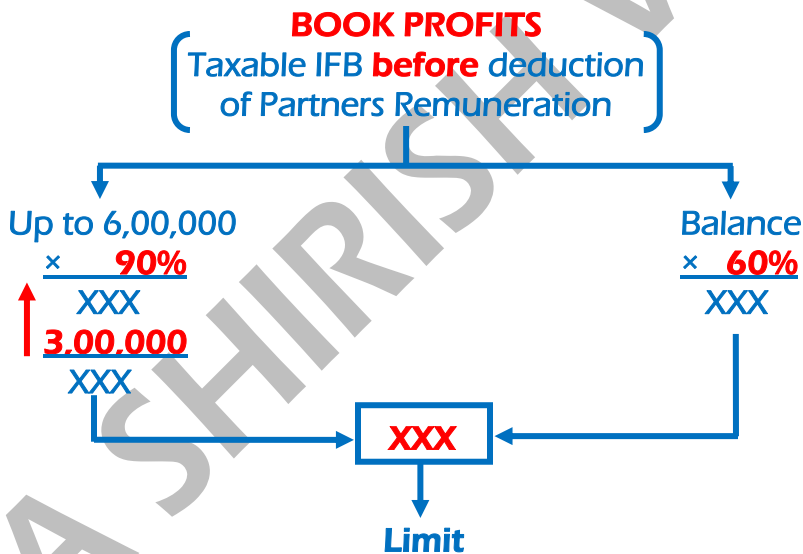


CA FINAL DT AMENDMENTS - MAY/NOV. 25

PROFITS AND GAINS FROM BUSINESS/PROFESSION:

- 1) Earlier, **employer's contribution to NPS** was allowed as deduction u/s 36(1) up to 10% of (Basic + DA in terms). Now, this limit is amended to **14% of (Basic + DA in terms)**.
- 2) Income from letting out of HP cannot be treated as PGBP. Even if letting out properties is the business of the assessee, **rent income** shall **always** be taxable as **IFHP**.
- 3) Settlement amounts paid to **settle contraventions** is **illegal** (disallowed).
- 4) Limit for **partners' remuneration u/s 40(b)** is amended as follows:



Amount of deduction:

1. Actual Remuneration to working Partners
2. Limit u/s 40(b) as calculated above

INCOME FROM OTHER SOURCES:

- 1) Earlier, the difference between Issue price and FMV was taxable as IFOS u/s **56(2)(viib)** if a closely held company issued shares [at a premium] at a price in excess of its FMV. Now, such difference is **not taxable**.

- 2) **With effect from 1/10/2024**, any amount received by a shareholder on **buy back** of shares is **deemed as dividend u/s 2(22)(f)** [Taxable in the hands of shareholders]. **Cost of shares** bought back is allowed as **capital loss**.

Note:

If buy back of shares is **before 1/10/24** then it is not deemed as dividend. Shareholders are **exempt u/s 10(34A)** and the company is required to pay **distribution tax u/s 115QA @ 20%** [plus 12% SC plus 4% HEC].

CAPITAL GAINS:

Transfer before 23/7/2024	Transfer on/after 23/7/2024
Period to decide ST/LT 1/2/3 years	Period to decide ST/LT 1/2 years
Indexation allowed	Indexation not allowed Exception: In case of Res. Ind./HUF , if immovable property is purchased before 23/7/24 and transferred on/after 23/7/24 then option to pay: 20% Tax [with index] Or 12.5% Tax [without index] Whichever is less
LTCG – 20% Tax	LTCG – 12.5% Tax
LTCG u/s 112A Exempt up to 1,25,000 Balance – 10% Tax	LTCG u/s 112A Exempt up to 1,25,000 Balance – 12.5% Tax
STCG u/s 111A – 15% Tax	STCG u/s 111A – 20% Tax
Gift of capital asset Exempt u/s 47 Only for Ind./HUF Earlier it was exempt for ALL	Gift of capital asset Exempt u/s 47 Only for Ind./HUF Earlier it was exempt for ALL
Unlisted Debentures/Bonds (ST/LT depending upon 3 yrs)	Unlisted Debentures/Bonds (Always ST as per sec. 50AA)

SECTION 115BAC: NEW REGIME

- 1) **Slab rates under default tax regime/new regime u/s 115BAC** are amended as follows:

Net Taxable Income	Tax
up to Rs. 3,00,000	0%
> 3,00,000 up to 7,00,000	5%
> 7,00,000 up to 10,00,000	10%
> 10,00,000 up to 12,00,000	15%
> 12,00,000 up to 15,00,000	20%
> 15,00,000	30%

- 2) Earlier, the amount of **standard deduction** under the head **"Salaries"** was ₹ 50,000 under old as well as new regime. Now, the amount of standard deduction is **₹ 75,000 under new regime**.
- 3) Earlier, the amount of **standard deduction for Family pension** under the head **"IFOS"** was 1/3rd or ₹ 15,000 [whichever is less] under old as well as new regime. Now, the amount of standard dedn. is **1/3rd or ₹ 25,000 [whichever is less] under new regime**.
- 4) Earlier, the deduction u/s 80CCD(2) under old and new regime was 14% of (Basic + DA in terms) for Govt. employees and 10% of (Basic + DA in terms) for Other employees. Now, **deduction u/s 80CCD(2)** will be **14%** of (Basic + DA in terms) **for all employees** (if an employee opts for **new regime**).

LOSS RETURN:

As per CBDT circular no. 11/2024 (dated 1st Oct., 2024), rules for **condonation** of delay in filing **loss return** have been amended. Accordingly, following authorities have been empowered to condone the delay in filing loss return

- Loss **up to Rs.1 crore** - **CIT/Principal CIT**
- Loss > Rs.1 crore **up to Rs.3 crores** - **CCIT**
- Loss > **Rs.3 crores** - **Principal CCIT**

INCOME ESCAPING ASST. / REOPENING U/S 147:

Re-opening before 1/9/24	Re-opening on/after 1/9/24
Search cases covered in Assessment u/s 147	Search cases Sec. 147 - Not Applicable Block Assessment
Survey cases A.O. is deemed to have Information	Survey cases Specifically included in the definition of "Information"
Enquiry before SCN	No Enquiry before SCN
SCN not accompanied by Information	SCN accompanied by Information
Time to reply to be prescribed in SCN [min. 7 to max. 30 days]	Time to reply to be prescribed in SCN [Anytime]
Order u/s 148A within 1 month	Order u/s 148A No Time limit
<u>Issue of SCN u/s 148A</u> No Time limit	<u>Issue of SCN u/s 148A</u> Time limit: ⇒ Normally – 3 yrs. ⇒ Esc. income ≥ 50L – 5 yrs. [From the end of relevant AY]
<u>Notice u/s 148</u> ⇒ Normally – 3 yrs. ⇒ Esc. income ≥ 50L - 10 yrs.	<u>Notice u/s 148</u> ⇒ Normally – 3 yrs.3 m ⇒ Esc. income ≥ 50L – 5 yrs.3m [From the end of relevant AY]
<u>Permission</u> Within 3 yrs. – CIT After 3 yrs. – CCIT	<u>Permission</u> Addl. CIT/JC

BLOCK ASSESSMENT IN SEARCH CASES

If search is initiated **before 1st September, 2024**, then assessment in such case shall be done under **section 147**.

However, if search is initiated **on or after 1st September, 2024** then assessment in such case shall be done as per the provisions of Chapter XIV-B (**section 158B to 158BI**). Assessment u/s 158B to 158BI is known as **block assessment**.

Block assessment means one **consolidated*** assessment of block period. **Block period** means:

Period of **6 years preceding** the year in which search is initiated
plus

Period starting from the **1st April** of the year in which search is initiated up to the date when **search is completed**.

* Normally, assessment is done year wise but in search cases, single assessment is done for multiple years.

→ PROCEDURE – 3 STEPS:

Step 1:

After the search is completed, the A.O. shall issue a **notice u/s 158BC** to the person on whom search is conducted requiring him to **file the return** of the block period within the time prescribed in such notice (**max. 60 days** can be prescribed).

Step 2:

After the return is filed u/s 158BC, the A.O. shall issue a **notice u/s 143(2)** requiring such person to **attend the office** and **produce evidence**. This notice should be served i.e. it should be received by the person searched within **3 months** from the end of the year in which return [in response to above notice] is filed.

Step 3:

After calling such person and after hearing such person, the A.O. shall compute the total income and tax of the block period. This is done by passing an **assessment order u/s 158BC**. As per sec. 158BE, order of block assessment should be passed **within 12 months** from the end of the **month** in which **search is completed** [i.e. the month in which last of the authorisations for search is executed].

→ NOTES:

- 1) Tax on total income of the block period shall be calculated @60% as follows:

	₹
Total income (ignoring loss) disclosed in return filed u/s 158BC	A
Total income (ignoring loss) assessed in block period	B
Total income (ignoring loss) returned in block period	C
Total income (ignoring loss) of the current year up to the date of completion of search	D
Undisclosed income determined by the A.O. based on evidence found during search	E
TOTAL INCOME OF BLOCK PERIOD	XXX
Less: Total income under B, C and D	- XX
UNDISCLOSED INCOME OF BLOCK PERIOD	XXX
Tax on above @60% u/s 113 [No SC and HEC]	XXX
Add: Interest u/s 158BFA on non-filing/late filing of return u/s 158BC [1.5% pm of above tax] from the expiry of prescribed time to file the return up to the date of assessment u/s 158BC [part of the month is treated as full month]	+ XX
Total amount payable	XXX

In addition to above, the assessee is also liable to pay **penalty u/s 158BFA @50% of the tax** on undisclosed income. However, this penalty and penalty u/s 271AAD, 271D, 271E and 271DA shall not be levied if the assessee:

- Declares the undisclosed income in the return filed u/s 158BC,
- Pays the tax on the same,
- Furnishes the proof of the same and
- Does not appeal against such income

Interest u/s 234A/B/C and Penalty u/s 270A is not applicable in case of block assessment.

- 2) Once search is initiated, all the **pending assessment** proceedings u/s 143(3)/144/147 in respect of block period

shall **"abate"**. However, if the block assessment proceedings are **annulled** in any appeal/legal proceedings then the abated proceedings shall **revive**. The revived asst shall be completed **within 1 year** from the end of the **month of such revival**.

- 3) Return required u/s 158BC **cannot be revised** and it shall **not** be **processed** u/s 143(1).
- 4) If the A.O. is satisfied that the seized BDMBJO belongs to some **"other person"** then he shall **handover** such BDMBJO to the A.O. having jurisdiction over such other person. In such case, the other A.O. shall proceed u/s 158BC against such other person.
As per sec. 158BE, the time limit for completion of assessment in the case of such other person shall be **12 months** from the end of the **month** in which the **notice under section 158BC was issued** to such other person.
- 5) As per sec. 158BG, block assessment should be done by an A.O. **not below the rank of AC/DC**. Before issuing notice u/s 158BC and before passing order u/s 158BC, the A.O. shall take the **prior approval of JC/Addl. CIT**.

POWER OF CIT(A):

Earlier, CIT(A) had power to confirm, reduce, enhance or annul the assessment. He didn't have power to set aside the assessment and direct the A.O. to make fresh assessment.

W.e.f. 1/10/2024, CIT(A) also has the power to **set aside an assessment u/s 144** and direct the A.O. for make a fresh assessment. It should be noted that he cannot set aside any type of assessment. He can **only** set aside a **best judgment assessment**.

TIME LIMIT FOR APPEAL TO ITAT:

Earlier, the time limit for filing appeal to ITAT was **60 days** from the **date of receipt** of order of CIT(A)/CIT/CCIT.

W.e.f. 1/10/2024, this time limit is amended to **2 months** from the **end of the month** in which order of CIT(A)/CIT/CCIT is received.

APPEALS BY DEPARTMENT:

As per CBDT's Circular No. 09/2024 (dated 17th Sept., 2024), **monetary limits for filing appeals** by department have been amended. Accordingly, the department shall file appeal only if the tax effect is more than following amount:

- ➔ For Appeal to **ITAT** ₹ **60,00,000**
- ➔ For Reference to **HC** ₹ **2,00,00,000**
- ➔ For Reference to **SC** ₹ **5,00,00,000**

TDS AND TCS:

1) Change in TDS rates:

	Before 1/10/2024	On/after 1/10/2024
u/s 194G, H, DA, IB and M	5%	2%
u/s 194-O	1%	0.1%

- 2) Finance Act (No.2) 2024 has clarified that **sec. 194C excludes payments covered u/s 194J**.
- 3) Finance Act (No.2) 2024 has clarified that the threshold limit u/s **194IA** of ₹ **50 lakhs or more** is **per immovable property**. Accordingly, TDS u/s 194IA is applicable if aggregate amount paid or payable by all the buyers to all the sellers per property is ₹ 50 lakhs or more.
- 4) **Prosecution u/s 276B** [3 months to 7 years] is applicable only if the **TDS is not deposited up to the due date of filing TDS return**.
- 5) Earlier, **penalty u/s 271H** [min. 10,000 to max. 1,00,000] was levied if the TDS return was delayed beyond **1 year** from the due date of filing TDS return. Now, this penalty is levied for **delay beyond 1 month** from the due date of filing TDS return.

- 6) Earlier, TDS u/s 193 was not applicable on any Central/State Govt. securities [except 7.75% Savings Taxable Bonds, 2018, if interest exceeds 10,000]. Now, TDS u/s 193 will be applicable on 7.75% Savings Taxable Bonds, 2018, **Floating Rate Savings (Taxable) Bonds, 2020** and **other notified Govt. securities** if interest exceeds ₹ 10,000.
- 7) Employer shall give **credit of TCS** also while deducting TDS on salary.
- 8) **TDS/TCS Returns** i.e. Quarterly statements can be rectified by delivering a **correction statement within 6 years** from the end of the year in which such statement is required to be delivered.
- 9) **Sec.194Q** [Purchase of goods exceeding ₹ 50 lakhs] is now **eligible for lower TDS** u/s 197 and **sec.206C(1H)** [Sale of goods exceeding ₹ 50 lakhs] is now **eligible for lower TCS**.
- 10) Earlier, interest on late deduction as well as late deposit of TCS was 1% p.m. Now, interest on **late deduction** of TCS is **1% p.m.** and interest on **late deposit** of TCS is **1.5% p.m.** [Same as interest on TDS].
- 11) Scope of **section 206C(1F)** providing for TCS on Motor Car is widened to include **other luxury goods** as may be notified by CG **w.e.f 1st Jan 2025**.

TAXATION OF NR

- 1) Earlier, tax rate for **foreign companies** was 40%. Now, it is amended to **35%**.
- 2) **LTCG** covered under **chapter XII & XIIA** shall be subject to:
 - **10%** tax without indexation [if transfer before 23/7/24]
 - **12.5%** tax without indexation [if transfer on/after 23/7/24]However, LTCG u/s 115AD [where STT is not paid] shall be subject to 10% tax without indexation [whether the transfer is before or after 23/7/24].
- 3) **New section 44BBC** providing for presumptive taxation in case of **NR** carrying business of **operating cruise ships** in India is introduced. As per this section, taxable income of such business = **20% of Gross Receipts**.

- 4) **New section 10(15B)** is introduced which will **exempt** the income by way of **lease rentals from cruise ships** received by a foreign company from another foreign company opting sec.44BBC (provided both the foreign companies are subsidiaries of the same holding company).

EQUALISATION LEVY:

Equalization levy of 2% is discontinued **w.e.f 1st August, 2024.**

CHARITABLE TRUST:

- 1) Time limit for granting registration to trust amended to **six months** from the **end of the quarter** in which the application was received. Earlier, it was 6 months from the end of the month in which the application was received.
- 2) Before 1st October, 2024, a charitable trust had an option to claim exemption u/s 11 and 12 or to claim exemption u/s 10(23C). **W.e.f. 1st October, 2024**, it is compulsory for the trust to claim exemption u/s 11 and 12. **Option of claiming exemption u/s 10(23C) is discontinued.**

BLACK MONEY ACT:

Section 42 and 43 of Black Money Act levies penalty of ₹10 lakhs for non-reporting of foreign assets in the income tax return.

Before 1st October, 2024, this penalty was not applicable for non-reporting of **foreign bank a/c** [having aggregate balance **up to ₹ 5 lakhs** throughout the year].

W.e.f. 1st October, 2024, this penalty is not applicable for non-reporting of **any foreign asset** [other than immovable property] if the value of such foreign assets is **up to ₹ 20 lakhs.**

TRANSFER PRICING:

Earlier, sec. 94B was not applicable to Banking Co., NBFC and Insurance Co. Now, sec.94B is not applicable to **finance companies [located in IFSC]** also.

MISCELLANEOUS PROVISIONS/SUNDRY IMP TOPICS:

1) SECTION 245(2):

This section empowers the A.O. to withhold the refund due to assessee in case his assessment is pending. Earlier, there was no limit up to which the A.O. can withhold the refund. Now, there is a **time limit for withholding the refund**. The A.O. can withhold the refund up to **max. 60 days** from the date of passing of assessment order.

2) SECTION 285:

This section requires a Non-resident to furnish a statement of the activities of it's liaison office in India in Form 49C. Earlier, this statement was supposed to be furnished within 60 days from the end of the financial year. Now, such statement is required to be furnished **within such period as may be prescribed**.

Earlier, there was no penalty for failure to deliver this statement. Now, failure to deliver such statement shall attract **penalty u/s 271GC** as follows:

- ₹ 1,000 per day for delay up to 3 months or
- ₹ 1,00,000 for delay in other cases

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