

AMENDMENTS FOR CMA FINAL DIRECT TAX

AMENDMENT IN INCOME ESCAPING ASSESSMENT

w.e.f 01.09.2024

Income escaping assessment (Section 147)

- If any income chargeable to tax, in case of assessee, has escaped assessment for any AY, AO may assess or reassess such income or recompute loss
- For purposes of assessment or reassessment, AO may assess or reassess income in respect of any issue, which has escaped assessment, and which came to notice subsequently in course of proceedings, irrespective of fact that 148A have not been complied with respect to that issue.

Issue of notice where Income has escaped assessment (Section 148)

- Before making assessment u/s 147, AO shall, issue a notice to assessee, along with copy of order passed u/s 148A, requiring him to furnish ROI within such time specified in notice which in **no case can exceed 3 months** from end of month in which such notice is issued.
- Provided that no notice shall be issued unless there is information with AO which suggests that income chargeable tax has escaped assessment in case of assessee for RAY
- Provided further that where AO has received information under scheme notified under section 135A (Faceless collection of Information), no notice under this section shall be issued without prior approval of specified authority.
- Provided that any ROI furnished after expiry of the period specified in the notice under the said sub-section, shall not be deemed to be return u/s 139.

Information with AO which suggests that income chargeable to tax has escaped assessment means :

- Any info in case of assessee for RAY in accordance with **risk management strategy** or
- **Audit objection** to effect that assessment of assessee has not been made in accordance with provisions of this Act or
- Any info received under agreement referred to in **section 90/90A (DTAA)**
- Any info made available to AO under **scheme notified u/s 135A**
- Any info which requires action in consequence of **order of Tribunal or a Court**
- Any info in case of assessee emanating from **survey conducted u/s 133A**, other than under sub-section (2A), on or after 01.09.2024.

Procedure before issuance of notice under section 148 (Section 148A)

- OBH to be provided to assessee by notice to show cause as to why a notice u/s 148 should not be issued to him and such notice shall be accompanied by info which suggests that income chargeable to tax has escaped assessment in his case for RAY.
- AO shall after receipt of reply of assessee pass order with approval of specified authority determining whether or not it is fit case to issue notice u/s 148
- 148A shall not apply to income chargeable to tax escaping assessment for any AY in case of assessee where AO has received info under scheme notified u/s 135A

Sanction for issue of notice [Sec. 151]

Specified authority for 148 and 148A shall be Additional Commissioner or Additional Director or Joint Commissioner or Joint Director.



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Time limit for notice u/s 148 / 148A [Sec. 149]

The time limit for issuance of notice is as under :

Case	Time limit for issuance of notice	
	U/s 148	U/s 148A
If income chargeable to tax, which has escaped assessment, amounts to (or is likely to amount to) Rs. 50 lakh or more	within 5 years and 3 months from the end of the relevant assessment year	within 5 years from the end of the relevant assessment year.
In any other case (Less than 50 Lakh)	Notice can be issued within 3 years and 3 months from the end of the relevant assessment year.	Notice can be issued within 3 years from the end of the relevant assessment year.

Block Assessment in Search and Requisition taking place on or after 01-09-2024

Finance Act 2024 introduced new block assessment scheme in search and requisition taking place on or after 01-09-2024, and total income of block period shall be assessed jointly.

Block period Sec. 158BA

- Where search takes place on or after 01-09-2024, total income of block period shall be assessed.
- Block period will consist of 6 PY preceding PY in which search took place. Thus, if search is conducted on 15-10-2024, block period will consist of PY 2023-24, 2022-23, 2021-22, 2020-21, 2019-20 and 2018-19.
- Block period will also include period starting from 1 April of PY in which search was initiated and ending on date of execution of last of authorizations for search.
- If any assessment or reassessment is pending during block period, it shall abate and be considered for assessment during block period. If block assessment is annulled in appeal, abated assessment shall be revived.
- If reference to TPO has been made or order has been passed by TPO during course of any assessment proceedings, it shall abate w.e.f from date of initiation of search or requisition.

- Block period for “other person” shall be same as that for “person searched”.

Total income Sec. 158BB

- Total income (other than undisclosed income discovered in search) of PY in which search took place shall be assessed independently in accordance with normal provisions of the Act.
- “Undisclosed income” includes any money, bullion, jewellery, or expense or income based on any entry in BOA which have not been disclosed for income tax purpose. Covers incorrect expense claims, exemptions, deductions, or allowances for block period.
- Income included in block period will be aggregate of returned income, assessed income, declared income, income determined for current year and undisclosed income determined by AO.
- Assessed losses/brought forward losses of PY comprising in block period shall be ignored. They may be considered in regular assessments subsequent to block assessments.
- Total income for block period shall be reduced by returned income, assessed income, and income determine for current year, and remaining income shall be charged to tax at 60%.

Filing of return

- AO may issue notice to file return within 60 days declaring therein total income, including undisclosed income for block period.
- Return filed above shall be considered as return filed u/s 139, and proceedings for assessment shall be initiated u/s 143(2). Return filed beyond time allowed in notice not be treated as return filed u/s 139. Right to file revised return is not available for above return

Assessment

- Block assessment shall be done by AO not below rank of Deputy/Assistant C/D with prior approval of Additional Joint C/D
- Once proceedings are initiated in this chapter, no proceedings under 148 shall be initiated.
- Assessment of block period shall be carried out in accordance with provisions of Act as applicable to block period, i.e. sections 142, 143(2), 143(3) 144, 145, 145A and 145B.
- Section 143(1) shall not apply to the assessment under this Chapter.
- Procedure provided u/s 144C (DRP) shall not be applicable for proceedings under this Chapter.
- Assessment for block period shall be completed within 12 months from end of month in which last of warrant of authorization for search or requisition was executed.
- Assessment of other person shall be completed within 12 months from end of month in which notice is issued to file ROI for block period

In both above cases, where reference is made to TPO, above time limits will be extended by 12 months

- Where assessment under this chapter is pending and subsequent search or requisition is made, such pending assessment will be completed first and thereafter subsequent assessment shall be made. Provide that where remaining period for completing subsequent assessment is less than 3 months, such period shall be extended to 3 months from end of month in which earlier assessment was completed

Interest and Penalty Sec. 158BFA

- No interest u/s 234A, 234B or 234C or penalty u/s 270A shall be levied or imposed upon assessee in respect of undisclosed income assessed or reassessed for block period.
- If not return is filed in response to a notice or is filed beyond time allowed, interest shall be levied at 1.5% of tax on undisclosed income for every month or part of the month.
- FROM : Day following expiry of time allowed in notice to file ROI for block period
- TO : Date of completion of assessment

- AO or CIT(A) may levy a penalty equal to 50% of tax levied on undisclosed income.
- Provided that no order, imposing above penalty or 271AAD or 271D or 271DA or 271E shall be made for block period in respect of a person if –
 - i. Such person has furnished ROI for block period
 - ii. Tax payable of such ROI has been paid or , if assets seized consist of money , assessee offers money so seized to be adjusted against with return; and
 - iii. Evidence of tax paid is furnished along with return; and
 - iv. Appeal is not filed against assessment of that part of income which is shown in return :
- No exception from penalty where undisclosed income determined by AO > Income as per return filed by assessee. Penalty in such case will be levied on such excess amount.
- Order u/s 158BFA is appealable before the ITAT

No order imposing a penalty shall be made :-

- a. Unless assessee has been given OOBH.
- b. By Deput/ Assistant C/D. where penalty > 2.5 lakh except with approval of Additional/ Joint C/D
- c. In case where assessment is subject-matter of appeal to CIT (Appeals) ITAT, after expiry of FY in which penalty proceedings are completed, or 6 months from end of FY in which order of CIT (A)/ ITAT, whichever period expires later.
- d. In case where assessment is subject-matter of revision u/s 263, after expiry of 6 months from end of FY in which such order of revision is passed;
- e. In any case other than clause (c) and (d), after expiry of FY in which proceedings are completed, or 6 months from end of FY in which notice for imposition of penalty is issued.

In computing above period of limitation, following period shall be excluded :

- Time taken in giving opportunity to assesses to be reheard under proviso to section 129 or
- Period during which proceedings are stayed by an order on injunction of any court

Where after exclusion, period available is less than 60 days, time shall be extended to 60 days. Also, if period of limitation expires before end of month, extend such period to end of month.

Computation of the total income of the block period

Total income for block period is computed by aggregating both disclosed and undisclosed income. Disclosed income (excluding any losses) is deducted from total income this is because undisclosed income is taxed @60%, while disclosed income is assessed separately under other provision of Act. Additionally, the tax shall be increased by a surcharge, if any, levied by any Central Act.

<u>Particulars of income</u>
Total income (ignoring loss) disclosed by assessee in return furnished under block assessment[A]
Add: Total income (ignoring loss) declared by assessee in ROI u/s 139/142 (1)/ 148 for block period [B]
Add: Total income (ignoring loss) assessed in hands of assessee before date of initiation of search for block period during : Scrutiny assessment u/s 143(3)/ Best judgment assessment u/s 144/Reassessment u/s 148[C]
Add : Total income of current year (ignoring loss) determined on basis of entries in BOA and other documents maintained up to date of last authorization for search or requisition [D]
Add : Undisclosed income determined by Ao based on evidence or information found during search, requisition or proceedings [E]
Total income for block period [$F = A + B + C + D + E$]
Less : Disclosed income for block period [$G = B + C + D$]
Total undisclosed income for the block period [$H = F - G$]

Notes : If income declared by assessee or assessed in hands of assessee is a loss, it is ignored for purpose of calculating total income.

- Losses b/f from periods before block period or unabsorbed dep cannot be set off against undisclosed income but can c/f for set off in subsequent years in which block period ends for remaining period taking into account the block period
- Where any evidence found as a result of search or requisition by AO or come to his notice during course of proceedings, or determined on basis of entries in BOA, relates to any IT or SDT, pertaining to period beginning from 1st April of PY in which last of authorizations was executed and ending with date on which last of the authorizations was executed, such evidence shall not be considered for purposes of determining total income of block period and such income shall be considered in assessment made under other provisions of this Act.
- While determining undisclosed income of firm – Determine such income before allowing salary, interest, remuneration etc to non working partner.

AMENDMENT IN APPEAL TO ITAT

- Every appeal to ITAT has to be filed within 60 days from date on which order sought to be appealed against is communicated (**w.e.f. 01.10.2024 appeal has to be filed within 2 months from End of month**)

Section 268A: Filing of appeal by ITA:

This section empowers CBDT to fix monetary limit to regulate appeal by ITA, in order to avoid litigation in small cases.

As per current notification, department can file appeal only if TAX EFFECT exceeds following amt:

For Appeal to	Tax Effect (Each AY)[w.e.f. 17.09.2024]
ITAT	60 lakhs
High Court	2 crores
Supreme Court	5 crores

Note: Appeal should not be filed merely because tax effect exceeds the above monetary limits

AMENDMENT IN ASSESSMENT

- JCIT (A) / CIT (A) has no power to set aside assessment and refer back to AO for fresh assessment, while ITAT has their power

However w.e.f 01.10.2024 Where appeal is against order of assessment u/s 144, CIT (A) shall have power to act aside and refer case back to AO for making fresh assessment.

- **Submission of statement by a non-resident having liaison office.**
- **NR having liaison office in India shall, in respect of its activities in FY shall deliver to AO having jurisdiction, within 60 from end of FY, statement in such form as prescribed.**

Penalty u/s 271GC

- **If Period of failure is upto 3 months : 1000 for every day during which failure continues**
- **in any other case 100,000**

<u>Section</u>	<u>Nature of default</u>	<u>Imprisonment and Fine</u>
276B/ 276BB	TDS/ TCS deducted/ collected but not paid to CG Note : No prosecution if TDS/TCS amount is upto 25 lakhs and delay in deposit is less than 60 days. In case of habitual defaulters, prosecution may be initiated with previous approval of two CCIT/DGIT even through amount is upto 25 lakhs. w.e.f 01.10.2024 276B shall not apply if payment of TDS is made upto date of filing of TDS statements	3 months to 7 years (+) fine

Penalty under Black money Act :

Failure / Default	Quantum of penalty
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<p>Failure to furnish ROI relating to foreign income & asset by OR NOR</p> <p>Failure to furnish information in ROI or furnishing inaccurate information about foreign asset by ROR</p>	<p>10 lakh</p> <p>No Penalty is respect of an asset or assets (other than immovable property) where aggregate value of such asset or assets is upto 20 Lakhs.</p> <p>Earlier Provision :</p> <p>[No penalty in case of undisclosed asset is one or more bank accounts : if aggregate balance in foreign bank a/c does not exceed 5 lakhs at any time during P.Y.]</p>
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• **Exemption is available in respect of income of universities, hospitals, educational institutions, medical institutions etc, which exist solely for non profit motive [Section 10 (23C)] – First Regime [No approval required]**

1. Universities or Educational Institutions or Hospitals or Medical Institutions substantially [Govt. Grant > 50% of Total Receipts] financed by Government
2. Universities or Educational Institutions or Hospitals or Medical Institutions whose annual receipts not exceed 5 crore (Limit of 5 cr is aggregate for all)
3. **Other Educational and medical institutions not covered above will be required to get approval for claiming exemption of income which is similar to section 11 to 13**

(w.e.f. 01.10.2024 these institutions have to take registration by default in second regime only)

Sunset provision of the First regime [Amendment vide FA 2024]

1. Application seeking approval u/s 10(23C) filed:

Before 1st Oct. 2024 & are pending to be processed – PC/C to consider under first regime itself.

On or after 01.10.24 – Not to be considered under first regime by PC/C

2. Approved trusts u/s 10(23C) would continue to get benefit of exemptions u/s 10(23C) till validity of said approval. Subsequently, they can apply for registration u/s 12A.

AMENDMENT IN TRUST REGISTRATION

* Order to be passed within 6 months from end of quarter w.e.f. 01.10.2024

**Note : Trust already registered u/s 12A/12AA req to be registered u/s 12AB till 30.06.2024
Provided that where application is filed beyond time allowed in all above cases. PC/C , if he considers that there is reasonable cause for delay in filing application, condone such delay**

Section 115TD : Exit Tax Clarification

Where any trust registered u/s 12AB or approved u/s 10(23C) merges with another trust, provision of

section 115TD - Exit tax (i.e., tax on accreted income) shall not apply if:

- (a) the other trust or institution has similar objects,**
- (b) the other trust is registered u/s 12AB or approved u/s 10(23C), AND**
- (c) the said merger fulfils prescribed conditions.**

Assessee in Default [Section 201]

- If assessee **fails to deduct TDS or after deduction fails to pay TDS** to Government, assessee will be deemed to be **A.I.D.**. Any person who fails to deduct TDS shall **not be deemed to be A.I.D.** in respect of such tax if such Deductee -
 - Has **furnished** his ROI and shown **income** in his ROI
 - Has paid **tax** due on income and Deductee furnishes certificate to this effect from accountant

However **Interest liability @1%** shall continue to apply from date on which such tax was deductible to date ROI

Interest on Later Deduction/ Late Payment of TDS [Section 201(1A)]

- **In Case of Later Deduction** : Interest @1% per month or part of month on amount of TDS not deducted from the date on which tax was deductible till date on which tax is actually deducted.
- **In Case of Late Payment** : Interest @1.5% per month or part of month on amount of TDS not paid from the date on which tax was deducted till date on which tax is actually paid.
- Time limit for deeming person to be A.I.D. for failure to deduct TDS from payment made to R/NR:
 - **6 years** from end of FY in which payment is made or credit is given; OR
 - 2 years from end of FY in which correction statement is delivered , whichever is later

There is no time limit for passing order for deeming a person to be A.I.D. for other cases of default

Due Dates of TDS Return / TDS Statement Quarter Ended

Month	TDS Statements	TCS Statements
June	31 st July	15 July
September	31 st October	15 October
December	31 st January	15 January
March	31 st May	15 May

Correction statement can also be filed within 6 years from end of FY in which statement was required to be filed

Motor Vehicle [Section 206C(1F)]

- Sale consideration of (motor vehicle or **any other goods as specified by CG by notification in official gazette w.e.f. 01.01.2025**) > 10 Lakhs : TCS@1% of Sale consideration.
- No TCS is case of sale of motor vehicle by **manufacturer** to **dealer** / distributor
- TCS on each sale value applicable and not on aggregate.

Consequence of non collection or non payment of TCS

- If person does not collect tax or after collecting fails to pay, liable to pay simple Interest @1% p.m. or part on amount of such tax from date on which such tax was collectible to the date on which the tax was actually paid **w.e.f 01.04.2025 TCS 1.5% per month or part of month will apply**
- Where a person is not deemed to be A.I.D., interest shall be payable by collector from date on which tax was collectible to the date of furnishing ROI by such buyer

Fees for Default in Furnishing TDS/TCS Statements [Section 234E]

- Fees is payable @₹ 200 per day after due date till actual date of furnishing.
[Note : Total amount of fees shall not exceed TDS/TCS amount]
- Above fees is not treated as penalty, so deduction is allowed under PGBP.
- Penalty [Section 271H] : **minimum of 10,000 to maximum of 1,00,000** for not furnishing TDS/TCS statement time or furnishing incorrect information
- **No penalty** u/s 271H, if TDS/ TCS statement is furnished within **one month** of the due date along with application interest and fee.

Where refund arises as result of giving effect to order u/s 250/ 254/ 260/262/ 263/264, wholly or partly, otherwise than by making a fresh assessment or reassessment [i.e. APPEAL EFFECT], assessee shall be entitled to receive, in addition to above interest payable, additional interest on such refund amount @3% p.a. for period beginning from date following date of expiry of the time allowed u/s 153(5) to date on which refund is granted. Further, in case where extension is granted by PC/C, period of additional interest, if any, shall begin from the expiry of such extended period

Provided that where proceedings for assessment or reassessment are pending in respect of assessee, in computing period for determining additional interest payable to such assessee period beginning from date on which such refund is withheld by AO as per 245 and **ending with date up to which such refund is withheld, shall be excluded .**

Set off and withholding of refunds in certain cases.

- Where refund becomes due to any person , AO/ C/ PC/ CC/PCC may set off amount to be refunded against sum, if any, remaining payable by person to whom refund is due, after giving an intimation in writing to such person.
- AO may withheld refund in case any proceeding is pending against the assessee, for reasons to be recorded in writing and with previous approval of PC/C **upto sixty days from date on which such assessment or reassessment is made**

AMENDMENT IN NR TAXATION & INTERNATIONAL TAX

Section	Applicability	Presumptive Income	Other Points
44B (Shipping Business other than cruise ships referred to in 44BBC)	NR (compulsory)	7.5% of Following : <ul style="list-style-type: none"> • Amount charged for carriage of passengers, livestock, mail or goods from any part in India. • Amount received in India for carriage of passengers, livestock, mail or goods from any part of outside India. [Above includes demurrage or handling charges]	<ul style="list-style-type: none"> • Section 28 to 43A shall not apply Therefore: B/f Loss = Allowed Unabsorbed Dep. = NA VIA Deduction = NA • No deduction of any expenditure

Section 44BBC Cruise shipping business of Non resident	Presumptive Income : 20% of Amount charged for carriage of passengers Section 28 to 43A shall not apply
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Section 10 (15B) Further, lease rentals paid by company opting for 44BBC, shall be exempt in hands of recipient company, if such company is foreign company and such recipient company and first company are subsidiaries of same holding company and such income is received or accrues or arises in India w.e.f 01.04.2030

SPECIAL PROVISIONS PRESCRIBED UNDER CHAPTER XII – A (Tax Rate on NRI)

INCOME	TAX RATE
Investment Income	20% (Gross Basis without Deduction) [Ch VIA Ded. Also NA]
LTCG	10% [Without Indexation] [First proviso to 48 available] 12.5% w.e.f. 24.07.2024
Other Income	Normal Provisions

Income from Units of UTI / Mutal Funds (Covers both equity and debt oriented) purchased in Foreign currency to Overseas Financial Organization (Offshore Funds) [Section 115AB]

- Income and LTCG from units of UTI/ Mutual Fund both TAXABLE @10%
- TDS u/s 196B @10% **w.e.f 23.07.2024 Tax on LTCG and TDS rate on LTCG is 12.5%**

Special provision for computing tax on income from bonds or GDR purchased in foreign currency or capital gains arising from their transfer [Section 115AC]

- Interest / Dividend and LTCG on Transfer both TAXABLE @10%
- TDS u/s 196C @10% **w.e.f 23.07.2024 Tax on LTCG and TDS rate on LTCG is 12.5A%**

Tax Rate on Income of FII :

Income	Tax Rate
Interest on Securities [other than 115A] Dividend	20% (10% in case of specified fund without surcharge and HEC)
STCG u/s 111A	15% (20% w.e.f 23.07.2024)
STCG on other Securities	30%
LTCG u/s 112 A	Upto = 1 lac Exempt, Excess Taxable @10% Upto = 1.25 lac Exempt, Excess Taxable @12.5% w.e.f 23.07.2024 Note : 125,000 limit is aggregate for both above LTCG
LTCG on other Securities	10%

Other Income	Normal Provision
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Reference to Transfer Pricing Officer [Section 92CA]

- TPO can also determine ALP of other IT identified subsequently in course of proceedings before him (**Available in respect of SDT as well**)
- TPO can also determine ALP of other IT for which assessee has not furnished report under 92CE (**Available in respect of SDT as well**)
- **Section 94B** will not be applicable on Indian company or PE of a foreign company engaged in business of – banking or insurance or a **finance company located in IFSC** or notified NBFCs.

w.e.f 01.08.2024 165A Omitted

~~Section 165 A : EL @2% would be chargeable for consideration received or receivable by ECO from e-commerce supply or services provided by it—~~

- ~~• To a person resident in India ; or~~
- ~~• To a non-resident fro~~
 - ~~• Sale of advertisement, which targets a customer, who is resident in India or a customer who accesses advertisement through IP address located in India; and~~
 - ~~• Sale of data, collected from a person who is resident in India or from a person who uses IP address located in India.~~
- ~~• To person who buys such goods or services or both using IP address located in India.~~

~~Equalization levy shall not be charged—~~

- ~~• Where ECO have PE in India and services are effectively connected with such PE~~
- ~~• Where EL is leviable u/s 165; or~~
- ~~• Sales / Turnover of ECO from Aggregate services provided in above 3 cases in less than 2 crores.~~

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