indian Income	T	T	T
3	Income occurs & received outside India From a business – controlled in India A profession – Setup in India	T	T	NT
4	Income accrues & received outside India From a business – controlled outside India A Profession – Setup outside India	T	NT	NT
5	Income earned & received outside India during CPY. & Remitted to India	T	NT	NT
6	Income earned & received outside India in earlier years but later on remitted to India	NT	NT	NT
7	Past untaxed profits (not taxable as related to past years)	NT	NT	NT
8	Exempted Income (Eg: agricultural Income)	NT	NT	NT

4. Sec 44B: Shipping business in case of non-residents

Applicable to	All non-resident Assessee
Condition	Assessee must be engaged in the business of operation of ships (other than cruise ships referred to in section 44BBC).
Estimated income	Income taxable under the head "Profits & gains of business or profession" from such business shall be estimated at 7.5% of the amount being aggregate of the following: 1. The amount paid or payable (whether in or out of India) to the assessee (or to any person on his behalf) on account of the carriage of passengers, livestock, mail or goods shipped at any port in India; and 2. The amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods shipped at any port outside India.
Notes: The amount paid or payable or received or deemed to be received, as the case may be, shall also include demurrage charges or handling charges or any other amount of similar nature.	

5. Sec 44BB: Profits & gains in connection with the business of exploration

Applicable to	Non-resident assessee
Conditions	Assessee must be engaged in the business of - ➤ Providing services or facilities in connection with; or ➤ Supplying plant and machinery on hire, used or to be used in, - the prospecting for, or extraction or production of, mineral oils. • Plant includes ships, aircraft, vehicles, drilling units, scientific apparatus and equipment, used for the purpose of the said business • Mineral oil includes petroleum and natural gas.
Estimated income	A sum equal to 10% of the aggregate of the following amount shall be deemed to be the profits and gains of such business chargeable to tax - ➤ The amount paid or payable (whether in or out of India) to the assessee (or to any person on his behalf) on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils in India; and ➤ The amount received or deemed to be received in India by or on behalf of the assessee on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils outside India.
Assessee May claim lower profit	An assessee may claim lower profits and gains if he keeps and maintains books of account as per sec. 44AA and gets his accounts audited and furnishes the report u/s 44AB and thereupon the Assessing Officer shall proceed to make an assessment of the total income of the assessee u/s 143(3) & determine the sum payable by, or refundable to, the assessee

6. Sec 44BBA: Profits & gains of the business of operation of aircraft

Applicable to	All non-resident assessee.
Condition	Assessee must be engaged in the business of operation of aircraft.
Estimated income	Income of such business shall be estimated at 5% of the aggregate of the following- ➤ The amount paid or payable (whether in or out of India) to the assessee (or to any person on his behalf) on account of the carriage of passengers, livestock, mail or goods from any place in India; and ➤ The amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods from anyplace outside India.

Refer Question No 2,3
from Workbook

7. Sec 44BBB: Profits & gains of foreign co. Engaged in the business of construction

Applicable to	A foreign company
Condition	➤ The assessee must be engaged in the business of - • Civil construction; or • Erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project approved by the Central Government in this behalf. ➤ Approval issued by the Department of Power in the Ministry of Energy shall be deemed to be the approval of the Central Government for this section.
Estimated income	Income of such business shall be estimated at 10% of the amount paid or payable (whether in or out of India) to the said assessee (or to any person on his behalf) on account of such civil construction, erection, testing or commissioning.
Assessee may claim lower profit	An assessee may claim lower profits and gains if he keeps and maintain books of accounts as per sec. 44AA and gets his accounts audited and furnishes the report u/s 44AB and thereupon the Assessing Officer shall proceed to make an assessment of the total income of the assessee u/s 143(3) and determine the sum payable by, or refundable to, the assessee.
Benefit of unabsorbed depreciation and brought forward loss shall not be allowed to the assessee for such previous year.	

8. Sec 44BBC: Special provision for computing profits and gains of business of operation of cruise ships in case of non-residents

Applicable to	A non-resident engaged in the business of operation of cruise ships subject to prescribed conditions.
Estimated income	The profits and gains shall be deemed to be equal to 20% of the following amounts • paid or payable to the eligible assessee or to any person on his behalf on account of the carriage of passengers; and • received or deemed to be received by or on behalf of the assessee on account of the carriage of passengers.

Lease rentals paid by a foreign company that chooses the presumptive tax regime under section 44BBC will be exempt from tax in the hands of the recipient company under section 10(15B), if both the paying and receiving companies are foreign subsidiaries of the same holding company. This exemption is available until the Assessment Year 2030-31.

To clarify eligibility, the Government has inserted **Rule 6GB**, specifying the **conditions** such non-residents must fulfil.

Key Conditions under Rule 6GB:

Passenger Ship Requirement:

- Operates a passenger ship with
 - ⇒ **Carrying capacity:** more than 200 passengers, or
 - ⇒ **Length:** 75 meters or more.
- Ship must be used for leisure and recreational purposes and have suitable dining and cabin facilities.

Voyage Requirement:

- Ship must operate on a scheduled voyage or shore excursion that
 - ⇒ Touches at least two sea ports of India, or
 - ⇒ Touches the same sea port of India twice.

Purpose of Operation:

- The ship should be operated primarily for carrying passengers, not for carrying cargo.

Regulatory Compliance:

- The ship must be operated in accordance with procedures and guidelines issued by the Ministry of Tourism or Ministry of Shipping.

9. Sec 44BBD: Special provision for computing PGBP of NR engaged in business of providing services or technology for setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India

Eligible assessee	A non-resident engaged in the business of providing services or technology in India, for setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India – ▪ To a resident company which is establishing or operating electronics manufacturing facility or a connected facility for manufacturing or producing electronics goods, article or thing in India, under a scheme notified by the Central Government in the Ministry of Electronics and Information Technology; and ▪ The resident company satisfies the conditions prescribed in this behalf.
Presumptive rate	The profits and gains shall be deemed to be equal to 25% of the following amounts: ▪ Paid or payable to the non-resident assessee or to any person on his behalf on account of providing services or technology; and ▪ Received or deemed to be received by non-resident assessee or on behalf of the non-resident assessee on account of providing services or technology.

Non-applicability of section 44DA or section 115A	The provisions of section 44DA or section 115A do not apply in respect of income covered by this section.
No set-off of unabsorbed depreciation and brought forward loss	Where an assessee declares profits and gains of business @25% for any previous year in accordance with the presumptive provisions under this section, no set off of unabsorbed depreciation and brought forward loss would be allowed to the assessee for such previous year.

10. Sec 44DA: Special provisions for computing income by way of royalties in case of NR

Applicable to	A non-resident (not being a company) or a foreign company
Conditions	1. The assessee receives royalty or fees for technical services from the Government or an Indian concern under an agreement with them. 2. The assessee conducts business in India through a permanent establishment or provides professional services from a fixed place in India. The royalties or fees are linked to the right, property, or contract that is connected to the permanent establishment or fixed place.
Agreement date	After 31/3/2003
Tax Treatment	Income shall be computed under the head "Profits and gains of business or profession" in accordance with the provisions of this Act:
Deduction not permissible	No deduction shall be allowed in respect of – a) any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or b) amounts paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices.

Note:

- Provisions of sec 44BB is not applicable in respect of income covered by this section.
- Assessee shall keep and maintain books of account and other documents as per sec. 44AA and get his accounts audited u/s 44AB and upload one month prior to the due date of filing of the return of income, the report of such audit in Form 3CE duly signed and verified by chartered accountant.

Assessee	Due date of filing return of income u/s 139(1)	Specified date of tax audit u/s 44AB
In case of an assessee who is required to furnish report referred to in section 92E.	30th November of the A.Y.	31st October of the A.Y.
In case of other Assessee's computing income u/s 44DA.	31st October of the A.Y.	30th September of the A.Y.

Refer Question No 4
from Work book

11. Sec 44C: Deduction of HO expenditure in case of NR

Deduction of Head expenditure in case of Non-residents while computing profit and gain from business or profession

Lower of

5% of adjusted Total income*

Amount of Head Office expenditure incurred by the Non-resident attributable to the business or profession in India

Meaning of Adjusted Total Income

Total Income, without giving effect to:

- i. Head Office expenditure
- ii. Unabsorbed depreciation
- iii. Capital expenditure on family planning
- iv. Losses carry forward:
 - Business loss u/s 72(1)
 - Speculative business Loss u/s 73(2)
 - LTCL/STCL u/s 74(1)
 - Loss from owning and maintaining racehorse's u/s 74A (3)
- v. Deductions under Chapter VI-A from GTI

Meaning of Head Office expenditure

Executive and general administration expenditure incurred by the NR outside India, including:

- a) Rent, rates, taxes, repairs or insurance of any premises outside India used for business or profession.
- b) Salary, wages, perquisites etc. to any employee or other person managing the affairs of any office outside India.
- c) Travelling expenditure by any employee or other person managing the affairs of any office outside India.
- d) Such other executive and general administration expenditure prescribed.

* In case adjusted total income is a loss, 5% of the "average adjusted total income"

Average Adjusted Total Income (AATI): It is calculated based on the assessee's **adjusted total income of the previous three assessment years** preceding the relevant assessment year.

- If income is assessable for all three years:
→ **AATI** = $1/3$ of the total adjusted income of all three years
- If income is assessable for only two years:
→ **AATI** = $1/2$ of the total adjusted income of those two years
- If income is assessable for only one year:
→ **AATI** = Adjusted total income of that one year

Refer Question No 5,6,7,8
from Workbook

12. Sec 115A – 115AC: Provisions in relation to certain income of in case of NR

Sec. Particulars	115A(1)(a)	115A(1)(b)	115AB	115AC
Applicable	Non-resident	Non-resident	Overseas financial organization (Offshore Fund)	Non-resident
Income covered	a) Dividends; or b) Interest received from notified infrastructure bonds or Govt. or an Indian concern on money Borrowed in foreign currency; or c) Interest of the nature and extent referred to in sec. 194LC/194LD/194LBA (2)	Royalty or fees for technical services (other than income covered u/s 44DA) received as per agreement entered with Government or an Indian concern on or after 1-4-1976	a) Income received in respect of nits purchased in foreign currency. b) Long-term capital gains arising from the transfer of units of UTI or mutual fund specified u/s 10(23D) Purchased in foreign currency.	a) Interest on notified foreign currency bonds of India/public sector company b) Dividend on GDR c) LTCG arising on transfer of such bonds or Global Depository Receipts.
Special tax rate	▪ Dividend: ✓ Dividend received from a unit in IFSC - 10% ✓ Other Dividend - 20% ▪ Interest: ✓ Interest received from an infrastructure debt fund referred to in section 10(47) - 20% ✓ Interest referred to in section 194LC received from an Indian company or business trust - 4% / 5% / 9%. ▪ Interest received from the Government or an Indian concern on monies borrowed, or debt incurred by the Government / Indian	20% However, if DTAA provides for a rate lower than 20%, then, the provisions of DTAA would apply.	• 10% on income w.r.t units. • Long-term capital gains - 12.5%	• 10% on interest or dividend Income. • Long-term capital gains - 12.5%

	concern in foreign currency -20% - interest income of a business trust from a SPV, distributed by business trust to its non-resident unit holders' section 194LBA - 5%. - Income received in respect of units purchased in foreign currency of a mutual fund specified under section 10(23D) or of the Unit Trust of India- 20%			
Allowability of expenditure u/s 28 to 44C & sec.57	No	No	Not Applicable	No
Deduction under Chapter VIA	Not available Exception Deduction u/s 80LA can be claimed by a Unit of an international Financial Services Centre	Available	Not available	Not available
Index benefit	Not Applicable	Not Applicable	Not Available	Not Available
Requirement to furnish ROI #	No	Yes	Yes	No

#If total income consists of such income only and appropriate tax has been deducted from such income.

Refer Question No 9,10,11
from Workbook

13. Sec 115 ACA – 115BBA: Provisions in relation to certain income of in case of NR

Sec.	115ACA	115AD	115BBA(1)(a)	115BBA(1)(b)
Particulars				
Applicable	Resident individual	Specified Fund or Foreign Institutional Investor	Non-resident sportsman or entertainer being foreign citizen	Non-resident Sports association
Income covered	a) A Dividend on GDR of an Indian company Engaged in specified knowledge-based industry or service issued as ESOP b) Long-term capital gains	a) Income on securities (Other than Unit referred to in sec. 115AB) b) STCG or LTCG on transfer of such securities	Income by way of: a) participation in India in any game or sport; or b) Advertisement or c) contribution of articles relating to any game or sport in India in newspapers, magazines or journals. In case of entertainer, any income received or receivable from his performance in India Match Referee is not considered as sportsmen.	Any amount guaranteed to be Paid or payable to such association for any game or sport played in India
Special tax rate	10% on dividend income. - Long-term capital gains – 12.5%	Interest u/s 194LD	5%	20%
		STCG u/s 111A	20%	
		Other STCG	30%	
		LTCG u/s 112A	12.5% exceeding ₹ 1.25 lakhs	

		Income from securities	• 20% in case of FII • 10% in case of specified fund		
		Other income	At normal tax Rates		
Allowability of expenditure u/s 28 to 44C & sec. 57	No	No	No	No	No
Deduction u/s Ch VIA	Not available	Not available	Not available	Not available	Not available
Index benefit	Not Available	Not Available	Not Applicable	Not available	Not available
Requirement to furnish return[#]	Yes	Yes	No	No	No
Others	Assessee must be an employee of such company or its subsidiary		Winning from lottery, cross-word puzzles etc. is taxable @ 30% u/s 115BB.		

*If total income consists of such income only and appropriate tax has been deducted from such income.

Refer Question No 12
from Workbook

14. Sec 115C – 115I: Provisions in case of NR Indian (Chapter XII-A)

Non-resident Indian means an individual, being a citizen of India or a person of Indian origin who is not a resident.

Applicable on

Non-resident Indians deriving –

1. Income from investment in foreign exchange asset; or
2. Long-term capital gain on foreign exchange asset.

Note:

- a) Foreign exchange asset means any specified asset, which the assessee has acquired or purchased with, or subscribed to, in convertible foreign exchange.
- b) Specified asset means any of the following –
 - Shares in Indian company.
 - Debenture issued by an Indian company which is not a private company.
 - Deposit with an Indian company, which is not a private company.
 - Any security of the Central Government; or
 - Any notified asset.
- c) Investment income means any income derived from a foreign exchange asset.
- d) Long-term capital gain means income chargeable under the head Capital gains relating to a capital asset, being a foreign exchange asset, which is not a short-term capital asset.

Special Provision [Sec. 115D]

1. No deduction in respect of any expenditure or allowance is allowed under any provision of this Act in computing the **investment income**.
2. No deduction shall be allowed to the assessee u/s 80C to 80U against income from investments and LTCG.

Tax on Investment Income and Long-term Capital Gain [Sec. 115E]

Nature of income	Rate of tax
Income from investment	20% + Surcharge (if applicable) + Health and Education Cess@4%
Long term capital gain	12.5% + Surcharge (if applicable) + Health and Education Cess@4%
Other income	Normal tax rates

Exempted Capital Gain [Sec. 115F]**Applicable to**

Non-resident Indian (i.e. an individual being a citizen of India or a person of Indian origin who is a non-resident)

Conditions

1. Assessee has transferred any of the following long term capital asset, acquired in convertible foreign exchange:
 - a) Shares in an Indian company; or
 - b) Debentures of an Indian public limited company; or
 - c) Deposits with an Indian public limited company; or
 - d) Central Government securities.
 (Here in after referred to as original asset)
2. Within 6 months of transfer of original asset, the taxpayer has invested the whole or any part of net consideration in any of the following assets (hereinafter referred to as new asset)
 - a) Shares in an Indian company; or
 - b) Debentures of an Indian public limited company; or
 - c) Deposit with an Indian public limited company; or
 - d) Central Government securities; or
 - e) National Savings Certificate VI and VII issues.

Amount of exemption

Exemption is available to the minimum of the following –

- Long term capital gain; or
- $\frac{\text{Long term capital gain} \times \text{Amount invested in the new asset}}{\text{Net sale consideration on transfer of original asset}}$

Withdrawal of exemption

- If a new asset acquired under **Section 115F** is transferred or converted into money within **3 years** from its acquisition, the earlier exemption on capital gains is **revoked**.
- Upon revocation, the capital gains that were **exempted earlier** will be taxed as **long-term capital gains** in the year when the asset is transferred or converted into money.
- **Section 115F** is **optional**, meaning the taxpayer can choose whether or not to claim its benefits by submitting a declaration in the return of income (as per **Section 115-I**).

Sec 115G: Return of Income not to be Filed in certain cases

It is not necessary to file return if during the previous year there is no other income and tax has been deducted at source.

Sec 115H: Applicability of Provisions after Becoming Resident

- If a person becomes a resident of India in a later year, they can still be assessed for income from the previous year under these provisions.
- To do so, they must file a declaration in writing along with the return for the subsequent year.

Sec 115I: Non-applicability of Provisions

- A taxpayer can choose not to be governed by these provisions for a specific year.
- To opt out, the taxpayer must file a return of income under Section 139, declaring that the provisions of this chapter do not apply for that assessment year.
- If this is done, the provisions will not apply to them for that year

15. Sec 48 and Rule 115A: Capital gain on transfer of shares / debentures by a NR

Proviso 1 to Sec 48: Capital gain in case of Non-resident shall be computed in foreign currency and then converted to Indian currency as per the method given in Rule 115A

Assesses: Non-resident (including foreign company)

Asset transferred: share or debenture of an Indian company

Mode of acquisition: In foreign currency either by way of purchase or re-investment

RULE 115A: Method of Conversion

Cost of Acquisition	Avg of TTBR and TTSR	On the date of acquisition
Transfer	Avg of TTBR and TTSR	On the date of transfer
Sale consideration	Avg of TTBR and TTSR	On the date of transfer
CG into Indian rupees	TTBR	On the date of transfer
Indexation benefit not available to NR		

Refer Question No 13 to 18
from Workbook

16. Sec 115JG: Conversion of an Indian branch of foreign company into subsidiary Indian company

If a foreign company is engaged in banking business in India through a branch, and that branch is converted into an Indian subsidiary (following a scheme approved by the Reserve Bank of India, with conditions set by the Central Government), then:

Capital Gains Exemption: Any capital gains arising from the conversion are **not taxable** in the year the conversion happens.

Application of Tax Provisions: Provisions related to **unabsorbed depreciation, losses, tax credits, and income computation** for both the foreign company and the Indian subsidiary will apply with necessary **modifications** as specified in the scheme/notification.

Consequence of Non-Compliance:

Refer Question No 19, 20
from Workbook

1. Failure to Comply with Conditions:

- If any conditions of the scheme or notification are not met, the foreign company and Indian subsidiary will **lose** the benefits, exemptions, or reliefs previously granted, and regular tax provisions will apply.

2. Failure After Claiming Benefit:

- If the foreign company or Indian subsidiary claims benefits and later fails to comply with conditions, the following will happen:
 - a) The benefit, exemption, or relief will be **treated as wrongly allowed**.
 - b) The Assessing Officer may **recompute the total income** for the previous year and amend the tax calculation.
 - c) **Section 154** provisions will apply, and the **4-year period** for correction will start from the end of the year in which the failure to comply occurs.

17. Sec 286: Furnishing of the report in respect of international group

1. If a constituent entity is part of an international group and the parent entity is **not** resident in India, it must notify the prescribed income-tax authority by the specified date.
2. The notification must include:
 - a) Whether it is the **alternate reporting entity** of the international group.
 - b) Details of the **parent entity** or **alternate reporting entity** (if any), including the country or territory where the entities are based.
3. Parent or Alternate Reporting Entity Resident in India:
 - a) For each reporting accounting year, the **parent or alternate reporting entity** must submit a report to the prescribed authority within **12 months** from the end of the accounting year.
 - b) The report must be in the prescribed format and manner.

"Constituent Entity" refers to:

- i. **Any separate entity** in an international group that is included in the group's consolidated financial statement for financial reporting, or would be included if any entity's equity shares were listed on a stock exchange.
- ii. **Any entity excluded** from the consolidated financial statement of the group only due to its size or materiality.
- iii. **Any permanent establishment** of a business entity in the group that prepares its own separate financial statement for financial reporting, regulatory, tax, or internal management purposes.

18. Sec 194E: TDS on payment to NR sportsmen or sports association

Who is responsible to deduct tax: Any person who is responsible to pay the following income -

Payee	Income by way of
Sportsman (including an athlete) or an entertainer being non-resident foreign citizen	1. Participation in India in any game (excluding card game or gambling) or sport 2. Advertising 3. Contribution of articles relating to any game or sports in any newspaper, magazine or journal.
Sports association being non-resident	Any game (other than card game) or sports organized in India

Rate of TDS: 20% (+ Surcharge + Health & Education Cess)

When tax shall be deducted: At the time of payment or crediting the party whichever is earlier.

19. Sec 194LB: on interest from infrastructure debt fund

Who is responsible to deduct tax: Any person responsible for paying income by way of interest by an infrastructure debt fund referred to in sec. 10(47) to a non-resident or a foreign company.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 5% (+ SC + HEC)

20. Sec 194LC: TDS on interest to NR

An Indian company or business trust paying interest to a non-resident or foreign company is responsible for deducting tax in the following cases:

1. Monies borrowed in foreign currency:

- a) Under a loan agreement between 01-07-2012 and 01-07-2023.
- b) Issuance of long-term infrastructure bonds between 01-07-2012 and 01-10-2014.
- c) Issuance of any long-term bond (including infrastructure bonds) between 01-10-2014 and 01-07-2023, approved by the Central Government.

2. Monies borrowed via rupee-denominated bonds before 01-07-2023.
3. Monies borrowed via long-term bonds or rupee-denominated bonds issued between 01-04-2020 and 01-07-2023, listed only on authorized stock exchanges in an International Financial Services Centre.
4. Monies borrowed via long-term bonds or rupee-denominated bonds issued on or after 01-07-2023, listed only on a recognized stock exchange in an International Financial Services Centre.

When to Deduct Tax:

Tax must be deducted at the time of payment or when the payee is credited, whichever comes first.

Rate of TDS:

- i. 5% (+ SC + Health & Education Cess)
- ii. 4% for interest under point 3.
- iii. 9% for interest under point 4.

21. Sec 194LD: Income by way of interest on certain bonds

Any person paying interest to a Foreign Institutional Investor (FII) or Qualified Foreign Investor (QFI) is responsible for deducting tax in the following cases:

1. Interest paid between 01-06-2013 and 01-07-2023:

- i. On rupee-denominated bonds of an Indian company (interest rate must not exceed the rate notified by the Central Government).
- ii. On government securities.

2. Interest paid between 01-04-2020 and 01-07-2023:

- i. On municipal debt securities.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 5% (+ SC + Health & Education Cess)

22. Sec 195: TDS on other sums payable to NR

Who is responsible to deduct tax: Any person (resident or non-resident) responsible for paying any sum chargeable under this Act (excluding income chargeable under the head "Salaries") to a non-resident.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: At the rate in force during the financial year

Exemption or relaxation from the provision:

When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorizing the payer to deduct tax at lower rate or deduct no tax.

Refer Question No 21
from Workbook

23. Sec 196A: TDS on income in respect of units of NR

Who is responsible to deduct tax: Any person responsible for paying income from units of a Mutual Fund (specified under section 10(23D)) or the Unit Trust of India (UTI) to a foreign company or non-corporate non-resident is responsible for deducting tax.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: (20% or rates in DTAA whichever is lower) + SC + HEC

Exemption or relaxation from the provision: No tax will be deducted on income from UTI units paid to a non-resident Indian (NRI) or non-resident Hindu Undivided Family (HUF), if:

1. The units were bought with funds from a Non-Resident (External) Account in India, or
2. The units were bought with funds remitted in foreign currency.

24. Sec 196B: TDS on income units of NR

Who is responsible to deduct tax: Any person responsible for paying any income in respect of units referred to in sec. 115AB or by way of long-term capital gains arising from the transfer of such units to an Offshore Fund.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS:

Income in respect to units	10% + Surcharge + Health & Education Cess
LTCG arising from such units	on/after 23.07.24 -12.5% + Surcharge + Health & Education Cess

25. Sec 196C: TDS on income from foreign currency bonds or GDR

Who is responsible to deduct tax: Any person responsible for paying any income by way of interest or dividends in respect of bonds or Global Depository Receipts referred to in section 115AC or by way of long-term capital gains arising from the transfer of such bonds or Global Depository Receipts to a non-resident

When tax shall be deducted: At the time of payment (by any mode) or crediting the payee, whichever is earlier.

Rate of TDS:

interest or dividends in respect of bonds or Depository Receipts	10% + Surcharge + Health & Education Cess
LTCG from the transfer of such bonds or Depository Receipts	12.5% + Surcharge + Health & Education Cess

26. Sec 196D: TDS on income of FII from securities

Who is responsible to deduct tax: Any person responsible for paying any income in respect of securities referred to in section 115AD (1)(a) [not being interest referred to in sec. 194LD] to Foreign Institutional Investor or specified fund.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Rate of TDS: 20% (10% in case payee is specified fund) + Surcharge + Health & Education Cess.

27. Sec 163: Agent of a non-resident

If a person liable to tax under this Act resides outside India, tax can be levied on and recovered from their agent in India. The agent will be treated as the assessee for such tax purposes.

No person shall be treated as the agent of a non-resident unless he has had an opportunity of being heard by the Assessing Officer as to his liability to be treated as such.

Who can be treated as an Agent of a Non-Resident:

An "Agent" includes anyone in India who:

1. Is employed by or on behalf of the non-resident.
2. Has a business connection with the non-resident.
3. Receives income on behalf of the non-resident, either directly or indirectly.
4. Is a trustee of the non-resident.
5. Has acquired a capital asset in India through a transfer.

Exception:

A broker in India will not be treated as an agent of a non-resident if:

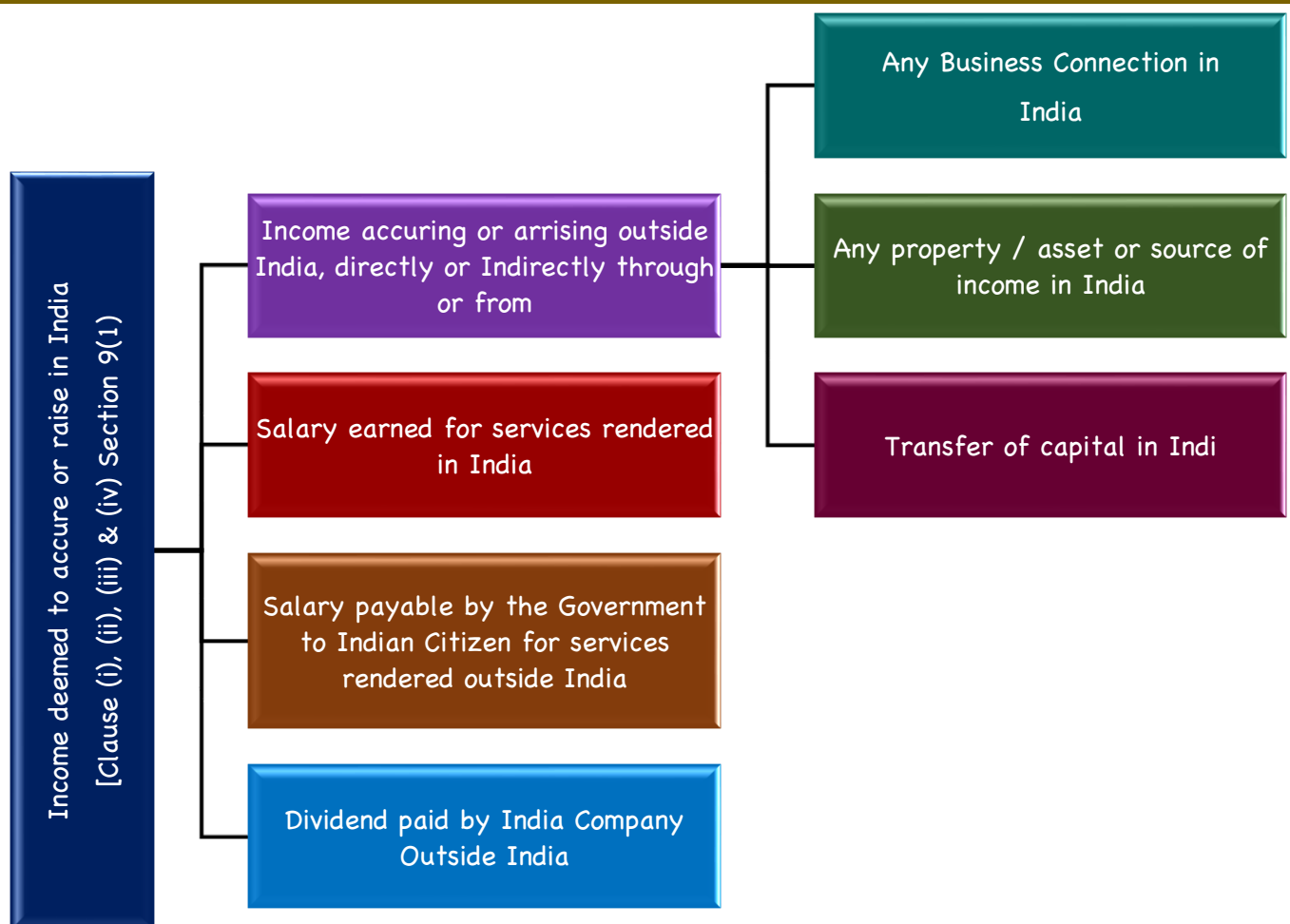
- a) The broker deals through a non-resident broker (not directly with or on behalf of the non-resident).
- b) The transactions are carried out in the ordinary course of business, and the non-resident broker is also conducting business in the ordinary course, not as a principal.

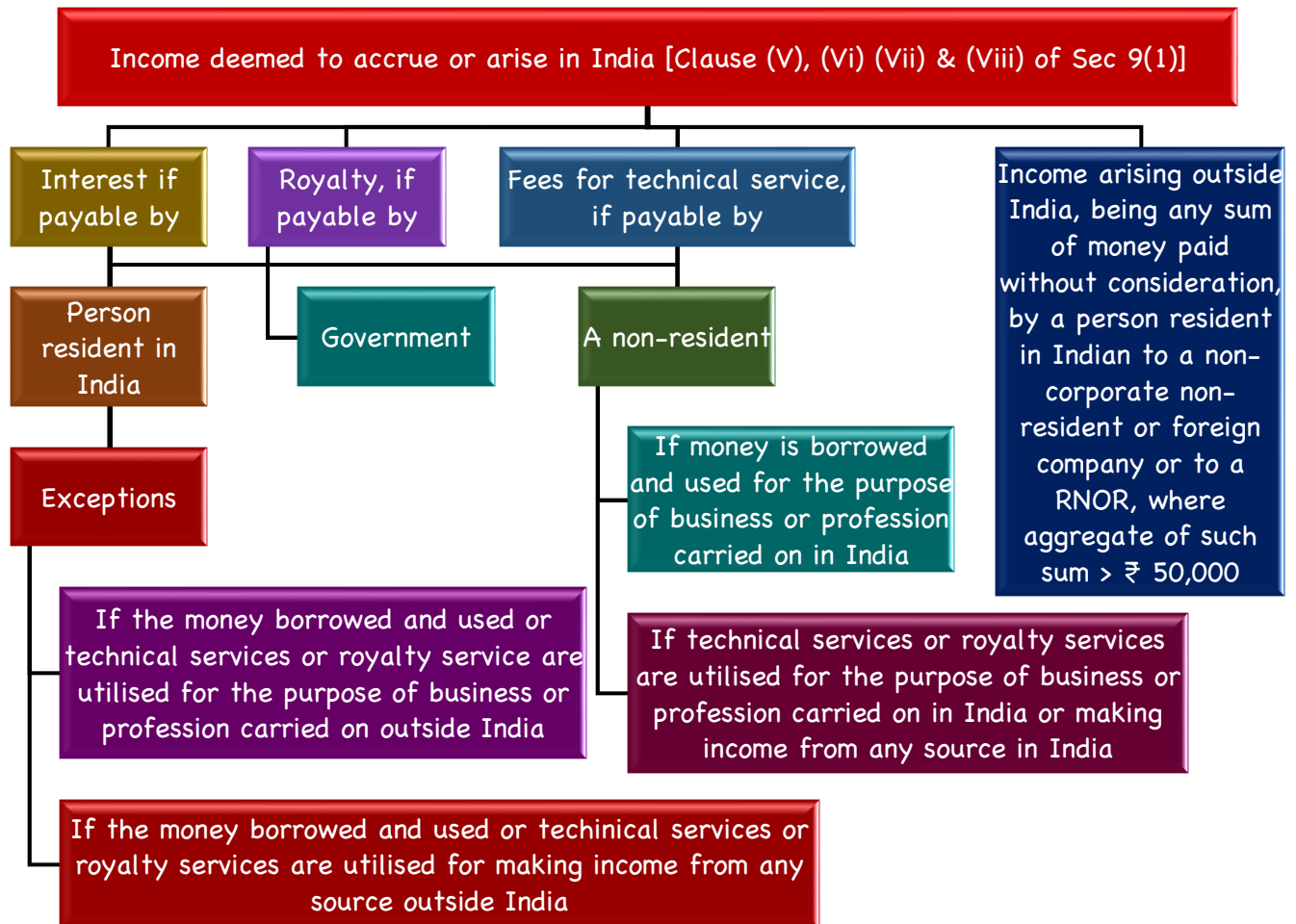
28. Sec 173: Recovery of tax in respect of non-resident from his assets

If a non-resident is entitled to income mentioned in **Section 9(4)(1)**, the tax on that income can be recovered either directly from the non-resident or from their **agent** (if the agent is liable as a representative assessee). The tax can be deducted according to the provision income tax act. Any unpaid tax (arrears) can be recovered from the assets of the non-resident that are, or may come, within India.

29. Sec 228A: Recovery of tax in pursuance of agreements with foreign countries

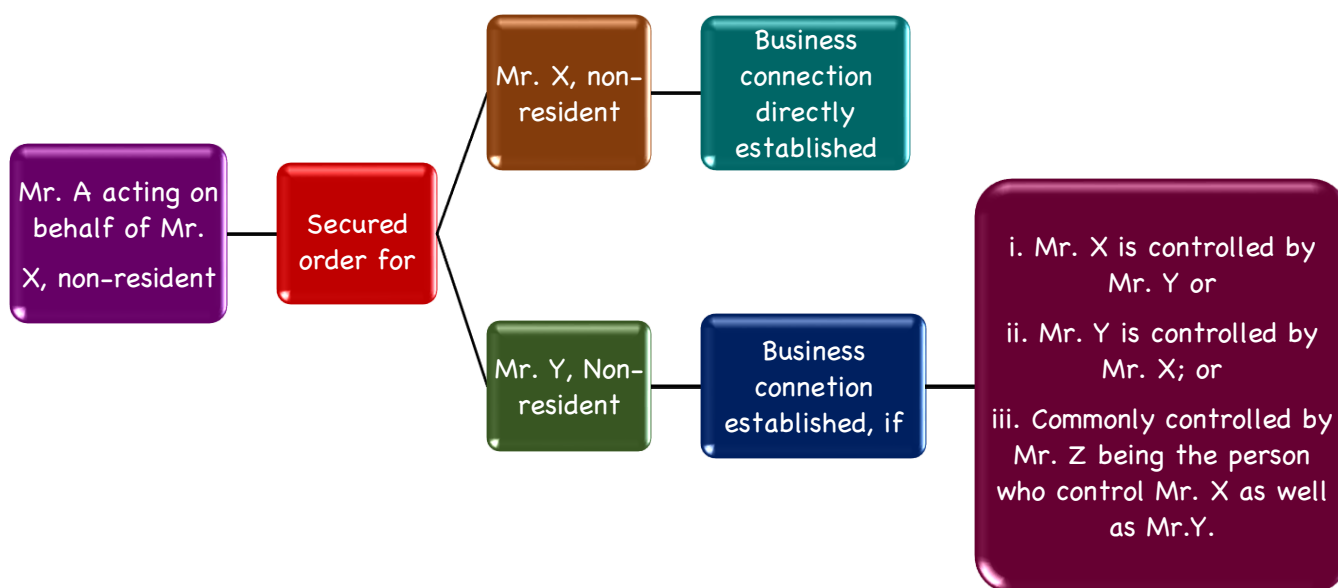
If an assessee fails to pay their tax, and they have property in a foreign country (which has an agreement with the Indian government for tax recovery), the **Tax Recovery Officer** can send a certificate to the **Board** under **Section 222**. The **Board** will then take appropriate action based on the agreement between India and that foreign country.

30. Sec 9: Income deemed to accrue or arise in India



Business Connection in India:

- 1) Must have an authority, which is habitually exercised in India, to conclude contracts on behalf of the non-resident or habitually contracts or plays the principal role leading to conclusion of contracts by that non-resident and such contracts are
 - a. In the name of the non-resident; or
 - b. For the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or
 - c. For the provision of services by that non-resident.
 - 2) Habitually maintain a stock of services by that non-resident.
 - 3) Habitually secures orders in India mainly or wholly for NR.
- Further, there may be situations when the person acting on behalf of the non-resident secures order for another non-resident. In such situation, business connection for other non-residents is established if,
- a. Such other non-resident controls the non-resident or
 - b. Such other non-resident is controlled by the non-resident or
 - c. Such other non-resident is subject to same control as that of non-resident.



In the case of a Non-Resident, the following shall not however, be treated as business connection in India:

- Purchase of goods in India for export
- Collection of news and views in India for transmission out of India.
- In the case of a business, in respect of which all the operations are not carried out in India.
- Shooting of cinematograph films in India.
- Activities confirmed to display of rough diamonds in SNZs.

Income Deemed to accrue or arise in India:

PAYABLE BY ↓ NATURE OF INCOME			
	GOVERNMENT	RESIDENT	NON-RESIDENT
Interest on money borrowed	Deemed to Accrue or raise in India	Deemed to accrue or raise in India except when used for a business / profession carried on outside India or for any source of income outside India.	Deemed to accrue or arise in India only when used for the purposes of business or profession carried on in India.
Royalty in respect of any rights etc.	Deemed to Accrue or raise in India	Deemed to accrue or raise in India except when used for a business / profession carried on outside India or for any source of income outside India.	Deemed to accrue or arise in India only when used for the purpose of business or profession carried on in India or for any source of income in India.
Fees for technical services	Deemed to Accrue or raise in India.	Deemed to accrue or raise in India except when used for a business / profession carried on outside India or for any source of income outside India.	Deemed to accrue or arise in India only when used for the purpose of business or profession carried on in India or for any source of income in India.

significant economic presence [explanation 2A to section 9(1)(I)]

significant economic presence of a non-resident In India shall also constitute business connection In India.

significant economic presence means-

	Nature of transaction	Condition
(a)	In respect of any goods or services or property carried out by non-resident with any person in India including provision of download of data of softer In India	Aggregate of payments arising from such transaction or transactions during the previous year should exceed ₹2 crores.
(b)	Systematic and continuous soliciting of business activities or engaging In interaction with users In India.	The number of users should be at least 3 lakhs.

However, transactions or activities of a non-resident In India which are confined to the purchase of goods In India for the purpose of export shall not constitute significant economic presence of such non-resident In India.

Refer Question No 22,23 ,24 ,25
from Workbook

ADVANCE RULING

1. Board of Advance Ruling (BAR)

The Central Government shall constitute Boards for Advance Rulings (one or more) for giving advance rulings. The Board for Advance Rulings shall consist of **two members**, each being an officer not below the rank of Chief Commissioner, as may be nominated by the Board.

Note:

- a. Decisions made by the Board for Advance Rulings cannot be challenged or considered invalid just because there is a vacancy or some issue with the way the Board is set up. Even if there is a problem with the Board's composition, their rulings still stand.
- b. The Ruling or the Order of the Board will not be binding on the Department or on the applicant.

2. Sec 245N: Advance Ruling

	Applicant	Form No	Advance Ruling determination by BAR in relation to
1	NR	Form No 34C	A transaction which has been undertaken or proposed to be undertaken by him.
2	Resident	Form No 34D	The tax liability of a NR arising out of a transaction which has been undertaken or is proposed be undertaken by him which such NR and such determination shall include the determination of any question of law or of fact specified in the application.
3	Resident of class or category of persons notified by CG. (Resident, who has undertaken/ proposed to be undertaken one or more transactions value ₹100 Cr or more)	Form No 34DA	The tax liability of a resident applicant, arising out of transaction which has been undertaken or proposed to be undertaken by such applicant and such determination shall include the determination of question of law or of fact specified in the application.
4	Resident of class or category of persons notified by CG. (A public sector undertakings)	Form No 34E	An issue relating to computation of TI which is pending before any IT Authority or the ITAT and such determination or decision shall include the determination or decision of any question of law or fact w.r.t such computation of IT specified in the Application.
5	Resident or NR	Form No 34EA	Whether an arrangement, which is proposed to be undertaken by such applicant, is an impermissible avoidance arrangement or not.

Refer Question No 1,2
from Workbook

3. Sec 245Q: Application for Advance Ruling

- i. An applicant desirous of obtaining an advance ruling may make an application stating the question on which the advance ruling is sought in quadruplicate.
- ii. The application shall be accompanied by a fee of
 - a. ₹ 10,000 or
 - b. such fees as may be prescribed.

✓ whichever is higher
- iii. An applicant may withdraw an application within 30 days from the date of the Application.

Refer Question No 3
from Workbook

4. Sec 245R: Procedure on Receipt of Application

- i. BAR shall forward a copy of application to CIT/PCIT to ascertain whether the case pending or not &, if necessary, call for the records.
- ii. BAR may allow or reject application but in following cases BAR shall reject the application.
 - a. In case of public sector co. when question is already pending before H.C. or SC.
 - b. In case of another assessee if question already pending before IT Authority ITAT/HC/SC.
 - c. Question involves determination of FMV of any Property.
 - d. Question in the application related to a transaction which is designed prima facie for avoidance of tax (except application made by PSU or application in relation to transaction is an impermissible avoidance arrangement or not.)
- iii. If the application is allowed then BAR shall pronounce its ruling within 6 months from the date of receipt of application of assessee.
- iv. Copy of ruling shall be forwarded to assessee & CIT/PCIT.
Note: If application is made by PSU, then IT Authority, ITAT shall not proceed further, means it will wait for the decision of BAR.
- v. The CG may, by notification, make a scheme for the purposes of giving advance rulings under this Chapter by the BAR, so as to impart greater efficiency, transparency and accountability by-
 - a. eliminating the interface between the BAR and the applicant in the course of proceedings to the extent technologically feasible;
 - b. optimizing utilization of the resources through economies of scale and functional specialization;
 - c. introducing a system with dynamic jurisdiction.

Refer Question No 4
from Workbook

5. Sec 245RR: Appellate Authority not to proceed in Certain cases

No Income-tax authority or the Appellate Tribunal shall proceed to decide any issue in respect to which an application has been made by an applicant, being a resident, u/s 245Q.

6. Sec 245T: Advance Ruling to be void in Certain cases

Where the BAR finds, on the representation made to it by the CIT/PCIT or otherwise, then an advance ruling has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and there upon all the provisions of this Act shall apply.

Refer Question No 5
from Workbook

7. Sec 245U: Powers of Board for Advance Ruling

The Board for Advance Rulings shall, for the purpose of exercising its powers, have all the powers of a civil court under the Code of Civil Procedure, 1908 as are referred to in **section 131** of this Act. (Refer Search & seizure and Survey Chapter)

Refer Question No 6
from Workbook

8. Sec 245W: Appeal

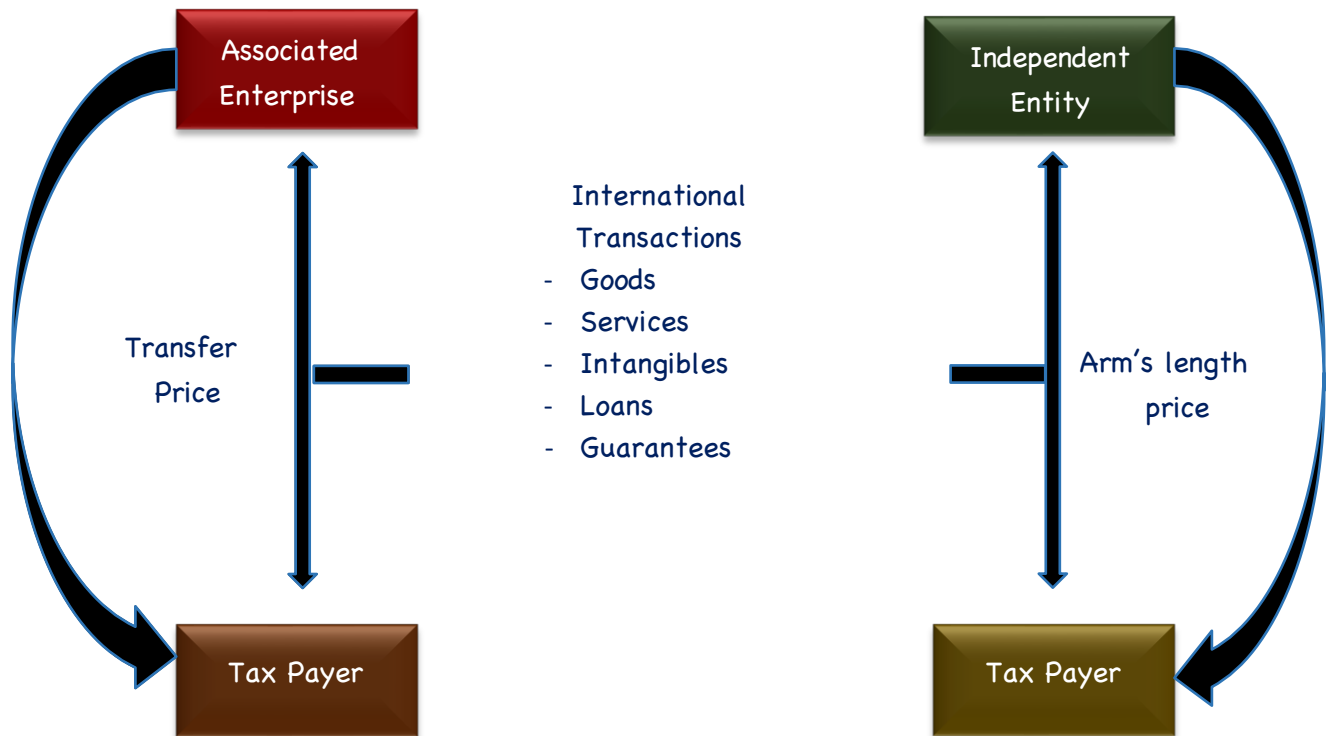
- a) The applicant, if he is aggrieved by any ruling pronounced or order passed by the Board for Advance Rulings or the Assessing Officer, on the directions of the Principal Commissioner or Commissioner, **may appeal to the High Court** against such ruling or order of the Board for Advance Rulings **within 60 days** from the date of the communication of that ruling or order, in such form and manner, as may be prescribed.
- b) Where the High Court is satisfied, on an application made by the appellant in this behalf, that the appellant was prevented by sufficient cause from presenting the appeal within the specified period, it may **grant further period of 30 days** for filing such appeal.
- c) The Central Government may make a scheme for the purposes of filing appeal to the High Court by the Assessing Officer, so as to impart greater efficiency, transparency and accountability by:
 - ✓ optimizing utilization of the resources through economies of scale and functional specialization.
 - ✓ introducing a team-based mechanism with dynamic jurisdiction.

Refer Question No 7
from Workbook

TRANSFER PRICING

1. Sec 92 – Computation of Income from International Transaction

- Any income, allowance for expense or interest arising from the international transactions shall be determined at "Arm's Length Price" (ALP).
- While determining arm's length price under the provisions of transfer pricing regulations, if the income works out to a figure lower than the income shown in the books of accounts, the provision of transfer pricing regulations will not apply.



2. Sec 92A – Associated enterprise

Associated Enterprises [Sec 92A]: Section 92A defines the associated enterprises generally. Section 92A provides 13 relationships between the enterprises which constitutes deemed associated enterprises.

The term "associated enterprise" in relation to another enterprise is defined in section 92A. Associated enterprises are those which are owned or controlled by the same or common entity/ person.

Associated Enterprises [Sec 92A (1)]		
	Condition	Example
(1)	An enterprise which participates, directly or indirectly, or through one or more intermediaries, in: - management of the other enterprise, or - control of other enterprise, or - capital of other enterprise.	Where A Ltd. directly participates in the management of B Ltd. and B Ltd. directly participates in the management of C Ltd. In such situation, A Ltd. has direct participation in management of B Ltd. but has an indirect participation in management of C Ltd. A —————> B —————> C In such scenario, both B Ltd. and C Ltd. would be associated enterprises of A Ltd.

(2)	If one or more persons participates, directly or indirectly, or through one or more intermediaries in: management/control/capital of the two different enterprises. Then, those two enterprises are AEs.	Mr. A directly has control in A Ltd. and B Ltd. In such a scenario, both A Ltd. & B Ltd. are associated enterprises since there is a common person i.e., Mr. A, who controls both entities A Ltd. & B Ltd.
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Two enterprises are deemed to be associated enterprises if they fall under any one or more of the situations contained in section 92A (2). This section provides 13 such situations during which associated enterprise relationship is deemed to be established. Two enterprises are deemed to be associated enterprise if:

Condition	Situation	Example
Enterprise ownership	One enterprise holds 26% or more of the voting power, directly or indirectly, in the other enterprise.	A Ltd. holds 33% of Voting Power in B Ltd. and B Ltd. holds 80% Voting Power in C Ltd. 33% 80% A → B → C In above situation, A Ltd. holds 26% or more voting power in B Ltd., directly and in C Ltd. indirectly (i.e. through B Ltd.). Therefore, both B Ltd. & C Ltd. are deemed associated enterprises of A Ltd.
Substantial voting power in two entities by common person	Any person or enterprise holds 26% or more of the voting power, directly or indirectly, in each of two different enterprises.	Mr. A holds 40% of voting power in both X Ltd. and Y Ltd. where neither X Ltd. has any holding in Y Ltd. nor Y Ltd. has any holding in X Ltd. Mr. A 40% 40% X Ltd. Y Ltd. In this situation, since Mr. A directly holds 40% of voting power in both X Ltd. and Y Ltd., X Ltd. & Y Ltd. will be deemed associated enterprises.
Advancing of substantial sum of money	One enterprise advances loan to the other enterprise of an amount of 51% or more of the book value of the total assets of other enterprise	Book Value of total assets of Y Ltd. is ₹ 100 crores. X Ltd. advances loan of ₹ 60 crores to Y Ltd. In this case, X Ltd. advances loan of ₹ 60 crores to Y Ltd, which is 60% of the book value of total assets of Y Ltd. Hence, X Ltd. & Y Ltd. are deemed associated enterprises.
Guaranteeing borrowings	One enterprise guarantees 10% or more of the total borrowings of the other enterprise.	P Inc. has total loan of 1 million dollars from XYZ Bank of America. Out of that, A Ltd., an Indian company, guarantees 20% of total borrowings in case of any default made by P Inc. In such case, since A Ltd. guarantees 20% of total borrowings of P Inc., P Inc. and A Ltd. are deemed associated enterprises.

Appointment of majority directors of other enterprise	One enterprise appoints more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of other enterprise.	X Ltd. has 15 directors on its Board. Out of that, Y Ltd. has appointed 8 directors. In such case, X Ltd. and Y Ltd. are deemed associated enterprises.
Appointment of majority directors of two different enterprises by same person(s)	More than half of the directors or members of the governing board, or one or more of the executive directors or members of the governing board of each of the two enterprises are appointed by the same person(s) .	Mr. A appointed 9 directors out of 15 directors of X Ltd. and appointed 2 executive directors on the board of Y Ltd. In such case, since a common person i.e. Mr. A appointed more than half of the directors in X Ltd. And appointed 2 executive directors in Y Ltd., both X Ltd. and Y Ltd. are deemed associated enterprises.
Dependence on intangibles w.r.t which other enterprise has exclusive rights	The manufacture or processing of goods or articles or business carried out by one enterprise is wholly dependent (i.e. 100%) on the know-how , patents, copyrights, trade-marks, licenses, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other entity is the owner or in respect of which the other enterprise has exclusive rights.	
Dependence on raw material supplied by other enterprise.	90% or more of raw materials and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, are supplied by the other enterprise , or by persons specified by the other enterprise, where the prices and other conditions relating to the supply are influenced by such other enterprise.	
Dependence on sale.	The goods or articles manufactured or processed by one enterprise, are sold to the other enterprise or to persons specified by the other enterprise, and the prices and other conditions relating thereto are influenced by such other enterprise .	
Control by common individual.	Where one enterprise is controlled by an individual , the other enterprise is also controlled by such individual or his relative or jointly by such individual and his relatives.	Mr. A and Mr. B are relatives. Mr. A has control over X Ltd. and Mr. B has control over Y Ltd. Therefore, both X Ltd. and Y Ltd. will be deemed associated enterprises.

Control by HUF or member thereof	Where one enterprise is controlled by a HUF and the other Enterprise is controlled by a member of such HUF or by relative of a member of such HUF or jointly by such member and his relative.	<pre> graph TD HUF[HUF] -- Control --> ALtd[A Ltd] HUF <--> MR[Member of HUF / Relative of member of such HUF] MR -- Control --> BLtd[B Ltd] ALtd <--> BLtd </pre> A Ltd & B Ltd are deemed associated enterprises
Interest in a firm, AOPs or BOIs	Where one enterprise is a firm, AOPs or BOIs, the other enterprise holds 10% or more interest in firm/AOPs/BOIs.	
Mutual interest relationship	There exists b/w the two enterprises, any relationship of mutual interest, as may be prescribed.	

Refer Question No 1 to 4
from Workbook

3. Sec 92B – International Transactions

- It means a transaction between two or more Associated Enterprises (AE) Either or both of whom are non-residents, In the nature of purchase, sale, lease, provision of services, lending or borrowing money etc.
- Transactions between Unrelated Person and AE shall be deemed to be International Transactions if
 - ✓ There exists a prior agreement between the Other Person and the AE or
 - ✓ Terms of transactions are determined by AE.
 - ✓ Another person may or may not be non-resident.

Refer Question No 5
from Workbook

4. Sec 92C – Arm's Length Price (ALP)

- "Arm's length price" means price which is applied or proposed to be applied in a transaction between persons other than associated enterprises in uncontrolled conditions.
- ALP shall be determined using most appropriate method from following.

Transaction Based Methods

- comparable uncontrolled price method; (CUP)
- resale price method;(RPM)
- cost plus method;(CPM)

Profit Based Methods

- profit split method;(PSM)
- transactional net margin method;(TNMM)
- such other method as may be prescribed by the Board.

Refer Question No 6 to 19
from Workbook

1. Comparable uncontrolled Price method (CUP)

Particulars	₹
Price charged / paid in comparable un-controlled transaction	XXX
(+)/ (-) Adjustment for difference between international transaction & comparable uncontrolled transaction	XXX
ALP	XXX

Note: Normally CUP is applicable when comparable uncontrolled transaction is available.

2. Cost plus Method (CPM)

Particulars	₹
Direct cost + Indirect cost of production	XX
(+) Normal G.P margin in similar transaction	XX
	XX
(+)/ (-) Adjustment for difference between international transaction & comparable uncontrolled transaction	(XX)
ALP	XX

Note: Normally CPM is applicable when goods manufactured by one A.E & sold to other A.E.

Refer Question No 20,21
from Workbook

3. Resale Price method (RPM)

Particulars	₹
Price charged for goods sold to unrelated enterprise (Resale price)	XXX
(-) Normal G.P. margin in similar transaction	(XXX)
	XXX
(-) Purchase related expense	(XXX)
ALP	XXX

Note: Normally RPM is applicable when goods purchased from A.E is transferred (sale) to unrelated person.

Refer Question No 22 to 25
from Workbook

4. Transactional Net margin method (TNMM)

Under this method, profit (Net Profit) earned by other players in the same industry under same or similar consideration taken into account for computing ALP.

Refer Question No 26
from Workbook

5. Profit split method (PSM)

Normally PSM is applicable where assessee executes an order in joint venture with its AE. First find out total profit earned in joint venture & after that divide that profit between AEs in the ratio of manpower employed, functions performed, risk taken, etc.

profit split method, which may be applicable mainly in international transactions or specified domestic transactions involving transfer of **unique intangibles**.

Particulars	₹
Cost incurred by Assessee	XX
(+) Share of profit of such enterprise	XX
ALP	XX

Refer Question No 27
from Workbook

In case of more than one price determined as per Most Appropriate Method, the Arithmetic Mean of such prices shall be the ALP [in case where dataset consisting of **less than 6 entries**]

5. Rule 10CA – Range Concept

If number of ALPs in data set is 6 or more, then range concept is applicable.

- Arrange the values in the data set in Ascending order.
- Arrive at a range starting from "35th Percentile" & ending at "65th" of the data set,
- In case the actual transaction price falls within the range (i.e. 35-65 percentiles) then actual transaction price shall be deemed to be the ALP.
- In case the actual transaction price does not fall within the computed range, the median of the data set (i.e. 50%) shall be deemed to be the ALP.
- If 35%, 65%, 50% percentiles computed are not whole numbers then we have to consider higher number for range.

E.g. $7 \times 35\% \text{tile} = 2.45$ we have to select 3rd value in data set.

- If 35%, 65%, 50% percentiles computed are whole numbers then we have to consider mean of value assign at that number and next number.

E.g. $20 \times 35\% \text{tile} = 7$ we have to take average of value given at number 7 & 8.

E.g. 1: Actual transaction price (i.e. 150)

S.No.	1	2	3	4	5	6	7
ALP	162	158	136	145	170	152	154

Ans: First arrange all dataset in ascending order

S.No.	1	2	3	4	5	6	7
ALP	136	145	152	154	158	162	170

- Now, 35th & 65th percentile of dataset shall be computed as follows:
 - Total no. of values in data-set $7 \times (35 / 100) = 2.45$
 - Total no. of values in data-set $7 \times (65 / 100) = 4.55$
- Since 2.45 & 4.55 are not whole number, we have to take next higher number i.e. 3 & 5. The arm's length range will be beginning at 152 (3rd number) & ending at 158 (5th number).
- So, if actual transaction price is within the range (152-158) then the actual transaction price shall be treated as deemed to be ALP, but in our example, Actual transaction (i.e. 150) is not falling within Range so ALP shall be median of data-set.
- Total no. of values in dataset $7 \times (50/100) = 3.5$ Since, this is not a whole no. & next higher value is 4 & ALP is 154.

E.g. 2:

1	2	3	4	5	6	7	8	9	10
92	95	100	103	107	111	119	120	121	125
11	12	13	14	15	16	17	18	19	20
127	130	132	135	139	142	144	145	150	152

- Total entries in data-set = 20
- 35th Percentile = $20 \times (35 / 100) = 7$
Since this is a whole number, Avg at 7 & 8 shall be the 35th percentile = $(119 + 120) / 2 = 119.5$
- 65th percentile = $20 \times (65/100) = 13$
- This is a whole number, Avg of value at 13 & 14 shall be the 65th percentile = $(132 + 135)/2 = 133.5$
- Median = $20 \times 50 / 100 = 10$.
Since this a whole number, Avg of value at 10 & 11 shall be the Median = $(125 + 127) / 2 = 126$.

If Actual Transaction price is between 119.5 to 133.5 then actual transaction price is considered as ALP otherwise ALP will be 126.

Note:

1. Range concept is applicable only for CUP, RPM, CPM & TNMM (not applicable for PSM).
2. In range concept, if multiple years data given, then we have to take weighted average of multiple years data (current year + last two years) in case of RPM, CPM, TNMM.
3. If the difference between ALP and Actual Price is up to 3%/1% of Actual transaction price, then actual price shall be the ALP. (1% in case of wholesale trading or 3% in other cases). If the difference is more than above specified percentage, entire difference shall be added.

6. Determination of ALP by AO

- a. AO shall determine ALP, if based on the information available with him, of the opinion that,
 - i. Assessee failed to compute the ALP as per most appropriate method.
 - ii. Data used for ALP is not correct or not reliable.
 - iii. Relevant documents are not maintained by assessee.
 - iv. Assessee failed to furnish information/documents required u/s 92D
- b. AO shall give an opportunity of being heard to the assessee.
- c. **Effect of ALP determine by AO:**
 - i. The income of other enterprise shall not be re-computed. i.e., No benefit to other enterprise.
 - ii. No deduction u/s 10AA or under Chapter VI-A shall be allowed to assessee against such increased income.

For example, if the total income declared by the assessee in his return of income is, say ` 7 lakhs and the total income computed by the Assessing Officer applying the arm's length principle is, say ₹ 9 lakhs, the difference of ₹ 2 lakhs will not qualify for deduction under section 10AA or Chapter VI-A.

Refer Question No 28 to 30
from Workbook

7. Sec 92CA – Reference to Transfer pricing Officer (TPO)

- a. If AO is of opinion that it is necessary & expedient to do so, He shall refer the case to TPO with prior approval of CIT/PCIT. This option is not available with Assessee.
- b. Any Joint/Deputy/Assistant Commissioner, authorized by CBDT, can be appointed as TPO.
- c. On such reference TPO can call upon assessee to produce evidence/computation in support of ALP
- d. TPO can also consider other transactions which discovered during the course of proceedings.
- e. TPO shall pass an order determining ALP after considering the evidence and material gathered.
- f. Order passed by TPO shall be binding on AO.
- g. TPO has to pass an order at least 60 Days before the expiry of the time limit u/s 153 and 153B.
- h. In case of assessment proceeding stayed by court or reference has been made u/s 90 to 90A, time available to TPO (after excluding the period of stay) is less than 60 days, remaining period shall be extended to 60 days.
- i. If any case referred to T.P.O. then time limit allowed u/s 153 to AO shall be increased by 1 year.
- j. The transfer pricing officer may amend any order passed by him & provisions of Sec 154 shall apply.
- k. Where, any Amendment made by TPO, he shall send a copy amended order to AO, based on that AO shall amend the Assessment order.

Block Transfer Pricing Assessment

- a) The concept of block transfer pricing assessment is introduced to:
- Reduce compliance burden on the assessee; and
 - Reduce administrative burden on the Transfer Pricing Officers (TPOs).
- Applicability of ALP to next two years
- b) The ALP determined under section 92CA(3) for any previous year shall apply to similar international transactions for the two consecutive previous years immediately following that year, subject to the following conditions:
- The assessee exercises an option for applying the same ALP for the next two consecutive previous years;
 - The option must be exercised in the prescribed form, manner and within the prescribed time;
 - The TPO, within **one month** from the end of the month in which the option is exercised, shall pass an order in writing declaring that the option is valid, subject to prescribed conditions.
- c) **Non-applicability to search cases**
- The provisions of block transfer pricing assessment shall not apply to search assessment cases. Once the TPO declares the option as valid:
- No separate reference to the TPO will be made for computing ALP for those two years.
 - Even if a reference is made (before or after such declaration), it will be treated as not made.
 - After validating the option, the TPO will determine ALP for the two following years in the same order.
 - The Assessing Officer (AO) will then recompute the total income of the assessee for those two years under section 155(21).
 - Such recomputation shall be done within 3 months from the end of the month in which the assessment is completed in the case of the assessee for such previous year.
- d) **Power to issue guidelines**
- If there are difficulties in implementing these provisions:
 - The CBDT, with Central Government approval, may issue guidelines.
 - Such guidelines cannot be issued after 2 years from 1 April 2026.

8. Sec 92CB – Safe Harbor Rules for determination of arm's length price in case of international transactions

The **Central Board of Direct Taxes (CBDT)** has notified updated **Safe Harbour Rules** under **Rule 10TD** of the Income-tax Rules, 1962 for **Assessment Year 2025–26**. These rules define the conditions under which the **transfer price** declared by an assessee in respect of **eligible international transactions** will be **accepted by the Income-tax Department** without detailed scrutiny.

a) Eligible Assessee:

A taxpayer who has entered into an **eligible international transaction** (for example, cross-border transactions with associated enterprises) and has **opted for the safe harbour option** under **Rule 10TE**, which has not been declared invalid.

b) Purpose of Safe Harbour:

The provision offers **certainty** and **reduced litigation** by specifying margins or price ranges for certain transactions. If the declared transfer price falls within these prescribed limits, it will be **accepted as arm's length** by tax authorities.

	Eligible International Transaction	Circumstances	
1.	Provision of software development services	Value of International Transaction (₹)	Minimum Operating Profit Margin (as % of operating expense)
		Up to ₹ 100 crore	17%
		More than ₹ 100 crore and up to ₹ 300 crore	18%
	Software Development Services Includes: Business application software and information system development using known methods and existing software tools, including: ○ Support for existing systems ○ Converting or translating computer languages ○ Adding user functionality to application programs ○ Debugging systems ○ Adaptation of existing software ○ Preparation of user documentation Excludes: • Any research and development services, including contract R&D.		
2.	Provision of information technology enabled services	Value of International Transactions	Minimum Operating Profit Margin (as % of operating expense)
		Up to ₹ 100 crore	17%
		More than ₹ 100 crore and up to ₹ 300 crore	18%
	IT Enabled Services (ITES): ITES refers to business process outsourcing (BPO) services provided mainly with the assistance of information technology, including: 1. Back-office operations 2. Call centres / contact centres 3. Data processing and data mining 4. Insurance claim processing 5. Legal databases 6. Medical transcription (creation & maintenance, excluding medical advice) 7. Translation services 8. Payroll services 9. Remote maintenance 10. Revenue accounting 11. Support centres 12. Website services 13. Data search, integration, and analysis 14. Remote education (excluding content development) 15. Clinical database management services (excluding clinical trials) Exclusion: Research and development services, including contract R&D, are not considered ITES.		

3.	Provision of knowledge process outsourcing services (applies only if total transaction value exceeds 300 crores)	Employee Cost in relation to Operating Expense (as % of operating expense)	Minimum Operating Profit Margin (as % of operating expense)
		At least 60%	24%
		40% or more but less than 60%	21%
		Does not exceed 40%	18%
	KPO refers to business process outsourcing services provided mainly with the assistance of information technology, which require advanced knowledge, analytical, or technical skills, including: 1. Geographic information systems (GIS) 2. Human resources services 3. Engineering and design services 4. Animation or content development and management 5. Business analytics 6. Financial analytics 7. Market research Exclusion: Any research and development services, including contract R&D, are not considered KPO.		
4	Advancing of intra-group loans where the amount of loan is denominated in Indian Rupees (INR)	The interest rate for an eligible intra-group loan must be at least: 1st year marginal cost of funds lending Rate (MCLR) of SBI as on 1st April of the relevant previous year + Credit Rating Adjustment.	
		Credit Rating of Associated Enterprise	Additional Spread (%)
		AAA to A	1.75%
		BBB-, BBB, BBB+	3.25%
		BB to B	4.75%
		C to D	6.25%
		Credit rating not available and total loans ≤ ₹100 crore	4.25%
	Intra-Group Loan: An intra-group loan is a loan advanced by an Indian enterprise to an associated non-resident enterprise, subject to the following conditions: 1. The lender is not a financial company, bank, financial institution, or a business normally engaged in lending/borrowing. 2. The loan does not include credit lines or facilities with no fixed repayment term.		
5	Advancing of intra-group loans where the amount of loan is denominated in foreign currency	The interest rate for an eligible intra-group loan must be at least: Reference rate of the relevant foreign currency as on 30th September of the relevant previous year + Credit Rating Adjustment	

		Credit rating of the associated enterprise	Total loan to AE up to 250 crores on 31/3/PY	Total loan to AE more than 250 crores on 31/3/PY
			Additional Spread (%)	
		between AAA to A	1.50%	1.50%
		BBB-, BBB or BBB+	3.00%	3.00%
		BB+, BB, BB-, B+, B, B	4.00%	4.50%
	other rating or where credit rating is not available	4.00%	6.00%	
6	Providing corporate guarantee	The fee or commission for providing such a guarantee must be at least 1% per annum of the amount guaranteed .		
	A corporate guarantee refers to an explicit guarantee given by an Indian company to its wholly owned non-resident subsidiary for any short-term or long-term borrowing . Exclusions: a) Letter of comfort b) Implicit corporate guarantees c) Performance guarantees d) Any other similar guarantees			
7	Contract Research and Development (R&D) services relating to software development	- Operating Profit Margin (OPM) Not less than 24% on operating expenses. - Applies when the value of the international transaction does not exceed ₹300 crore.		
	Contract R&D services wholly or partly related to software development include: 1. Research producing new theorems and algorithms in theoretical computer science. 2. Development of information technology at the level of: - Operating systems - Programming languages - Data management - Communications software and tools 3. Development of Internet technology . 4. Research into methods for designing, developing, deploying, or maintaining software . 5. Software development producing advances in generic approaches for capturing, storing, transmitting, retrieving, manipulating, or displaying information. 6. Experimental development to fill technology knowledge gaps for software programs or systems. 7. R&D on software tools or technologies in specialized computing areas , e.g., image processing, geographic data, character recognition, AI, etc.			

	8. Upgradation of existing products (source code provided by the principal), except for routine functions like debugging. Exclusion: Routine debugging or maintenance of software.	
8	Contract Research and Development (R&D) services relating to generic pharmaceutical drugs:	- Operating Profit Margin (OPM) Not less than 24% on operating expenses. - Applies when the value of the international transaction does not exceed ₹300 crore.
	a) Generic pharmaceutical drug: A drug comparable to an already approved drug in terms of: ✓ Dosage form ✓ Strength ✓ Route of administration ✓ Quality and performance characteristics ✓ Intended use b) Contract R&D services: Services wholly or partly related to the development of such generic drugs.	
9	Manufacture and export of core auto components	Operating Profit Margin (OPM) Not less than 12% on operating expenses.
	Core Auto Components Engine and engine parts - Pistons, piston rings, engine valves, parts of cooling systems, power train components Transmission and steering parts - Gears, wheels, steering systems, axles, clutches Suspension and braking parts - Brakes, brake assemblies, brake linings, shock absorbers, leaf springs Lithium-ion batteries - For use in electric or hybrid electric vehicles	
10	Manufacture and export of non-core auto components	Operating Profit Margin (OPM) Not less than 8.5% on operating expenses.
11	Receipt of low value-adding intra-group services	Safe harbour rules applied only if the total value (including mark-up) is upto 100 crores and the mark up is up to 5%
	Definition: Low Value-Adding Intra-Group Services Services performed by one or more members of a multinational enterprise (MNE) group for other members of the same group, which: - Are support services, not part of the core business. - Do not constitute profit-earning or economically significant activities. - Are not shareholder services or duplicate services. - Do not require or create unique/intangible assets. - Do not involve assumption or control of significant risk. - Do not have reliable external comparable services for arm's length pricing. Exclusions: - R&D services - Manufacturing/production services - IT/software development services	

- Knowledge Process Outsourcing (KPO) services
- Business Process Outsourcing (BPO) services
- Purchasing of raw or other manufacturing materials
- Sales, marketing, and distribution activities
- Financial transactions
- Extraction, exploration, or processing of natural resources
- Insurance and reinsurance

1. Safe Harbor Rules Do Not Apply [Rule 10TF]

Rules 10TA, 10TB, 10TC, 10TD, 10TE do **not** apply if the eligible international transaction is with an associated enterprise located in:

- a) Any country/territory notified under section 94A (i.e., specified jurisdictions with tax treaty concerns).
- b) No tax or low tax country/territory, defined as:
 - Countries/territories where the maximum income-tax rate is less than 15%.

2. Mutual Agreement Procedure (MAP) Restriction [Rule 10TG]

- a) If the transfer price declared under Safe Harbour is accepted by the Indian tax authorities under section 92CB:
 - The assessee cannot invoke the MAP under a Double Taxation Avoidance Agreement (DTAA) with any foreign country/territory under sections 90 or 90A.

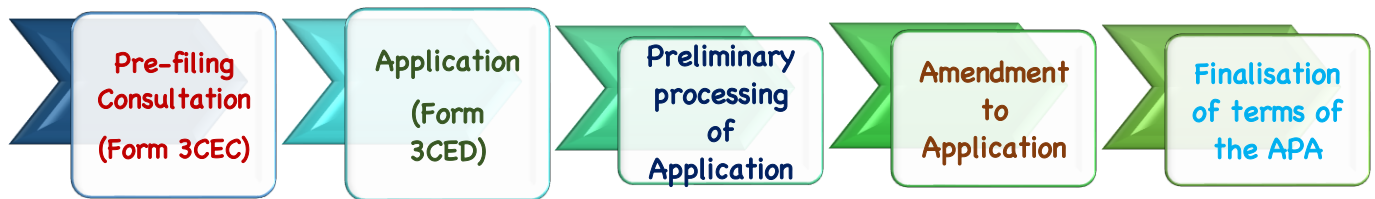
3. Tolerance range: not applicable once safe harbour rules opted by assessee.

4. Sec 92D: Maintenance of documents & Sec 92E: Accountant report is mandatory even under safe harbour rules.

5. For exercise of the option for safe harbour, the assessee shall furnish a Form 3CEFA to the Assessing Officer on or before the due date for furnishing the return of income

- **If opting for 1 year:** File Form 3CEFA on or before the due date for that assessment year.
- **If opting for multiple years:** File Form 3CEFA on or before the due date of the first assessment year covered.
- Return of income must be filed on or before the date of submitting Form 3CEFA.
- Option validly exercised remains in force for Period specified in Form 3CEFA OR 3 years, whichever is less (Note: Some cases allow safe harbour only for one AY.)
- The assessee may opt out of safe harbour for any relevant assessment year by filing a declaration to the Assessing Officer.

9. Sec 92CC – Advance Pricing Agreement (APA)



1. An **Advance Pricing Agreement (APA)** is an agreement between a **taxpayer** and the **tax authority** on an appropriate **transfer pricing methodology** for a set of **international transactions** to be undertaken in future. It provides **certainty, assurance and unanimity of approach** in transfer pricing.

Unilateral APA	Bilateral APA	Multilateral APA
APA entered into between a taxpayer and the tax administration of the country where it is subject to taxation	APA entered into between the taxpayers, the tax administration of the host country and the foreign tax administration	APA entered between the taxpayers, the tax administration of the host country and more than one foreign tax administrations

2. Section 92CC empowers the **CBDT**, with the **approval of the Central Government**, to enter into an APA with any person for determining:
- **Arm's length price** or the **manner of determining arm's length price** for an international transaction;
 - **Income referred to in section 9(1)(i)** or the **manner of determining such income**, attributable to operations carried out in India by or on behalf of a **non-resident**.
3. Once an APA is entered into, the **arm's length price** or **income under section 9(1)(i)** shall be determined **as per the APA**, notwithstanding anything contained in sections 92C or 92CA.
4. The APA shall be valid for the **period specified in the agreement**, which shall **not exceed 5 consecutive previous years**.
5. The APA shall be binding on:
- The person and the transaction for which APA is entered;
 - The Principal Commissioner/Commissioner and subordinate income-tax authorities.
6. The APA shall **not be binding** if there is any **change in law or facts** affecting the agreement.
7. If the **Board** finds that the APA was obtained by **fraud or misrepresentation of facts**, it may declare the APA **void ab initio**, with **approval of the Central Government**.
8. Consequences of APA declared void ab initio
- All provisions of the Income-tax Act shall apply as if the APA never existed;
 - The period from the date of APA to the date of order declaring it void shall be excluded while computing limitation periods under sections 153, 153B, etc.;
 - If the remaining limitation period is less than 60 days, it shall be extended to 60 days.
9. **Prescribed scheme for APA:** The board is empowered to prescribe a scheme specifying the manner, form, procedure and any other matter generally in respect of the APA.
10. **Applicable Fee:** The application has to be accompanied by proof of payment of fees as given below

Amount of international transaction entered into or proposed to be undertaken	Fee ₹
Amount not exceeding ₹ 100 crores	10 lakhs
Amount exceeding ₹ 100 crores but not exceeding ₹ 200 crores	15 lakhs
Amount exceeding ₹ 200 crores	20 lakhs

11. Any person who is **eligible to enter into an Advance Pricing Agreement (APA)** may apply if he wishes to do so.

The application must:

- Be made in the **prescribed form**;
- Be accompanied by **proof of payment of the requisite fee**.

Authority to whom application is submitted:

- **Unilateral APA** → Director General of Income-tax (International Taxation)
- **Bilateral / Multilateral APA** → Competent Authority in India

12. Time of filing of application:

The application may be filed **at any time**, subject to the following:

Continuing transactions:

For **transactions of a continuing nature** (i.e., transactions already taking place), the application must be filed – **Before the first day of the previous year** relevant to the **first assessment year** for which the APA is sought.

Example 1 – Continuing transaction

ABC Ltd. has been paying royalty to its foreign parent company for the last few years and wants an APA starting from AY 2026-27.

The application must be filed before 1 April 2025 (i.e., before the previous year relevant to AY 2026-27).

New transactions:

For **transactions yet to be undertaken**, the application must be filed – **Before undertaking the transaction**.

Example 2 – New transaction

XYZ Ltd. plans to start providing IT services to its foreign associated enterprise from next year, but the transaction has not yet begun. XYZ Ltd. must file the APA application before starting the transaction.

13. **Withdrawal of application for agreement:** The applicant may withdraw the application for agreement at any time before the finalization of the terms of the agreement. The application for withdrawal shall be in **Form No. 3CEE**. The fee paid shall not be refunded on withdrawal of application by the applicant.
14. APA can be applied in case if it reducing income or increasing losses as compare to Assessed Income or Loss.

Rollback of the agreement: (Rule 10MA)

- APA may apply for any period maximum 4 years preceding the first of the PY referred in APA [Provision for Roll Back in APA].
- Application has been made in Form 3CEDA with fees ₹5,00,000.
- Conditions for applying for rollback provisions:**

APA shall contain Rollback provision in respect of an international transaction subject to the following, namely –

- International transaction is same as the international transaction to which APA applies.
- Return for the relevant rollback year has been filed before the due date as per sec 139(1).
- Report (CA Report) in respect of the international transaction had been furnished in accordance with sec. 92E.
- Assessee cannot be selective on the years for which it wants to apply for rollback. He has to either apply for all 4 PY or not apply at all.

d) Non-applicability of Rollback provisions:

- Determination of ALP of international transaction for the year has been subject matter of appeal before the ITAT and the ITAT has passed an order disposing of such appeal at any time before signing of APA, or
- The application of rollback provision has the effect of reducing the total income or increasing the loss, as the case may be, of the applicant as declared in the return of income of the said year.

e) Rollback can only be availed only by person who entered into the international transaction. Hence, in case of merger of companies, amalgamated co. will not be entitled to roll back for transactions carried out by amalgamating co.

Ex. If A merges into B, only B will be entitled to roll back carried out by himself in earlier years. Further. If A and B merge to form a new company C, nobody would be entitled to rollback.

f) Similarly, in case of de-merger, resulting co. will not be eligible for rollback as it was not in existence in rollback years.

Note:

Applicant has the **option to withdraw rollback application** while maintaining the APA application for future years. However, Rollback cannot be accepted without accepting APA for future years.

10. Sec 92CD – Effect of Advance pricing Agreement (APA)

- If prior to the date of entering APA, any ROI has already been furnished for any P.Y. to which APA applies, then such person shall furnish modified return as per APA within **3 months** from the end of the month in which APA was entered into.
- If assessment for any P.Y. to which APA applies are pending on the date of modified return, the AO shall complete assessment as per APA, AO will get **extra 12 months** for completion of Assessment.
- If assessment for P.Y. to which APA applies already completed before filing of modified return then A.O. shall pass an order modifying the total income of that P.Y. **within 1 year from the end of FY** in which time modified return was furnished.

Refer Question No 31 to 36
from Workbook

11. Sec 92D – Record to be Maintained

- Where any person entered into an international transaction or specified domestic transaction has to maintain prescribed documents as specified by CBDT.
- It is obligatory only when aggregate value of international transactions exceed ₹ 1 Crore.
- The Assessing officer or the commissioner (Appeals) may, in the course of any proceeding under the Act, require any person i.e., who has entered into an international transaction/ specified domestic transaction, to furnish any information or documents, within a period of 10 days from the date of receipt of a notice issued.
- The Assessing Officer or the Commissioner (Appeals) may, on an application made by such person who has entered into an international transaction / specified domestic transaction, extend the period of 10 days by a further period not exceeding 30 days.
- Even if the aggregate value of the international transactions is less than ₹ 1 crore, the assessee will have to maintain adequate records and evidence to show that the international transactions with associated enterprises are on the basis of ALP
- Such documents are required to be maintained for 8 years from the end of the relevant AY.

12. Sec 92CE – Secondary Adjustments

1. "Primary adjustment" means increase in Income or reduction in the losses due to ALP adjustment.
2. "Secondary adjustment" means **excess money** with AE shall be treated as deemed to be Loan or Dividend to AE. India follows deemed loan approach.
Excess money means difference between ALP & Actual transaction price
3. Thereby removing the imbalance between cash account and actual profit of the assessee.
4. **Cases where secondary adjustment has to be made – Where the primary adjustment due to:**
 - a. has been made Suo moto by the assessee in his ROI, or
 - b. Made by the AO has been accepted by the assessee, or
 - c. Is determined by an APA entered into by the assessee u/s 92CC on or after 1/4/17, or
 - d. Is made as per the safe harbour rules framed u/s 92CB: or
 - e. Is arising as a result of resolution of an assessment by way of the mutual agreement procedure (MAP) under DTAA u/s 90 or 90A for avoidance of double taxation.
5. **Non-repatriation of excess money by the AE deemed to be an advance** – Where, due to primary adjustment, there is an increase in total income or reduction in the loss, the excess money or part there of which is available with its AE, if not repatriated to India within the be prescribed time, shall be deemed to be an advance (loan) made by the assessee to such AE and the interest on such advance, shall be **included in the income** of the assessee.

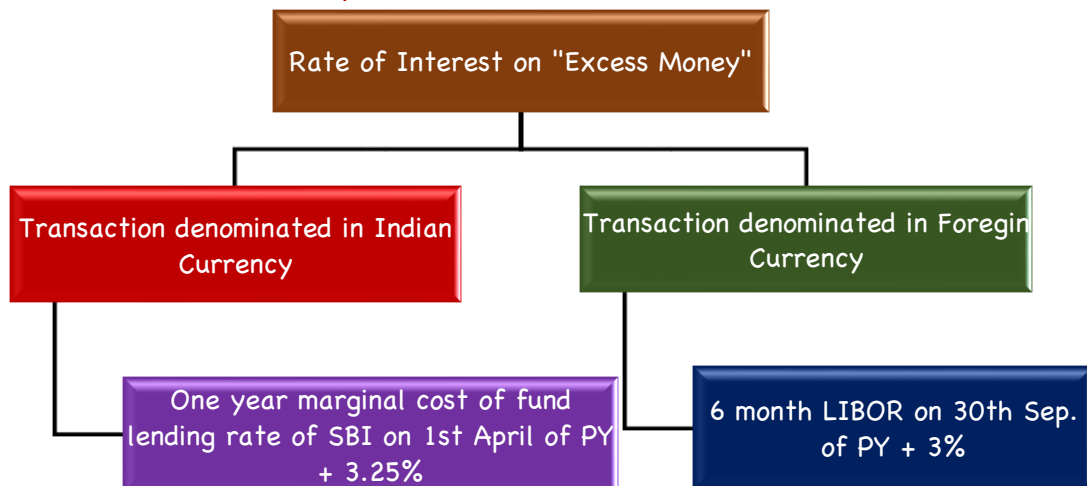
Example: A Ltd entered into International Transaction of sales with AE & actual Transaction Price is ₹ 3,000 lakhs ALP determined is ₹4,760 lakhs. So here excess money is ₹ 1,760 lakhs shall be first added to income of A Ltd is known as Primary adjustment. A Ltd have to repatriate ₹1,760 lakhs within 90 days otherwise Treated as loan and the interest thereon shall be computed & added to the income until its repatriation is known as secondary adjustment.

6. **Time limit of repatriation and Interest Period**

If primary adjustment is made by	Time limit for repatriation: 90 days	Interest period
Order of AO or appellate authority	From date of order of AO or appellate authority	From date of order of AO or appellate authority
APA– • entered upto due date of ROI in that PY • Entered after due date of ROI in that PY	From actual date of filing ROI From end of the month in which APA entered	From due date of ROI From end of the month in which APA entered
Mutual agreement procedure	From the date of giving effect by AO to Mutual agreement procedure.	From the date of giving effect by AO to Mutual agreement procedure.
Other reasons	From Due date of ROI	From Due date of ROI

Refer Question No 37,38
from Workbook

7. Rate of Interest on "Excess Money"



8. No requirement of secondary adjustment if primary adjustment in any PY does not exceed ₹1 crore or the primary adjustment is made in respect of A.Y. 2016-17 or an earlier assessment year.

Example: A Ltd of India holding 36% equity shares of XYZ inc. USA. In PY 22-23. Ltd exported goods worth ₹ 6,00,00,000 to XYZ inc. The ALP of such transaction is 8,20,00,000, Due date of A Ltd is 30th Nov. 2023. Transaction designated in Indian rupees, SBI one-year marginal cost of lending rate is 11.25% on 1st April 2023.

Solution:

In this case excess money is 2.20 Crore. A Ltd should repatriate such money within 90 days from the due date of ROI, i.e. till 28.02.2024 (30th Nov 2022 + 90 days)

If excess money not repatriate in India upto 28.02.2024 then following shall be treated as income of A Ltd. for PY 23-24 (AY 24-25)

$2.20 \text{ Crore} \times 14.50\% \times 121 \text{ days}/365 \text{ days} (1^{\text{st}} \text{ Dec. } 23 \text{ to } 31^{\text{st}} \text{ March } 24) = 10,57,507.$

Suppose in above example excess money not repatriated till 31st March 24 then following income shall be added for PY 24-25 (AY 25-26). SBI one-year marginal cost of lending rate is 11.25% on 1 April 2024 = ₹ 2.20 Crore $\times$ 14.50% = ₹ 31,90,000.

Note: Interest income is computed for every year till excess money repatriated in India.

9. **Sec. 92CE (2A): Additional Income Tax instead of Secondary adjustment**

- Where the excess money or part thereof has not been repatriated in time, the assessee will have the option to pay additional income-tax at the rate of 18% + Surcharge of 12% + HEC 4% (effective rate is 20.9664%) on such excess money or part thereof in addition to the existing requirement of calculation of interest till the date of payment of this additional tax.
- Tax so paid shall be final payment of tax and no credit shall be allowed in respect of such tax.
- Deduction in respect of the amount on which such tax has been paid, shall not be allowed under any other provision of this Act; and
- If assessee pays the additional income-tax, he will not be required to make secondary adjustment or compute interest from the date of payment of such tax.

Example: Suppose in above example, A Ltd not repatriated excess money and wants to pay additional tax on 1st July 2025.

In this case A Ltd required to pay addition tax on 1st July 25 at 18% (+12%+4%) Additional Tax = ₹2,20,00,000 $\times$ 20.9664% = 46,12,608.

In this case following interest income shall be included in Total Income of PY 25-26. SBI one-year marginal cost of lending rate is 12% on 1st April 2025.

$\text{₹}2,20,00,000 \times 15.25\% \times 91/365 \text{ days (1}^{\text{st}} \text{ April 25 to 30}^{\text{th}} \text{ June 25)} = \text{₹ } 8,36,452$

Penalties

Section	Default	Penalty
270A	Fails to report any transactions would constitute mis reporting of income	200% of Tax payable on such mis-reported income
271AA	✓ Failure to keep and maintain any such document and information as required by section 92D(1)/(2); ✓ Failure to report such international transaction which is required to be reported; or ✓ Maintaining or furnishing any incorrect information or document. ✓ Fails to furnish information and documents as required u/s 92D (4) (International Group related)	2% of the value of International Transactions or Specified Domestic Transactions. ₹ 5,00,000
271BA	Failure to furnish the report of CA u/s 92E	Rs. 1,00,000
271G	Failure to furnish info or doc as required by Assessing Officer or CIT(A) u/s 92D(3) within 10 days from the date of receipt of notice or extended period not exceeding 30 days, as the case may be.	2% of the value of International Transactions or Specified Domestic Transactions.

Notes:

- The penalty u/s 271AA is in addition and not in substitution of penalty u/s 271BA.
- If the assessee proves that there was reasonable cause for the failure, no penalty would be leviable under section 271BA, 271G and 271AA.

13. Sec 92E – Audit Report

- a. Where any person entered into an international transaction or specified domestic transaction required to obtain a report from chartered accountant in Form 3CEB
- b. Such report is required to be furnished one month prior to the due date of Filing of ITR i.e. 31st October [Due date of filing of ITR is 30th November]

14. Sec 92BA – Specified Domestic Transactions

1. Specified Domestic Transition" in case of an assessee means any of the following transactions, not being an international transaction, namely:
 - a. Any transaction referred to in sec. 80A.
 - b. Any transfer of goods or services referred to in sec. 80-IA(8).
 - c. Any business transacted between the assessee and other person as referred to in sec. 80-IA(10).
 - d. Any transaction, referred to in any other section under Chapter VI-A or sec. 10AA, to which provisions of sec. 80-IA(8) or (10) are applicable, or
 - e. any business transacted between a company opting for section 115BAB and person with whom the company has close connection; or

- f. any business transacted between a co-operative society opting for section 115BAE and person with whom the co-operative society has close connection; or
- g. Any other transaction as may be prescribed.
- And where the aggregate of such transactions entered into by the assessee in the previous year exceeds a sum of ₹ 20 crore.

15. Safe Harbor Rules – Specified Domestic Transactions (Rule 10THC)

If an **eligible assessee** enters into an **eligible Specified Domestic Transaction (SDT)** and validly opts for safe harbour, the transfer price declared shall be **accepted** by income-tax authorities if the following conditions are fulfilled:

	Eligible specified domestic transaction	Circumstances
1	- Supply of electricity - Transmission of electricity - Wheeling of electricity	Transfer price is accepted if: - Tariff is determined, OR - Methodology for tariff determination is approved by the Appropriate Commission as per the Electricity Act, 2003.
2	Purchase of milk / milk products by operative society.	a. Price must be fixed on the basis of: - Fat content, and - SNF (Solid-Not-Fat) content b. Rate must be irrespective of: ✓ Quantity of milk supplied ✓ Member's shareholding percentage ✓ Member's voting power c. Prices must be routinely declared, Transparent, and Available in the public domain.

- Tolerance range:** not applicable once safe harbour rules opted by assessee.
- Sec 92D:** Maintenance of documents & **Sec 92E:** Accountant report is mandatory even under safe harbour rules.
- For opting safe harbour, the assessee shall require to furnish a **Form 3CEFB** to the Assessing Officer on or before the due date of furnishing the return of income for the relevant assessment year.
- The return of income should be furnished on or before the date of submitting such Form.

16. Sec 94A – Notified Jurisdictional Area (NJA)

- To discourage assessee from entering into transactions with persons located in countries or territories which do not have effective information exchange mechanism with India.
- CG may notify any country or territory outside India to be NJA.
- Effect of NJA
 - All parties shall be deemed to be an Associated Enterprise. (u/s 92A)
 - Transactions shall be deemed to be international transactions. (u/s 92B)
 - All the provisions of transfer pricing shall apply. (except deviation of 3%)
 - Assessee have to maintain & submit documents as prescribed.
 - If any payment made to person located in NJA, TDS shall be deducted at higher of 30% or Rate in force or Rate specified in IT act.

Refer Question No 39
from Workbook

17. Sec 94B – Limitation of Interest Deduction /Thin Capitalization**a. Applicability:**

Indian company, or a permanent establishment of a foreign company in India, being the borrower. A **permanent establishment** refers to a fixed place of business where business activities are carried on fully or partially.

b. Conditions:

- a. Debt taken from non-resident company which is an associated enterprise.
- b. Incurs any expenditure by way of interest or of similar nature exceeding ₹ 1 Cr.
- c. The interest expenditure must be deductible while computing income u/h PGBP.

c. Effect:

If all conditions are met, excess interest cannot be deducted.

Excess interest means lower of

- Total interest paid or payable exceeding 30% of the borrower's EBITDA from the previous year, or
 - Interest paid or payable to associated enterprises during the previous year.
- *Total interest paid or payable" to be interpreted as interest paid or payable to non-resident associated enterprise as per the intent expressed in section 94B.

d. Exception:

The provision of sec. 94B is not applicable:

- An Indian company or PEs of forging companies involving in banking insurance or specific notified NBFCs.
- Interest paid on debt issued by a lender that is a permanent establishment of a foreign bank in India.
- The finance companies, located in international financial services centers (IFSC) which satisfies conditions as may be prescribed.

e. Carry forward:

- If the interest expenditure is not fully deductible in the current year, the unused portion can be carried forward to future years.
- The carried forward interest can be deducted in future years up to a maximum of 8 years.

Refer Question No 40 to 47
from Workbook

Refer Question No 48 to 51
from Workbook

PENALTIES

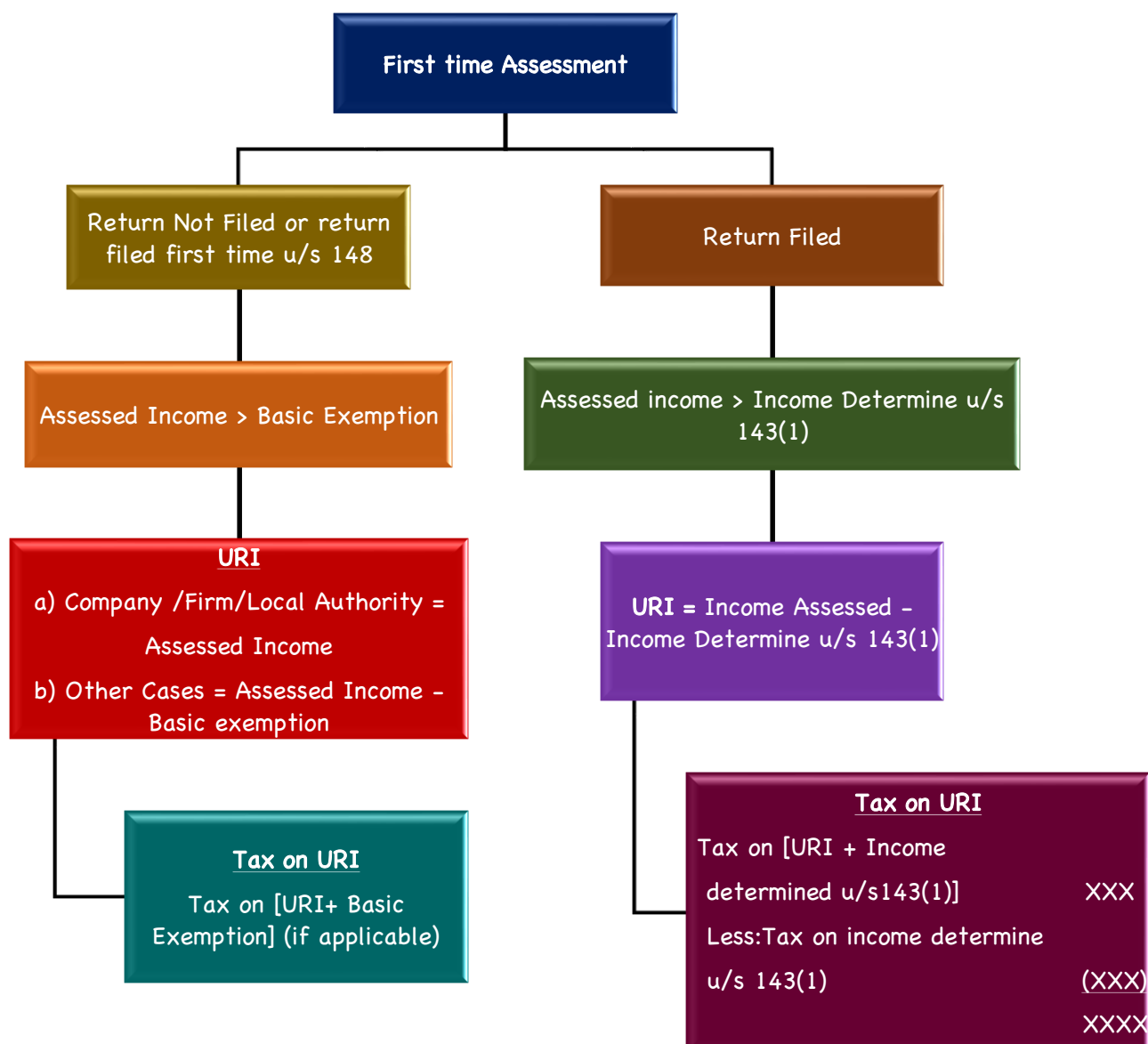
1. Sec. 270A: Penalties for under Reporting of Income

Under Reporting	Addition / Increase in Income in Assessment or Reassessment	
Quantum of Penalty	Under Reporting (By Default)	50% of Tax on Under Reported Income
	If Under Reporting is due to Misreporting.	200% of Income Tax on Under Reported.

Note: Tax includes Surcharge & Cess.

Calculation of Under Reported Income [URI] & Tax on it

1. First time assessment



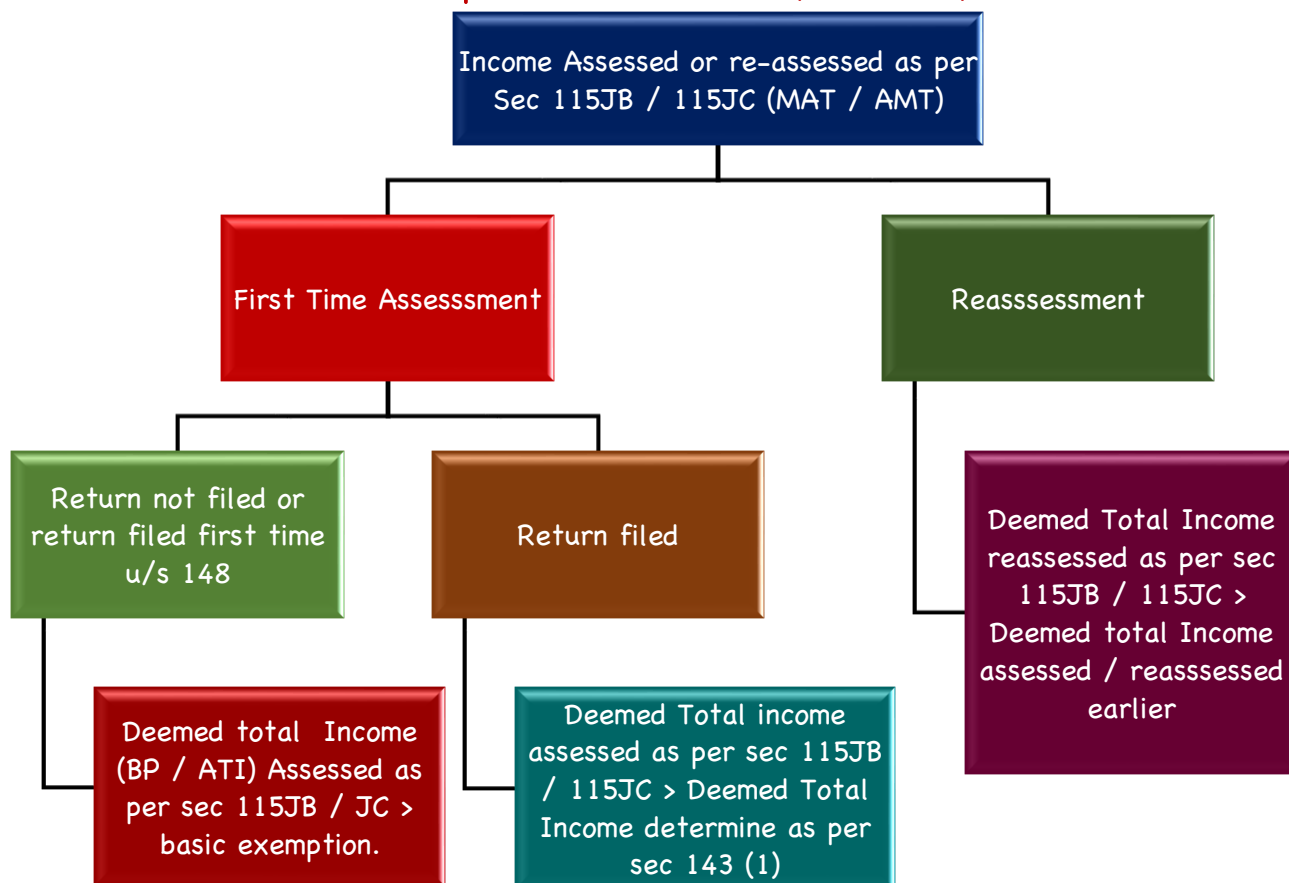
2. Re-Assessment

URI	Tax on URI
Re-Assessed Income – Income Assessed Earlier	Tax on [URI + Income assessed earlier] – Tax on Income assessed earlier

3. Loss Reduced or Converted into Income

First Time Assessment	URI = Assessed Loss / Income - Loss as per 143(1)	Tax on URI = Tax on URI as if it was TI of Assessee
Re-Assessment	URI = Reassessed Loss / Income - Loss assessed earlier	

4. Income assessed or reassessed as per Sec 115JB / 115JC (MAT / AMT)



$$URI = (A - B) + (C - D)$$

A	Total income assessed/reassessed as per General Provision	XXXX
B	Total Income Assessed/reassessed reduced by URI	(XXXX)
		XXXX
C	Total Income Assessed/reassessed as per sec 115JB/115JC	XXXX
D	Total Income Assessed/reassessed as per 115JB/115JC reduced by URI	(XXXX)
		XXXX

Cases in which Under Reporting is treated as Misreporting

- Misrepresentation or Suppression of Facts.
- Fails to record Investment in Books of A/c's.
- Claim of Expenditure not substantiated by any evidence.
- Recording of any False Entry in Books.
- Fails to record any receipt in Books having bearing on Total income.
- Fails to report International Transaction / Specified Domestic Transaction.

Example:

Computation of under-reported income assuming income has been assessed for the first time:

Assessee	ROI Filed	Income u/s 143(1)(a)	Assessed Income	Under-reported Income	Tax payable on (a)	Tax payable on (b)	Tax payable on (c)	Penalty
		a	b	c = (b-a)	d	e	f = (e - d)	f x 50%
Individual	Yes	6L	10 L	4 L	33,800	1,17,000	83,200	41,600
Firm	Yes	17L	20 L	3 L	5,30,400	6,24,000	93,600	46,800
Firm	Yes	(8L)	20 L	28 L	-	8,73,600	8,73,600	4,36,800
Individual	Yes	(9L)	(3 L)	6 L	-	33,800	33,800	16,900
Firm	No	N.A.	8 L	8 L	-	2,49,600	2,49,600	1,24,800
Individual	No	N.A.	7.5L	5 L #	-	65,000	65,000	32,500

Assessed income as reduced by basic exemption 200% of (65,000) shall be levied as penalty if the case is misreporting of income.

Refer Question No 1 to 4
from Workbook

2. Sec 270AA: immunity from imposition of penalty & prosecution on under - reported income

- Assessee may file application to AO for grant of immunity of penalty u/s 270A & prosecution if:
 - He paid taxes along with applicable interest within time limit as per notice of demand, and
 - Does not file an appeal against the order of AO.

Notes:

- No immunity shall be granted by the AO in case of mis-reporting of income.
- Application has to be made in form 68 within 1 month from end of the month in which order of AO received.
- w.e.f 01-4-2025 AO has to pass an order accepting or rejecting application within 3 month from end of month which application is received after providing assessee an opportunity of being heard.

Refer Question No 5
from Workbook

3. Other penalties

Sec. No.	Nature of Default	Quantum of Penalty	Other Points
221(1)	Fails to pay Tax, TDS, TCS, Demand etc. within 30 days of Dem and Notice	Maximum up to amount of tax in arrears	-
271A	Fails to keep or maintain Books of A/c's u/s 44AA	₹25,000	-
271AA	a) Failure to keep and maintain information and documents as required u/s 92D (both for international transaction or specified domestic transaction; or	2% of the value of such transaction	-

	b) Fails to report such transaction which is required to do so; or c) Maintains or furnishes an incorrect information / document		
271AAB	~~Undisclosed Income found in search on or after 15.12.2016 but before 01.09.2024.~~	30% / 60% of Undisclosed Income	~~30%, If following conditions are fulfilled:~~ ~~Assessee admits Undisclosed Income in Statement.~~ ~~Specifies manner in which it was earned.~~ ~~Pays Tax & Interest on such income. Furnish ROI~~ ~~declaring such income up to due date.~~ ~~No Penalty u/s 270A, when penalty has been levied u/s 271AAC.~~
271AAC	Income u/s 68, 69, 69A to 69D	10% of Tax u/s 115BBE	No Penalty u/s 270A, when penalty has been levied u/s 271AAC.
271AAD	Penalty for false entry or omission of any entry which is relevant for computation of total income of such person to avoid tax liability.	Equal to Aggregate Amt. of False Entry or Omitted Entry	Penalty is levied on: Person who makes False Entry or Omits Entry. Other Person who caused the person to make false entry or omit entry.
271AAE	Any trust referred u/s 11 or Institution u/s 10(23C) gives any benefit to related person u/s 13(1) (Benefit to trustee, founder etc.)	100% of amount applied in case of 1st time violation. 200% applied in case of subsequent Violation.	-
271B	Fails to get accounts audited or to furnish report up to due date u/s 44AB	0.50% of Turnover / Gross Receipt [Maximum up to ₹1,50,000]	If Books are not maintained, Penalty u/s 271A shall be levied & not u/s 271B.
271BA	Failure to furnish a report of CA u/s 92E	₹1,00,000	-

271C	Fails to deduct TDS	Equal to amount of TDS not deducted	Penalty imposed by JC w.e.f 01.04.2025 penalty shall be imposed by the AO.
271CA	Fails to collect TCS	Equal to amount of TCS not collected	Penalty imposed by JC w.e.f 01.04.2025 penalty shall be imposed by the AO.
271D	Fails to comply with provision of 269SS	Amount of Loan / Deposit taken	Penalty imposed by JC w.e.f 01.04.2025 penalty shall be imposed by the AO.
271DA	Fails to comply with provision of 269ST	Amount Received	Penalty imposed by JC w.e.f 01.04.2025 penalty shall be imposed by the AO.
271DB	Fails to comply with provision of 269SU	₹ 5,000 Per day of continuing default.	Penalty imposed by JC w.e.f 01.04.2025 penalty shall be imposed by the AO.
271E	Fails to comply with provision of 269T	Amount of Loan / Deposit repaid	Penalty imposed by JC w.e.f 01.04.2025 penalty shall be imposed by the AO.
271FA	Fails to furnish Statement of Financial Transactions [SFT] or Reportable A/c's within prescribed time [31st May of next FY]	₹500 per Day till period specified in notice. ₹1000 per day after that period.	-
271FAA (1)	Furnishing Inaccurate SFT or Reportable A/c's	₹50,000	If person informs about inaccuracy within 10 days- No penalty
271FAA(2)	Furnishing inaccurate statement of financial transaction or reportable account by reporting financial institution, where the inaccuracy is due to false / inaccurate information furnished by the holder(s) of the relevant reportable account(s).	₹5,000 for every account, in addition to the penalty ₹ 50,000 levied under section 271FAA (1) above.	The reportable financial institution is entitled to recover the sum so paid on behalf of such reportable account holder or account holder or to retain out of any money that may be in its possession or may come to it from every such reportable account holder, an amount equal to the sum so paid.

271FAB	Failure to furnish within the prescribed time, a statement or any information or document as required u/s 9A(5) by an eligible investment fund.	₹ 5,00,000	Leviable by the income-tax authority prescribed under section 9A(5)
271G	Failure to furnish information or document u/s 285A, by Indian Concern where transaction has effect of directly transferring the right of management or control in relation to Indian concern	2% of transaction Value	Competent authority to levy penalty: The assessing officer/the transfer pricing officer /commissioner (Appeals)
271GA	Failure to furnish information or document u/s 285A, by Indian concern - Other Cases	₹5,00,000	-
271GB	Failure to furnish report or furnishing inaccurate report in respect of entity of international group	₹5,000 per day up to one month after that period ₹15,000 per day.	-
271GC [w.e.f. 1.4.2025]	Failure to furnish statement under section 285	₹ 1000 per day for the period of default, if the period of default does not exceed 3 months. ₹1,00,000 in any other case.	-
271H	Failure to furnish TDS/TCS statements within the prescribed time.	₹ 10,000 to ₹ 1,00,000	No penalty would be leviable: if the person proves that after paying tax deducted or collected along with the fee under section 234E and interest, if any, to the credit of the Central Government, he had delivered or caused to be delivered the TDS / TCS statements before the expiry of one year (w.e.f. 1.4.2025, one month) from the time prescribed for delivering or causing to be delivered such statements.

	Furnishing incorrect information in the said statements in respect of tax deducted or collected	₹ 10,000 to ₹ 1,00,000	
271I	Failure to furnish information or furnishing inaccurate information by a person who is required to furnish information under section 195(6)	₹ 1,00,000	Penalty leviable by Assessing Officer
271J	Furnishing of incorrect information in any report or certificate by CA / Merchant Banker / Registered Valuer	₹10,000 for each such report or certificate	-
272A (1)	Fails to answer questions put by Income Tax Authorities - Fails to sign statement in proceeding - Non-compliance with summon u/s 131 Fails to comply with Notice u/s 142(1) & 143(2) - Fails to comply with Special Audit Directions u/s 142(2A)	₹10,000 for each such default or failure	-
272A (2)	- Fails to furnish information u/s 133 - Fails to furnish ROI u/s 139 (4A)/(4C)	₹500 per day till default continues	-
272B	Fails to quote PAN or quoting False PAN as per Section 139A	₹10,000 for each such default	-

4. Sec 273A: Power to reduce or waive penalty u/s 270A

PCIT/CIT has the power to reduce or waive penalty u/s 270A if he is satisfied that

1. Assessee has voluntarily made a full and true disclosure of all facts related to his income in good faith even before detection of the same by the AO, and
2. Assessee has co-operated with dept. on any enquiry, and
3. He has paid the applicable taxes along with interest in full

Notes

- a) Above relief is available to an assessee only once in his lifetime
- b) CIT/PCIT can reduce or waive penalty:
 - Without approval of higher authority, where income is up to ₹5 lakhs
 - With approval of CCIT/PCCIT/DGIT/PDGIT, where income more than ₹5 lakhs.

5. Sec 273AA: Power of principal commissioner or Commissioner to Grant Immunity from penalty

1. A person can apply to the **Principal Commissioner** or **Commissioner** for immunity from penalties if:
 - a) They applied for settlement under section 245C, but the settlement process was **abated** under section 245HA.

- b) Penalty proceedings have been initiated against them.
2. The application must be made **before** the penalty is imposed.
3. The **Principal Commissioner** or **Commissioner** can grant immunity from the penalty if they are satisfied that the person:
 - a) Cooperated with the tax authorities after the settlement process ended,
 - b) Fully disclosed their income and how it was earned.
4. The decision (either accepting or rejecting the application) must be made 12 months from the end of the month in which the application is received by the Principal Commissioner or the Commissioner. Further, no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard.
5. If the person doesn't follow the conditions of the immunity, it will be **withdrawn**, and thereupon the provisions of this Act shall apply as if such immunity had not been granted.
6. The immunity can also be **withdrawn** if the person is found to have **concealed information** or provided false evidence during the proceedings.

Refer Question No 6
from Workbook

6. Sec 273B: Penalty not Leviable in certain cases

No penalty is leviable under sections 271A, 271AA, 271B, 271BA, 271C, 271CA, 271D, 271E, 271FA, 271FAA, 271FAB, 271G, 271GA, 271GB, 271GC, 271H, 271-I, 271J, 272A(1)(c) or 272(A)(1)(d), 272A(2), 272AA(1), 272B, 272BB(1)/(1A), if the assessee proves that there was reasonable cause for the said failure.

7. Sec 275: Bar of Limitation for Imposing Penalties

To streamline the process and reduce the compliance burden, the time-limit for imposing penalties has been modified (with effect from April 1, 2025) under section 275 as follows-

1. Imposing penalties under Chapter XXI-Penalty can be imposed before the expiry of 6 months from the end of the quarter in which, -
 - a) the proceedings, in the course of which action for the imposition of penalty has been initiated are completed (if the relevant assessment or other order is not the subject matter of an appeal under section 246/246A/253);
 - b) the order of revision under section 263/264 is passed;
 - c) the order of appeal under section 246/246A is received by the jurisdictional PCIT/CIT, if the relevant assessment or other order is the subject matter of an appeal under the said sections and no further appeal has been filed under section 253;
 - d) the order of appeal under section 253 is received by the jurisdictional PCIT/CIT, if the relevant assessment or other order is the subject matter of an appeal under the said section;
 - e) notice for the imposition of penalty is issued (in any other case).
2. Imposing or enhancing or reducing or cancelling penalty or dropping proceedings for penalty imposition under section 275(2). It can be done at any time within 6 months from the end of the quarter in which order of revision under section 263/264 is passed.

Refer Question No 7
from Workbook

PROSECUTION

Sec	Nature of default	Rigorous Imprisonment	+ Fine
275A	Contravention of Order of demand seizure 2 nd proviso to Sec 132(1) Restrain order u/s 132(2)	Up to 2 Years	Fine
275B	Failure to Provide necessary facility to the authority officer to in respect books of accounts u/s 132(1) (iib)	Up to 2 Years	Fine
276	Removal, concealment, transfer, or delivery of property to tax recovery	Up to 2 Years	Fine
276A	Failure by liquidator of company to intimate his appointment to AO (or) parts with assets without prior intimation to IT authority.	6 months to 2 Years	Fine
276B	Failure to pay TDS Deducted u/s 194B, 194R, 194S, 194BA to CG The payment, however, has been made to the credit of the central Government on or before the time prescribed for filing the statement under section 200(3), no prosecution would be attracted.	3 Months to 7 Years	Fine
276BB	Failure to pay to the Central Government tax collected under section 206C. The payment, however, has been made to the credit of the central Government on or before the time prescribed for filing the statement under section 206C(3), no prosecution would be attracted.	3 Months to 7 Years	Fine
276C (1)	Willful accept to evade tax, Penalty, or interest chargeable or imposable or under reporting his income	Evasion/tax on URI > 25lac: 6months to 7 Years Otherwise: 3 Months to 2 Years	Fine
276C (2)	Willful accept to evade tax, Penalty, or interest	3 Months to 2Years	Fine
276CC	Willful failure to furnish ROI in Due Date u/s 139(1), 142(1)(i), 148 <u>No Prosecution if:</u> ROI u/s 139(1) is furnished before expiry of AY or a return is furnished by him u/s 139(8A) within the time provided in that section or Tax payable by a person (not being accompany) on total income determined on regular assessment net of TDS, TCS, advance tax, self-assessment tax, paid before expiry of AY is up to ₹ 10,000	Tax Evasion > 25lac: 6 Months to 7 Years Otherwise: 3 Months to 2 Years	Fine

276CCC	Willful failure to furnish in due time a return of income in search cases u/s 158BC(1)(a). This is applicable w.e.f. 1 st September 2024.	3 months to 3 years	Fine
276D	Willful failure to produce accounts and documents u/s 142(1) or 142(2A)	Up to 1 Year	Fine
277	False statement in verification	Tax Evasion > 25lac: 6 Months to 7 Years	Fine
		Otherwise: 3 Months to 2 Years	
277A	- Falsification of books of accounts or document etc. to include or abet any person to evade any tax, penalty or interest charge or imposable under the tax. - It is not necessary to provide that the other person has actually evaded any tax, penalty or interest under the act for the purpose of establishing charge under this sec.	3 Months to 2Years	Fine
278	Abetment of false return etc. (relating to income chargeable to tax)	Tax Evasion > 25lac: 6 Months to 7 Years	Fine
		Otherwise: 3 Months to 2 Years	
278A	Second and subsequent offence u/s 276B, 276BB, 276C (1), 276CC, 277, 278	6 Months to 7 Years for every Subsequent offence	Fine
280(1)	- Disclosure of particulars by public servants in contravention of sec 138(2). - No prosecution without previous sanction of CG u/s 280(2)	Up to 6 months	Fine

Refer Question No 9
from Workbook

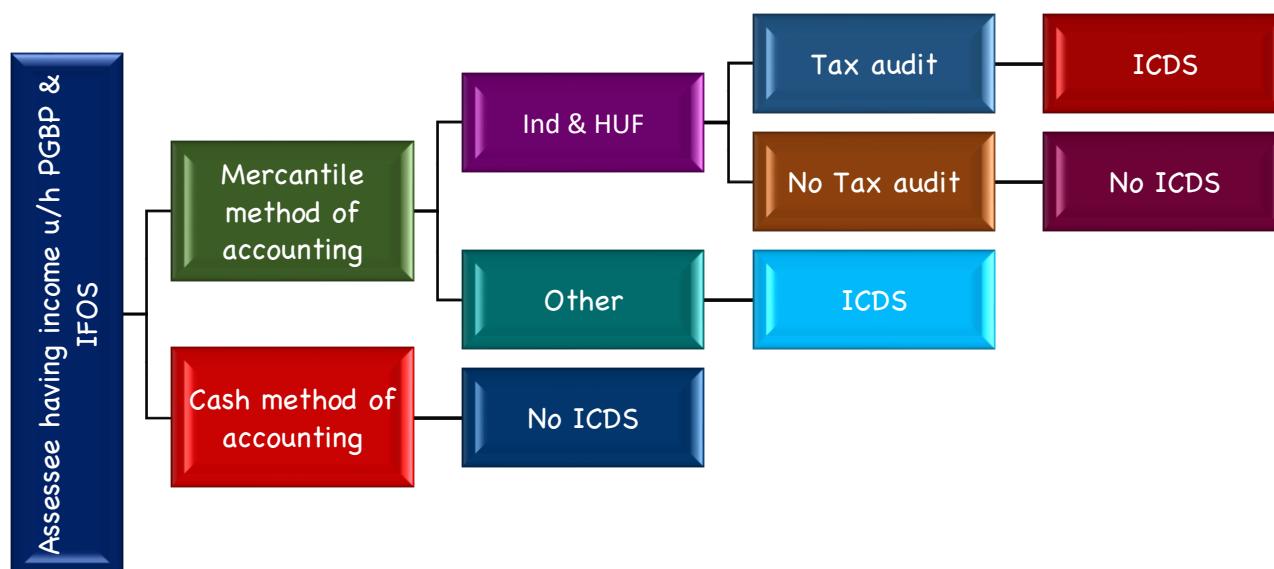
ICDS

(INCOME COMPUTATION DISCLOSURE STANDARDS)

1. **Sec 145 (2) of Income Tax Act, 1961:**

"Central Govt" notified the income computation disclosure standards.

2. **Applicability:**



- ICDS are not for the purpose of maintenance of books of A/C's
- ICDS are for computation of income under PGBP & IFOS.
- If any conflict b/w provisions of Income tax & ICDS → Provisions of income tax act will prevail.
- If any conflict b/w Income tax rules & ICDS → Income tax rules will prevail
- Provisions of ICDS shall also apply to persons, who are computing income under presumptive taxation provisions (Ex: Sec 44AD, 44ADA, 44AE etc.)
- ICDS will apply to assessees, irrespective of accounting standards adopted by assessees (either AS /Ind As).
-

MAT (Minimum Alternative Tax)	AMT (Alternative Minimum tax)
Applicable for companies	Applicable for all entities Other than company
ICDS shall not apply for computation of MAT	ICDS shall apply for computation of AMT

ICDS	Name	Corresponding	
		AS	IND AS
ICDS I	Accounting policies	1	1&8
ICDS II	Valuation of Inventories	2	2
ICDS III	Construction contracts	7	11
ICDS IV	Revenue recognition	9	18
ICDS V	Tangible fixed assets	10	16
ICDS VI	Effects of changes in foreign exchange	11	21

ICDS VII	Government grants	12	20
ICDS VIII	Securities	13	32
ICDS IX	Borrowing costs	16	23
ICDS X	Contingent assets.	29	37

ICDS I: Accounting policies

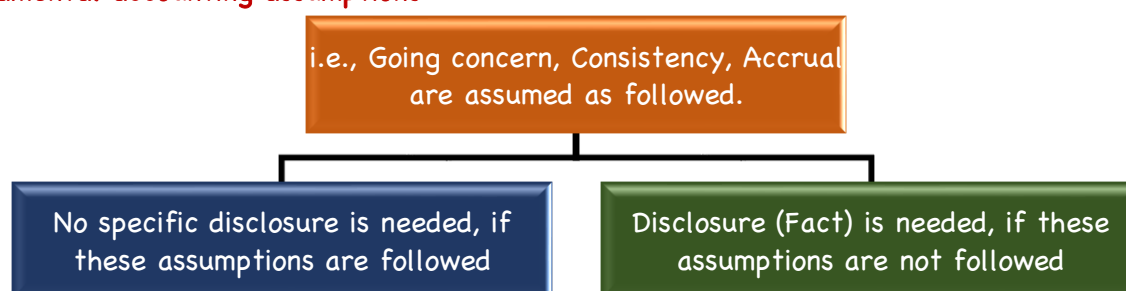
a) Accounting policies:

Means policies adopted by a person, in order to represent a true & fair view of state of affairs & income of Business/Profession / vocation.

Change in accounting policy

Accounting policy shall not be changed without reasonable cause. (Not defined in ICDS)

b) Fundamental accounting assumptions



c) Disclosure of Accounting policies

- All significant accounting policies shall be disclosed
- Any change in accounting policy, which has a material effect shall be disclosed with quantum of effect, if ascertainable. If not ascertainable, fact should be disclosed.

d) Marked to market losses / expected losses shall not be recognized

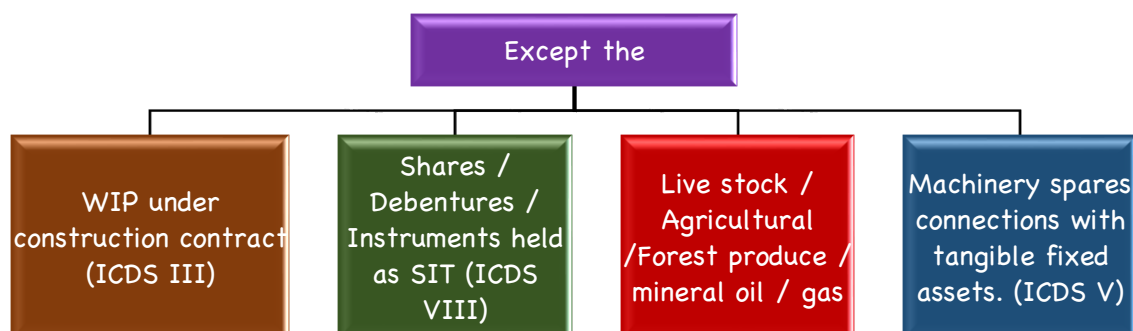
e) ICDS does not recognize materiality as an accounting policy.

Basis	AS1	ICDS I
Concept of prudence	Provisions are made for all known liabilities & losses on best estimates. Anticipated profits are not recognized.	Marked to market losses / Expected losses shall not be recognized.
Materiality	Treated as accounting policy.	Not recognised as accounting policy.
Change in accounting policy	Permitted if a) Required by statute b) Required by AS c) For better presentation	Accounting policies shall not be changed without a reasonable cause.
Disclosure of change in accounting policy	Required in "Period of change," if impact is not material in current period but material in later years.	Required in "period of change," and also required in first year in which change has material effect. If impact is not material in current period but material in later period.

Refer Question No 1,2
from Workbook

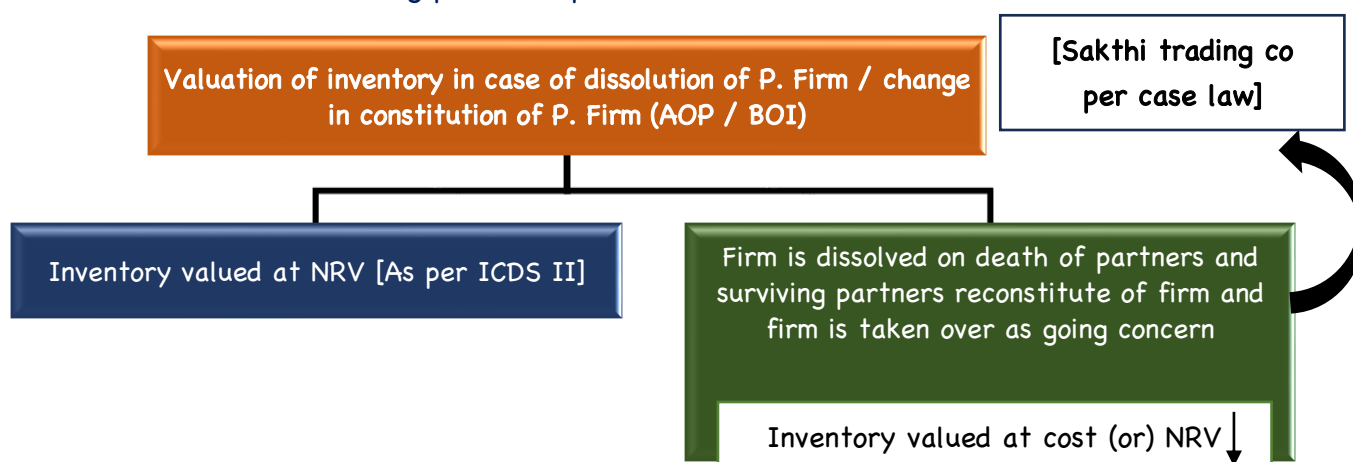
ICDS II: Valuation of Inventories**a) Meaning of Inventory:**

- Held for sale in ordinary course of business (FG).
- In the process of production for such sale (WIP).
- In the form of materials (or) supplies to be consumed in the production process (RM).

**b) Measurement**

Inventories shall be valued at cost (or) NRV, whichever is lower

NRV = Estimated selling price – expenses incurred for sale

**c) Cost of Inventory**

Cost of purchase + Cost of services + Cost of Conversions + Other cost

Cost of purchase:

Includes	Excludes
Purchase price, Tax & duties Freight inward, Direct expenses related to purchase.	Trade discounts, Rebate

Cost of Services: Labour & other cost of personnel.

Cost of conversions:

- ✓ Allocation of fixed production overhead based on normal capacity.
- ✓ in case of variable overhead, Assigned to each unit of production on the basis of actual use of production facilities.

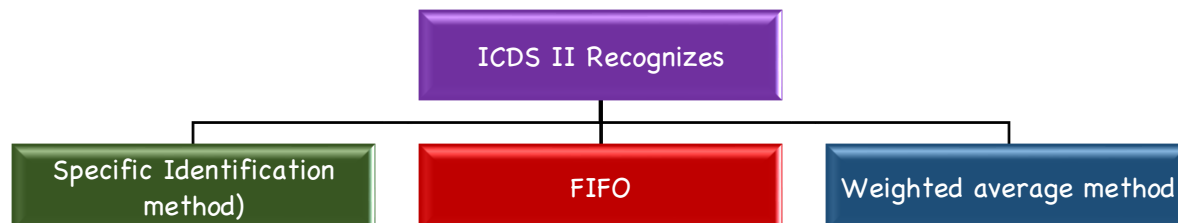
Other costs: shall be included in cost of conversion only to the extent that they are incurred in bringing inventories to their present location & conditions.

Ex: Interest & other borrowing cost shall not be included in cost of inventories, unless they meet criteria for recognition of interest as per ICDS IX.

While determining cost of inventories, the following cost shall be excluded:

- Abnormal amounts of waste materials, labour (or) other production cost
- Storage cost (if costs necessary in production process – included in cost)
- Selling & administration overheads.

d) Methods of valuation / Cost formula



e) Disclosure

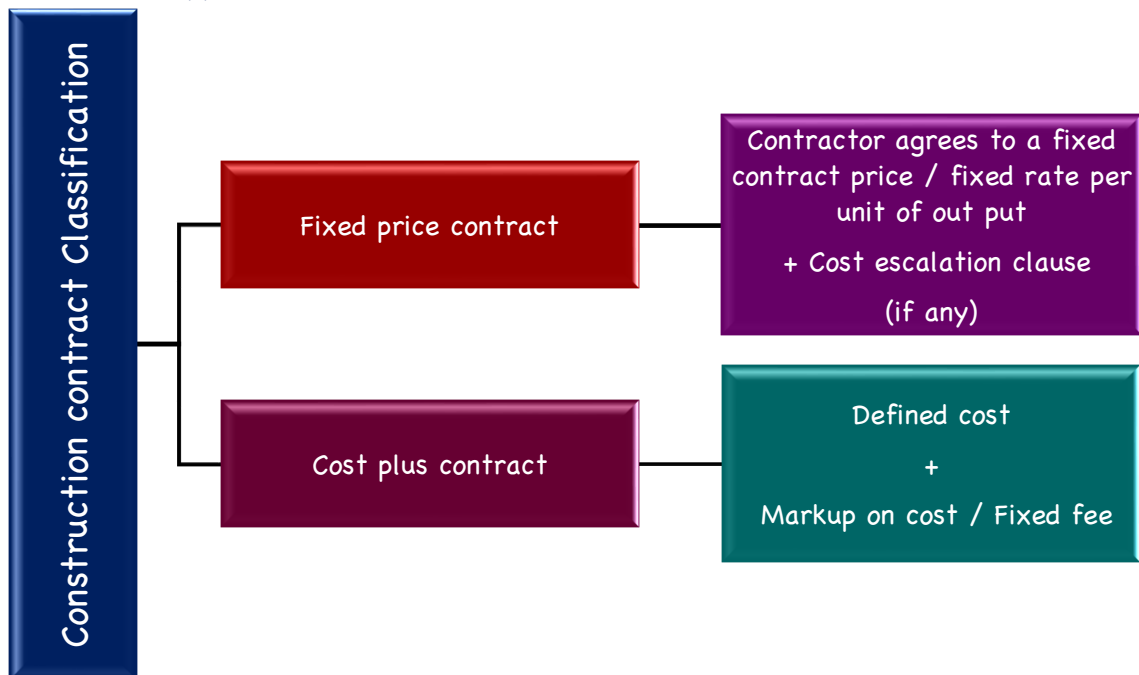
Accounting policy adopted in measuring inventories including the cost formulae.

Basic of difference	AS -2	ICDS-II
Opening inventory	No specific provision	➤ Value of opening inventory of business same as closing inventory of last year. ➤ New business Cost of inventory treated as opening inventory
Change in method of inventory valuation	Permitted, if - Required by statute - Required by AS - For better presentation of FS	Method of valuation once adopted shall not be changed without reasonable cause.
Inventory valuation in case of certain dissolutions	No specific provision	Inventory valued at NRV.

Refer Question No 3,4
from Workbook

ICDS III: Construction Contracts**a) Applicability:**

This ICDS should be applied in determination of income for a construction contract of a contractor.

**b) Contract revenue:**

→ Contract revenue shall be recognized, when there is reasonable certainty of its ultimate collection.

→ Contract revenue = initial amount of revenue agreed in contracts including retention amount.

c) Contract costs:

Specific contract costs + General contract costs + Other cost (borrowing cost)



(Allocation on reasonable basis)

d) Contract revenue & contract cost w.r.t construction contract are recognized on percentage of completion method (POCM).

e) Where outcome of contract cannot be estimated reliably during the earlier stages of contract.

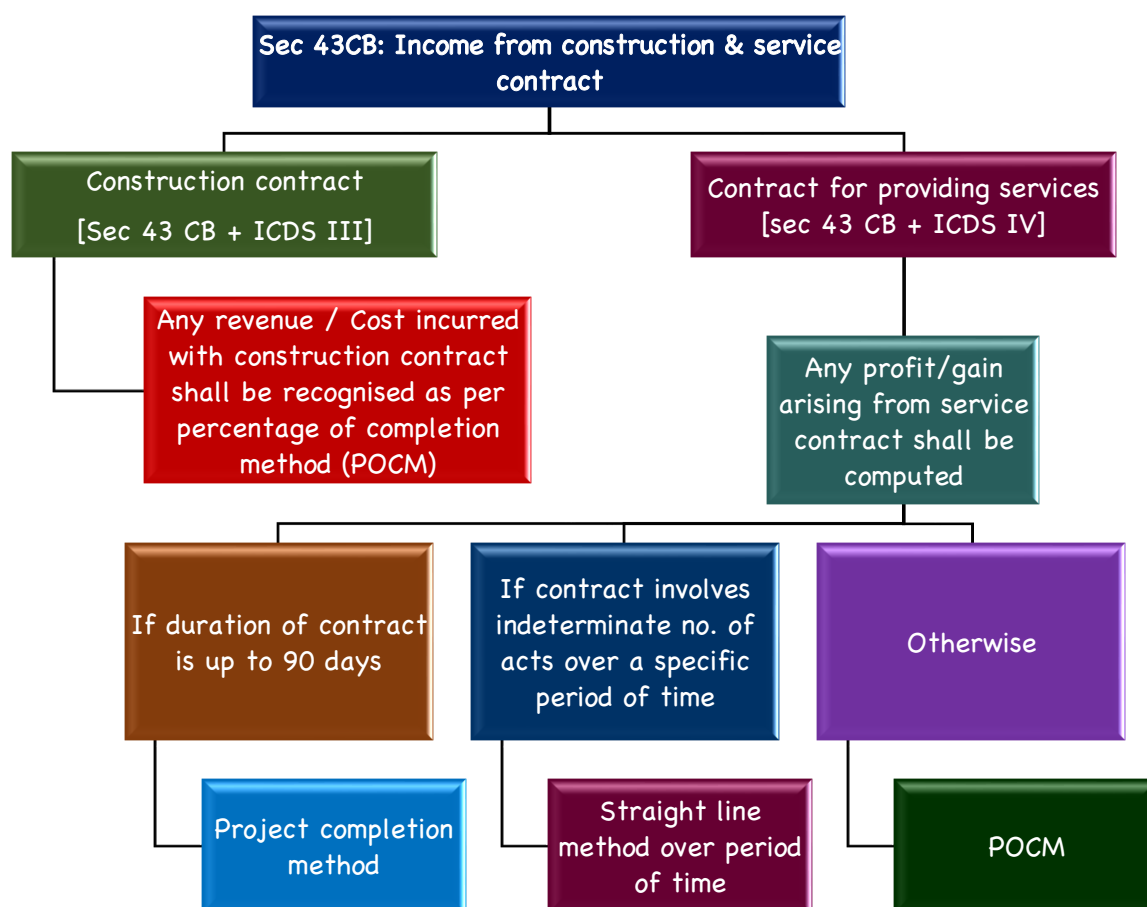


Contract revenue recognized to the extent of cost incurred.

Early stage of contract shall not extend beyond 25% of the stage of completion.

f) Contract costs shall be reduced by any incidental income, not being in nature of interest, dividend, capital gain, that is not included in contract revenue.

g)



- h) There is no specific ICDS related to real estate developers, build – operate- transfer and leases. Therefore, relevant provisions of act and ICDS shall apply to these transactions as may be applicable.

Basic	AS7	ICDS III
Preconstruction Incidental Income	Contract cost may be reduced by any incidental income that is not included in contract revenue.	Contract cost shall be reduced by any incidental income (Except interest, dividend & CG) that is not included in contract revenue.
Early stages of contract	Revenue is to recognised only to extent of cost.	Same as AS, ICDS defines early stages as not exceed 25%.
Retention money	Silent on treatment.	Retention money is part of contract revenue, recognised as per POCM.

Refer Question No 5,6
from Workbook

ICDS IV: Revenue Recognition**a) Applicability:**

ICDS IV deals with the basis for revenue recognition arising from the ordinary activities of a person from

- Sale of goods
- Rendering of services
- Use of entity's resources by other person yielding interest, royalty, dividends

b) Recognition of revenue:

- Sale of goods:** Significant risk & rewards of ownership are transferred to the buyer and there is reasonable certainty of its ultimate collection.
- Rendering of services:** Percentage of completion method / straight line method / project completion method, [in accordance with sec 43CB].
- Interest:** Accrue on time basis.
- Interest on refund of tax, duty / fees:** Recognized in PY in which such interest was received
- Royalty:** Accrue as per terms of relevant agreement unless there is some other systematic & rational basis.
- Dividend:** Recognized as per provisions of act (sec 8).

c) CBDT – Clarification on ICDS IV:

Interest accrues on time basis & Royalty accrues on basis of agreement. Hence, the same shall be recognized even if there is no reasonable certainty of its ultimate collection.

Non recovery / bad debts in such cases can be claimed as deduction u/s 36(1) u/h PGBP.

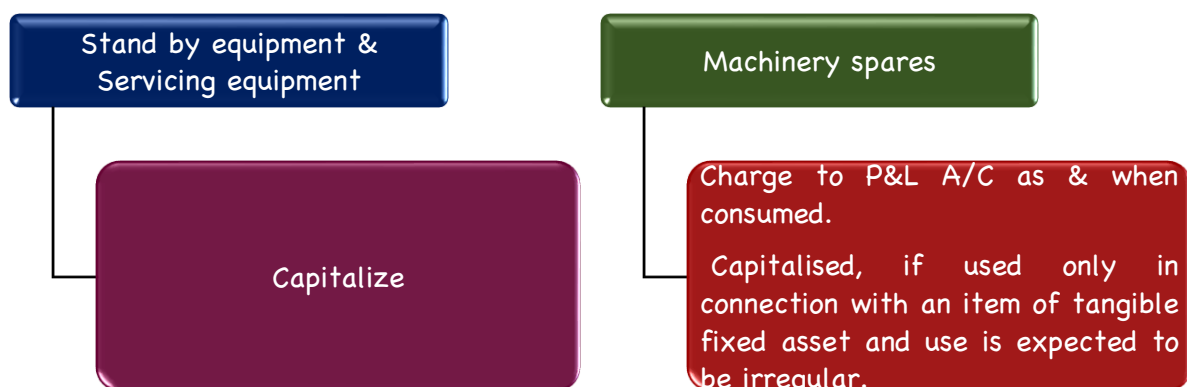
d) Provisions of ICDS IV shall also apply for computation of income on gross basis for arriving at amount chargeable to tax.

Like interest, Royalty, Fees etc.

BASIS	AS-9	ICDS IV
Postponement of revenue recognition	Postponed, if significant uncertainty exists on collection of revenue from - Sale of goods - Rendering of services - Interest - Royalty - Dividend	Revenue recognised only if there is reasonable certainty of its ultimate collection from - Sale of goods - Rendering of service
Method of revenue recognition for service contracts	- Proportionate completion method - Complete service contract method	- Percentage completion method.
Disclosure requirements	Cases where revenue recognition is postponed.	Cases where revenue recognition is postponed

ICDS V: Tangible fixed assets**a) Meaning of Fixed assets**

- Asset being land, building, machinery, plant / Furniture
- Held with the intention of being used for the purpose of producing of goods / providing services
- Is not held for sale in the normal course of business ICDS V deals with treatment of tangible fixed assets

b)**c) Actual cost of tangible fixed asset (Purchased / Self - Constructed)**

Particulars	Amount
Actual cost of purchase	XXX
Add	
- Duties & taxes (if non recoverable)	XXX
- Directly attributable expenses - for making asset ready for use	XXX
- Expenses on trial runs	XXX
Less	
- Trade discount	XXX
- Rebates	XXX
	XXX

Sec 43(6) of Income tax Act, 1961 - WDV format

	Block 1
Opening WDV (old Assets)	XXX
Add: Cost of addition (New asset) (Refer above)	XXX
Less: Money receivable on sale	(XXX)
Depreciable value	XXX
Less: Depreciation u/s 32	(XXX)
Closing WDV	XXX

- The expenditure incurred after the plant has begun commercial production, that is production intended for sale / captive consumption, shall be revenue expenditure.
- The cost of a tangible fixed assets may undergo changes after its acquisition (or) construction on account of exchange functions as specified in ICDS VI.

d) Asset acquired for non-monetary benefit:

- Fixed asset acquired in exchange of another assets
- Fixed asset acquired in exchange of shares / securities

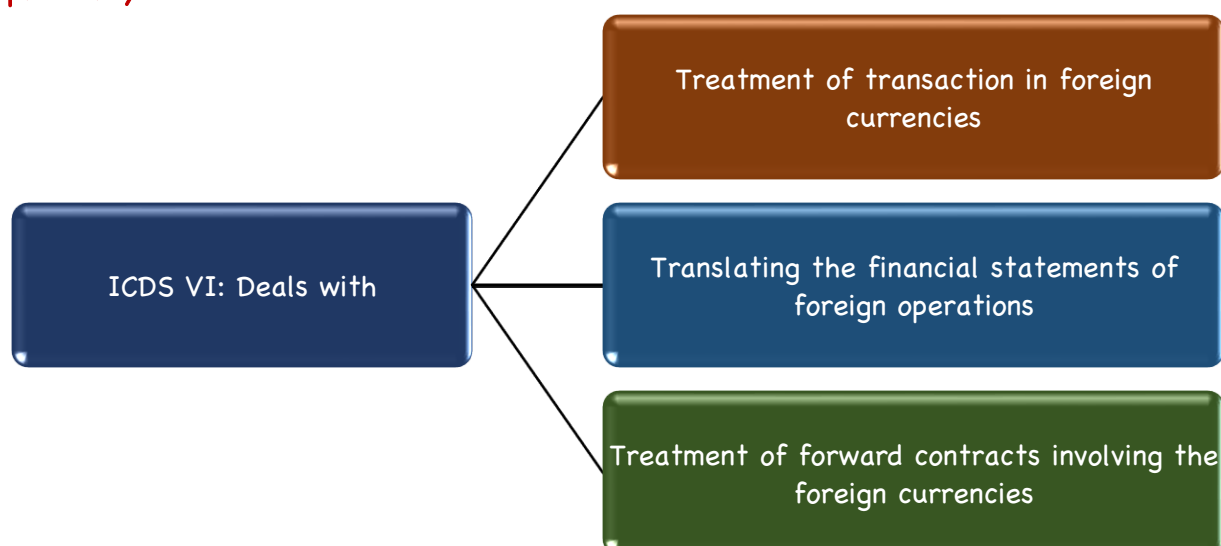
Actual cost
Fair value of the tangible fixed asset so acquired

BASIS	AS - 10	ICDS V
Applicability	Fixed assets such as tangible and intangible	Tangible FA includes Land, building, machinery, plant / Furniture
Components of cost	Term - cost	Term - actual cost
Stand by equipment & servicing equipment	Acknowledges as the capitalization	mandates the capitalisation
Machinery spares	May be charged to P&L in some cases, may be capitalized	Shall be charged to P&L, in some cases in this box, shall capitalized.
Asset Acquired against non-monetary consideration	Cost is - a) Fair value of asset given b) Fair value of asset acquired whichever is more of clearly evident.	Actual cost is fair value tangible FA acquired.
Asset acquired on consolidated basis	Apportioned on fair basis determined by competent valuers	Apportioned on fair basis.

Refer Question No 7
from Workbook

ICDS VI Effects of Changes in Foreign Exchange

a) Applicability



Forward exchange contract: Means an agreement to exchange different currencies at forward rate.

b) Foreign currency transactions

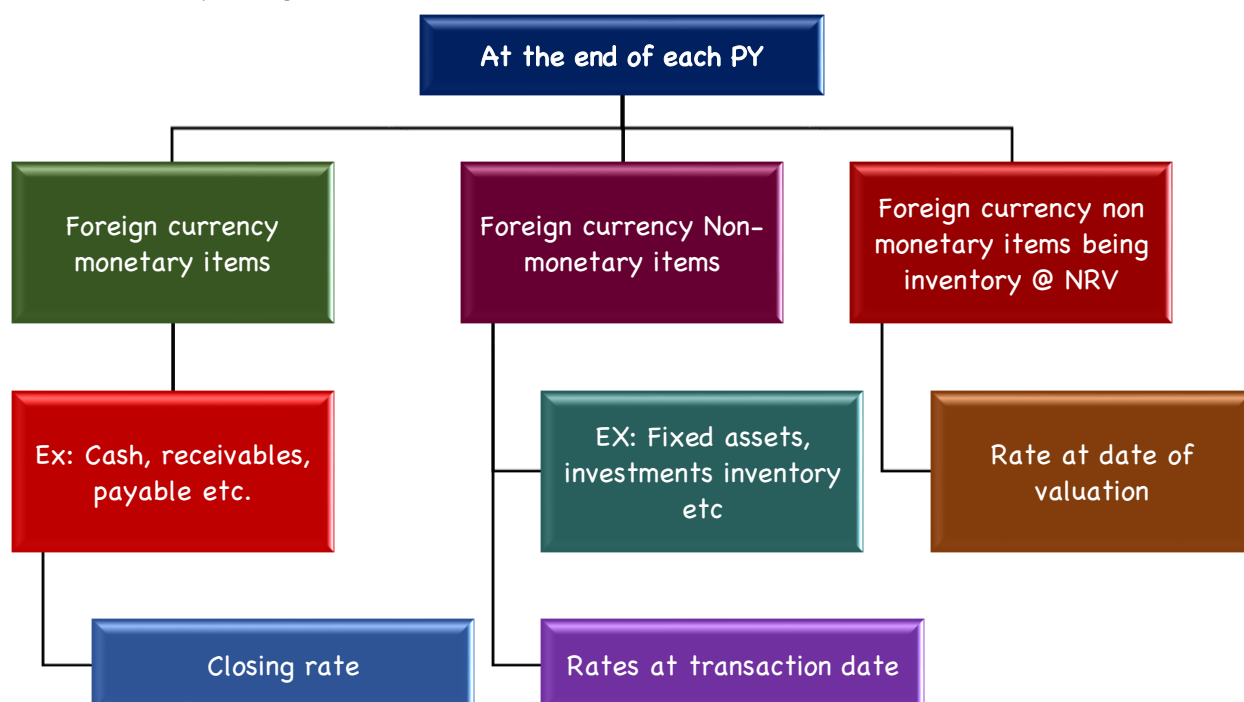
→ Initial recognition

Foreign currency transaction shall be recorded by applying "Actual rate of transaction date"
(or)

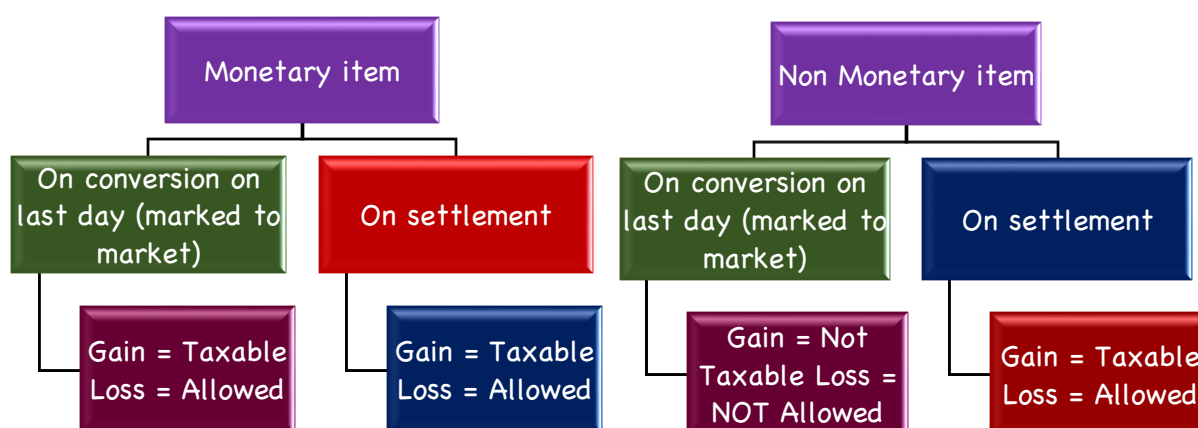
"Weekly (or) monthly average rate" that approximates actual rates for all the transactions occurred during the period.

However, if exchange rate fluctuates significantly, then the "actual rate of transaction date".

→ Conversion in Reporting currency (Marked to market)

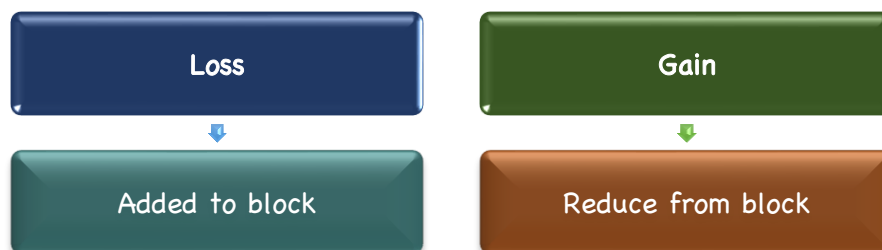


→ Recognition of Exchange difference



c) Sec 43A of Income Tax Act, 1961:

Asset acquired from foreign country, through loan in foreign currency/ foreign supplies credit, if any loss/gain arising at the time of payment shall be adjusted with in the block.



d) Sec 43AA of Income Tax Act, 1961:

Any gain / loss, being computed in accordance ICDS VI, arising on account of any changes in foreign exchange rates shall be treated as income /loss.

Such gain/loss related to

- ✓ Monetary & non-monetary item
- ✓ Translation of FS of foreign operations
- ✓ Forward exchange contract
- ✓ Foreign currency translation reserve

Note: provisions of sec 43AA are not applicable for cases covered U/S 43A.

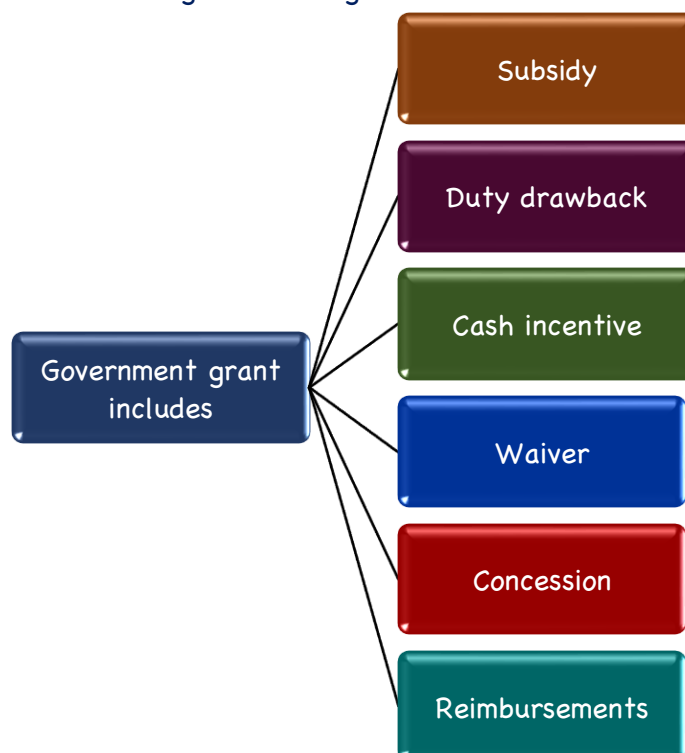
e) Forward exchange contract

a) Premium / Discount arising at the inception of forward contract.	✓ Amortize as expense / income over the period of contract.
b) Exchange difference.	✓ Income (or) expenses in the PY in which exchange rate changes.

ICDS VII: Government Grants

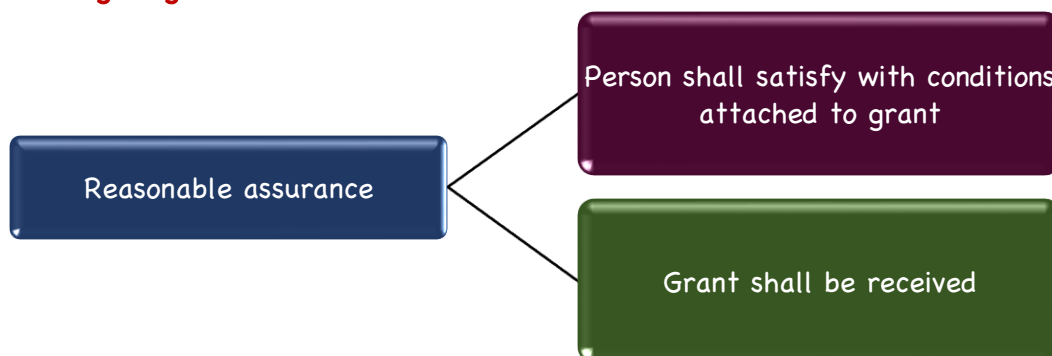
a) Applicability

ICDS VII deals with treatment of government grants.



Government grant does not include govt participation in ownership of enterprise.

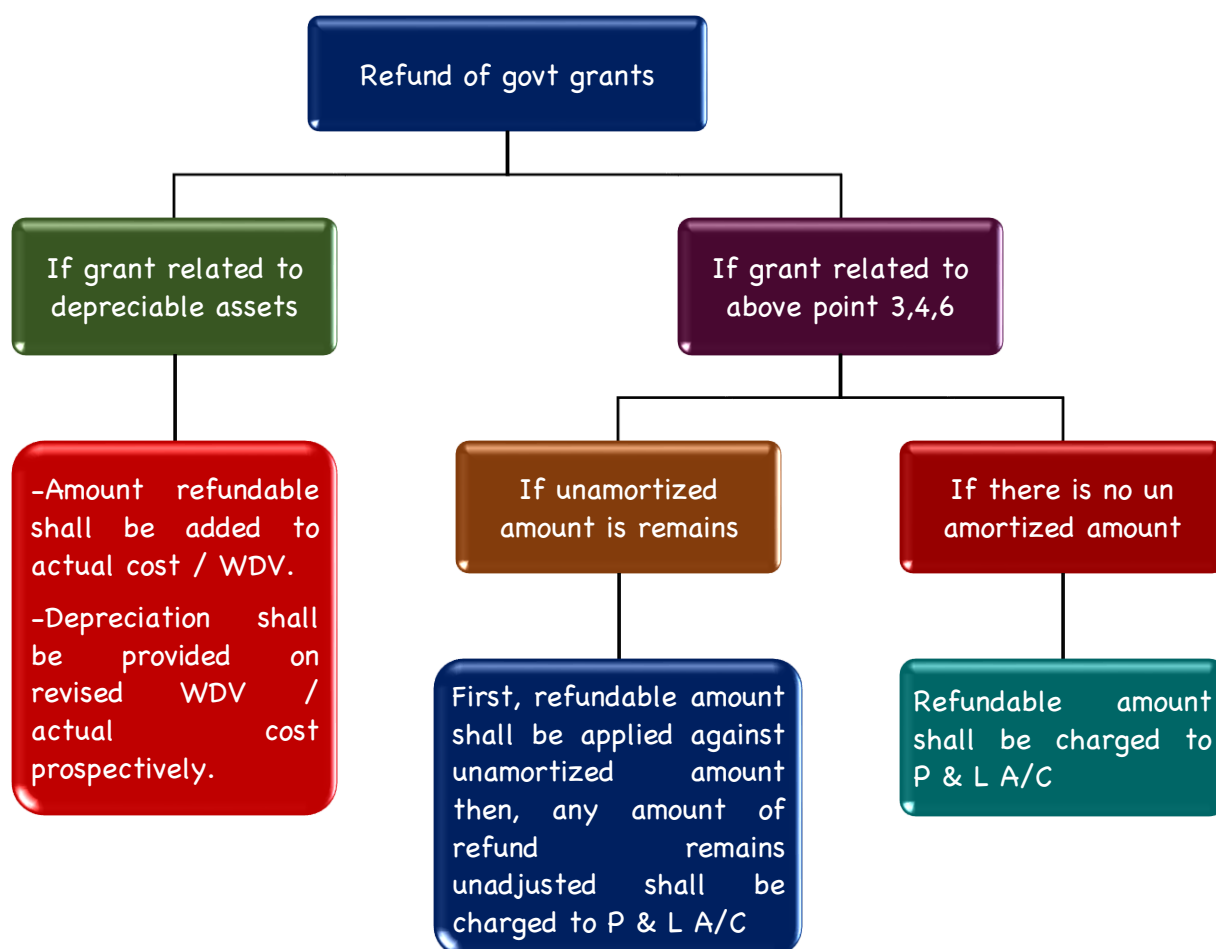
b) Recognition of govt grants



Note: Recognition of govt grant shall not be postponed beyond the date of actual receipt of grant.

	Govt grant	Treatment
1	If a grant received directly related to acquisition of depreciable asset.	It shall be reduced from actual cost.
2	If a grant received not directly related to acquisition of depreciable asset. Ex: Government of ₹ 3,00,000 received for a project costing ₹ 10,00,000. Asset acquired in PY is ₹ 1,00,000	Proportionate grant shall be reduced from actual cost. $= \text{Actual} - \left[\text{Grant} \times \frac{\text{Cost of asset acquired}}{\text{Cost of total assets in project}} \right]$ $= 1,00,000 - \left[3,00,000 \times \frac{1L}{10L} \right]$ $= 70,000$
3	If grant is directly relating to acquisition of non-depreciable asset.	Recognized as income over the same period over which the cost of meeting such obligation is charged to income.
4	Grants receivable as compensation for expenses / loss incurred in past years.	Recognize as income of the period in which it is received.
5	Grant in the form of non-monetary assets given at concessional rate.	Recognize at actual cost.
6	Other govt grants.	Recognize as income over the period necessary to match them with the related costs which they are intend to compensate.

c)



ICDS VIII: Securities

a) Applicability:

ICDS VIII deals with securities held as "stock in trade"

ICDS VIII does not apply to:

- Recognition of interest & dividend on securities.
- Securities held by insurer, MF, venture capital funds, bank and PFI.

b) Recognition and initial measurement of securities:

→ A security on acquisition shall be recognized at "actual cost".



- Where security acquired in exchange of any other securities / Assets, then FMV of security so acquired shall be considered as actual cost.
- In case of interest-bearing securities (like 18% debentures), if any interest is accrued before acquisition and is included in purchase price, on receipt of such interest, it shall be allocated as into preacquisition & post-acquisition interest. The pre acquisition period interest shall be reduced from actual cost.

c) Subsequent measurement

→ At the end of PY, securities held as stock in trade shall be valued at

Actual cost (or) NRV } Whichever is lower
(initially recognized)

→ Comparison b/w actual cost / NRV shall be done category wise (i.e., shares, debentures, any other securities) and not for each individual security.

Example:

Security	Category	Cost	NRV	Lower	ICDS VIII
A	shares	100	75	75	
B	shares	120	150	120	
C	shares	140	120	120	
D	shares	200	190	190	
		560	535		535
E	Debentures	150	160	150	
F	Debentures	105	90	90	
G	Debentures	125	135	125	
H	Debentures	220	230	220	
		600	615		600
		TOTAL			1135

Note: Securities not listed / no trading / thinly traded shall be valued at actual cost initially recognised.

Basis	AS-13	ICDS - VIII
Applicability	As applicable to accounting for investments.	ICDS applicable to securities held as stock in trade.
Subsequent recognition	Individual security wise.	Category wise.
Valuation of unlisted / no trading / thinly traded securities	No specific provision.	Shall be valued at actual cost.
Opening value of securities	No specific provision	Opening value of securities shall be same as closing value of securities of immediately preceding PY. - In case of commencement of business, opening value of securities can be taken as actual cost.
Security acquired against non-monetary consideration	a) FMV of security acquired. b) FMV of securities so given whichever is more clearly evident.	FMV of securities so acquired shall be taken actual cost.

Example If taxpayer sells security on 30/4/26. Interest payment dates are December and June. Actual date of receipt of interest on the 30/6/26. But interest on accrual basis has been accounting as Income on the 31/3/26. Whether the taxpayer shall be permitted to claim deduction of interest i.e. offered to tax but not received while computing capital gain?

Refer Question No 8
from Workbook

Dec, 25	31/3/26	30/4/26		June, 26
2000 Interest received	Interest ₹ 600 accrued for 3 months	Sale (-) COA	XXX (XXX)	2000 Interest Received
	[Interest amount is taxed, but not received]	CG	XXX	
		(-) Int taxed but not received	(600)	
		CG	XXX	
Yes, the amount already taxed as interest income on accrual basis shall be taken into account for computation of income arising from such sale.				

Note:

- Securities held by scheduled bank, PFI shall be classification, recognition and measurement as per guideline issued by RBI.
- Cost which cannot be ascertained by specific identification method. Shall be determined by weighted average cost / FIFO formula can be used.

ICDS IX – Borrowing cost**a) Applicability**

This standard deals with treatment of borrowing cost.

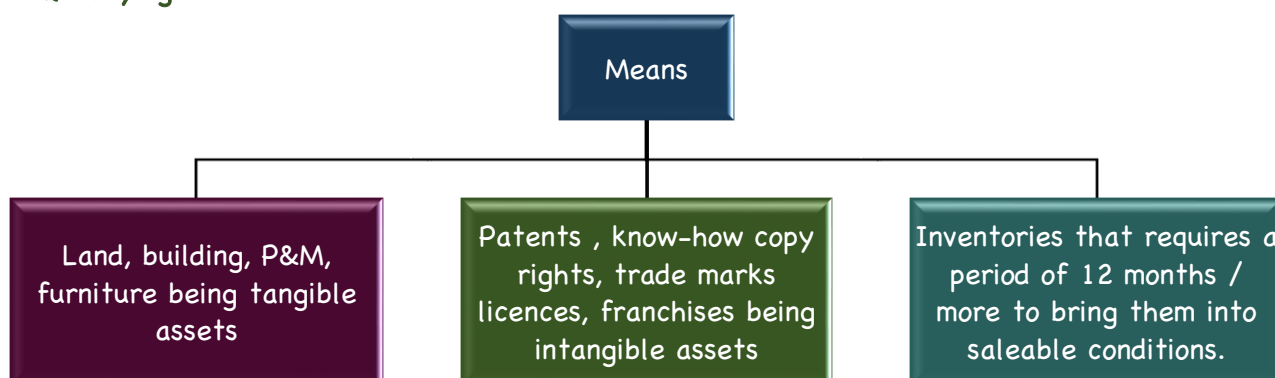
This standard does not deal with actual / imputed cost of owners' equity and preference capital.

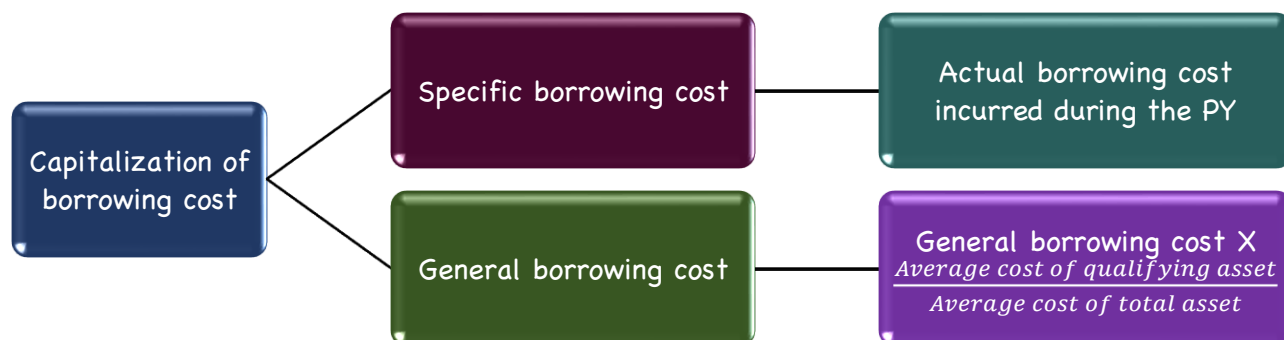
b) Borrowing cost

Means interest & other costs incurred by a person in connection with borrowing of funds.

c) Recognition

Borrowing cost that are directly attributable to acquisition, construction / production of "Qualifying asset" shall be "capitalized as a part of cost of the asset"

Qualifying Asset



Commencement of capitalization	Cessation of capitalization	Commencement of capitalization	Cessation of capitalization
Date borrowing	First put to use (in case of inventory, when all necessary activities for intended sale are completed)	Date of utilization of borrowed funds	First put to use (in case of inventory when all necessary activities for intended sale are completed)

Note	Average cost
1. If qualifying asset remain throughout PY	$\frac{\text{Opening} + \text{Closing balance sheet value}}{2}$
2. If qualifying asset does not appear on first day of the PY	$\frac{\text{Closing balance sheet value}}{2}$
3. If qualifying asset does not appear on last day of the PY.	$\frac{\text{Opening balance sheet value} + \text{Value on the date of put to use}}{2}$

BASIS	AS-16	ICDS-IX
Borrowing cost	Borrowing cost includes exchanges difference w.r.t foreign currencies.	Borrowing cost does not include exchange differences w.r.t foreign currencies
Qualifying asset	Asset which is necessarily takes a substantial period of time to get ready for its intended use.	- Specified tangible assets - Specified intangible assets (regardless of substantial period & condition) - Inventory requires 12M / more to bring them into saleable condition.
Income from temporary use of funds	Income shall be reduced from borrowing cost	No similar provision in ICDS
Suspension of capitalisation	Capitalisation of borrowing cost should be suspended during extended period in which active development is interrupted	No similar provision in ICDS.

Question:

There are specific provisions in Act read with rules, borrowing cost may get disallowed u/s 14A, 43B, 40 (a)(ia), 40A (2) etc. of act. Whether borrowing cost to be capitalized under ICDS IX should exclude the portion of borrowing cost disallowed under above provision?

Answer:

Since specific provisions of act override the provisions of ICDS. It is clarified that, capitalization under ICDS IX shall exclude these borrowings cost which are disallowed under specific provisions under the act.

Question:

Whether bill discounting charges & other similar charges would fall under the definition of borrowing cost?

Answer:

The definition of borrowing cost is inclusive. So, bill discounting charges & other similar charges covered as borrowing cost.

Question:

How to allocate borrowing cost relating to general borrowing as computed in accordance with formulas provided under ICDS IX?

Answer:

The capitalization of general borrowing cost under ICDS IX shall be done as asset - by - asset basis.

Refer Question No 9 to 11
from Workbook

ICDS X – Provisions, Contingent liabilities & Contingent assets

a) Applicability

This standard deals with provisions, contingent liabilities & contingent asset, except those resulting from

- Financial instruments
- Executory contracts
- Contracts with policy holder
- Covered by any ICDS

b) Provisions→ **Recognition**

There exists a present obligation as a result of past event and its "reasonably certain" than an out flow of economic resources will be required to settle the obligation.

Criteria for recognition of provision in AS 29 is "Probable", which is replaced by ICDS X with "Reasonable certainty"

→ **Measurement**

Provisions shall be the estimate expenditure required to settle the present obligation at end of PY.

The amount of provision shall not be discounted to its present value.

If any expenditure required to settle the provision is expected to be reimbursed by third party, it will be recognized only when it is reasonably certain that reimbursement amount will be received. The amount of reimbursement shall not exceed the amount of provision.

→ **Review at the end of each PY**

If it is reasonably certain that an outflow of economic resource will not be required to settle the provision, then such provision should be reversed.

c) Contingent asset & Liability→ **Recognition**

Contingent asset & Liability shall not be recognized.

However, contingent asset is assessed continually, and it becomes reasonably certain that the inflow of economic benefit will arise, the asset & related income are recognised in PY in which the changes occur.

→ **Measurement**

Asset & related Income shall be best estimated value of economic benefit arising at the end of PY.

The amount of asset & Income shall not be discounted to its present value.

→ **Review at the end of each PY**

If it is reasonably certain that an inflow of economic resources will not arise then such asset & related income should be reversed.

Question:

Expenditure on post-retirement benefits like provident fund, gratuity etc are covered by specific provisions. There are other post-retirement benefits offered by companies like medical benefits. Such benefits are covered by AS15 for which no parallel ICDS has been notified.

Whether provisions for these liabilities are excluded from scope of ICDS X?

Answer:

It is clarified that provisioning of employee benefits which are otherwise covered by AS 15 to be governed by specific provisions of act and that are not dealt with by ICDS X.

1	Provisions for bad debts ↓ Allowed U/S 36(1)	Provisions for gratuity ↓ Disallowed U/S 40A (7)	<u>Other provisions</u> Allowed – only if reasonable certainty as per ICDS X
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2	Contingent liability ↓ Disallowed under ICDS X	Contingent asset ↓ Recognize only if reasonable certainty as per ICDS X
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OTHER AMENDMENTS

1. Sec. 23(2): Annual value of self-occupied property

With effect from AY 2025-26, Section 23(2) provides that the annual value of a property consisting of a house or any part thereof shall be taken as nil, if the owner occupies it for his own residence or cannot actually occupy it due to any reason.

There is no amendment to Section 23(4), and the benefit applicable only to two such houses shall continue to apply as before.

2. sec 17(2)(iii): Specified employees for the purpose

The following employees are known as "specified employees" –

- a. An employee who is a director in the employer-company (maybe a full time director, part-time director, nominee of the management/financial institutions/Government).
- b. An employee who has substantial interest in the employer-company (i.e., an employee who is a beneficial owner of at least 20 per cent of equity shares in the employer-company).
- c. An employee (not covered by the above 2 categories) whose income chargeable under the head "Salaries" (exclusive of all benefits or amenities not provided by way of monetary payments) exceeds the prescribed amount.

3. Medical Facilities:

Amount paid towards expenditure incurred outside India a Medical treatment:

- a. Medical treatment of the employee or any members of the family of such employee outside India,
- b. Travel and stay abroad of the employee or any member of the family of such employee for medical treatment,
- c. Travel and stay abroad of one attendant who accompanies the patient in connection with such treatment.

Conditions:

1. The prerequisite element in respect of expenditure on medical treatment and stay abroad will be exempt only to the extent permitted by the RBI.
2. The expenses in respect of traveling of the patient and the attendant will be exempt if the employee's gross total income as computed before including the said expenditure does not exceed the prescribed amount.

4. Sec. 285BAA: Obligation to furnish information in respect of crypto-asset

Vide the Finance Act, 2022, taxation of virtual digital assets (VDA) was introduced under section 115BBH, providing that transfer of VDA is taxable at 30 per cent. Further, section 194S was inserted to provide for deduction of tax at 1 per cent on payment for transfer of VDA.

Amendment:

To capture more information about VDA / crypto-asset transactions, section 285BAA has been inserted with effect from April 1, 2026, providing an obligation to furnish information of crypto-assets.

- Furnishing information by the reporting entity: Sub-section (1) requires a reporting entity, as may be prescribed, to furnish information in respect of transactions in crypto-assets in a statement, within the prescribed time, form, manner, and to the prescribed income-tax authority.

- Rectifying defect discovered by income-tax authority: If the income-tax authority finds the statement to be defective, it may intimate the defect and allow 30 days (or extended period) to rectify it. If not rectified, the statement shall be treated as having inaccurate information.
- Notice to a person who has not submitted the statement: Where a person required to furnish the statement has not furnished it within the specified time, the income-tax authority may issue a notice requiring submission within the time specified.
- Rectifying defect discovered by reporting entity: If the reporting entity later discovers any inaccuracy, it shall inform the income-tax authority and furnish correct information within the prescribed time and manner.
- Framing rules by the Central Government: The Central Government may prescribe rules regarding registration of persons, nature of information, maintenance of information, and due diligence for identification of crypto-asset users or owners.

5. Sec 10(4E): Income of a non-resident as a result of transfer of non-deliverable forward contracts/offshore derivative instruments/ over the counter derivatives entered into with an offshore banking unit of an IFSC

Section 10(4E): Income of a non-resident from specified derivatives in IFSC

Any income accrued or arisen to, or received by, a non-resident as a result of:

- transfer of non-deliverable forward contracts or offshore derivative instruments or over-the-counter derivatives, or
- distribution of income on offshore derivative instruments or over-the-counter derivatives, entered into with an offshore banking unit of an IFSC referred to in section 80LA(1A) or any Foreign Portfolio Investor being a unit of an IFSC, fulfilling the prescribed conditions, shall be exempt.

Accordingly, Rule 21AK specifies the following conditions for claiming such exemption:

- The non-deliverable forward contract or offshore derivative instruments or over-the-counter derivatives are entered into by the non-resident with an offshore banking unit of an IFSC holding a valid certificate of registration under the IFSC Authority (Banking) Regulations, 2020, or with a Foreign Portfolio Investor being a unit of an IFSC; and
- Such contract, instrument or derivative is not entered into through or on behalf of a permanent establishment in India. The offshore banking unit or Foreign Portfolio Investor shall ensure compliance with this condition.

6. Sec 10(4H): Income received by a non-resident or a Unit of an IFSC

Any income of a non-resident or a Unit of IFSC, as referred to in section 80LA(1A), engaged primarily in the business of leasing of an aircraft or a ship, by way of capital gains on transfer of equity shares of a domestic company, being a Unit of an IFSC referred to in section 80LA(1A), engaged primarily in the business of lease of an aircraft or a ship, which has commenced operations on or before 31.3.2030, shall be exempt.

The exemption from capital gains on transfer of equity shares of such domestic company shall be available for a period of ten assessment years, either:

- from the assessment year relevant to the previous year in which the domestic company has commenced its operations; or
 - from A.Y. 2024-25, where the period of ten assessment years under (i) ends before 1.4.2034.
- “Aircraft” means an aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any part thereof.

“Ship” means a ship or an ocean vessel, or an engine of a ship or ocean vessel, or any part thereof.

7. Sec 10(23FE): Certain incomes of wholly owned subsidiary of Abu Dhabi Investment Authority, Sovereign Wealth Fund and specified pension fund

- i. Nature of income exempted: Any income of a specified person in the nature of
 - dividend,
 - interest
 - any sum referred to in section 56(2)(xii) i.e. any specified sum received by a unit holder from a business trust during the previous year, with respect to a unit held by him at any time during the previous year or
 - long-term capital gains (whether or not such capital gains are deemed as short-term capital gains under section 50AA)
- arising from an investment made by it in India, whether in the form of debt or share capital or unit would be exempt, if such investment –
- a. is made on or after 1st April, 2020 but on or before 31st March, 2030; and
 - b. is held for at least three years.

8. Sec 9A: Presence of Eligible Fund Manager in India not to constitute Business connection in India of such eligible Investment fund on behalf of which he undertakes fund Management Activity

Conditions to be fulfilled by an Eligibility Investment Fund: The eligible investment fund means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit. Further, it should fulfil the following conditions:

- a. The fund should not be a person resident in India;
- b. The aggregate participation or investment in the fund, directly by person being resident India should not exceed 5% of the corpus of the fund as on 1st April and 1st October of the previous year,

However, for the purposes of calculation of aggregate participation or investment in the fund, any contribution made by the eligible fund manager during the first 3 year of operation of the fund, not exceeding ₹ 25 Cr, would not be taken into account.

Further, if the aggregate participation or investment in the fund exceeds 5% as on 1st April and 1st Oct of the previous year, the condition mentioned above will be deemed to be satisfied if the fund reduce its aggregate participation or investment to 5% or less within 4 months from 1st April or 1st October of such previous year, as the case may be.

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