

(A) INCOME TAX

RATES OF TAX FOR INDIVIDUALS (MEN/WOMEN)

TOTAL INCOME	TAX
Upto ₹ 2,50,000	Nil
Next ₹2,50,000 i.e. ₹2,50,001 to ₹5,00,000	@ 10%
Next ₹5,00,000 i.e. ₹5,00,001 to ₹10,00,000	@ 20%
Above ₹10,00,000	@ 30%

Senior Citizen: However for resident individual who is at any time during the Previous Year is-

- i) 60 years or more but less than 80 years of age- Income shall be exempted upto **₹3,00,000**. Thereafter the aforesaid slab is to applied.
- ii) 80 years of age – Income shall be exempted upto **₹5,00,000**. Thereafter, the aforesaid slab is to applied.

Surcharge = 12% , If the total income exceeds ₹ 1crores.

Education Cess: 2% on Total Tax

Secondary Higher Education Cess: 1% on Total Tax.

REBATE [SECTION 87A]

Section 87A: Rebate of income-tax in case of certain individuals.:

An assessee, being an individual resident in India, whose total income does not exceed five hundred thousand rupees, shall be entitled to a deduction, from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to hundred per cent of such income tax or an amount of two thousand rupees, whichever is less.”

Summary:

- (1) Allowed to resident Individual only
 - (2) Whose total income does not exceed ₹ 5,00,000.
 - (3) Amount of Rebate: (i) 100% of income tax payable or ₹ 2,000 ; lower
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Section 288A: Total Income shall be rounded off to nearest multiples of ₹10

Section 288B: Tax Liability shall be rounded off to nearest multiples of ₹10

TAX RATES PARTICULARLY SPECIFIED ON CERTAIN INCOMES

Section	Income	Income Tax Rate A.Y. 2016-17
111A	Short Term Capital gains on sale of Equity shares and units of Equity oriented Fund on which STT has been paid	15% subject to basic exemption limit for resident assessee.
112	Long Term Capital Gains	However, the benefit of 10% tax without

	General Rate: 20% subject to basic exemption limit for resident assessee. For Non-resident assessee without basic exemption limit.	indexation or 20% tax with indexation is available on (1) Listed Shares (2) Zero Coupon bonds In case of mutual fund the assessee shall have to pay 20% tax with indexation benefit.
115BB	Winnings from lotteries, crossword puzzles, or races including horse races or card games and other games of any sort or from gambling or betting of any from or nature whatsoever	30% without basic exemption limit

MARGINAL RELIEF ON SURCHARGE

1) Marginal Relief w.r.t surcharge is available to all assessee where the total Income exceeds ₹ 1crores / ₹ 10 crores.

Quantum of Marginal relief = Additional Income tax payable along with surcharge on excess income over 1 Crores/ ₹ 10 crores (-) Amount of income exceeding ₹ 1 crores/ ₹ 10 crores.

Example: Total Income of an Individual (Aged 45 years) is ₹ 1,01,00,000. Compute Income tax Payable for A.Y 2016-17.

Solutions:

(1) Tax on ₹ 1,01,00,000 =	
Upto ₹ 2,50,000	NIL
Next ₹ 2,50,000 @ 10%	25,000
Next ₹ 5,00,000 @ 20%	1,00,000
On bal. ₹ 91,00,000 @ 30%	27,30,000
	28,55,000
Add: Surcharge @ 12%	3,42,600
	31,97,600

(2) Tax on ₹ 1,00,00,000	
Upto ₹ 2,50,000	NIL
Next ₹ 2,50,000 @ 10%	25,000
Next ₹ 5,00,000 @ 20%	1,00,000
On bal. ₹ 90,00,000 @ 30%	27,00,000
	28,25,000
Add: Surcharge	NIL
	28,25,000

(3) Additional Tax paid = 31,97,600 – 28,25,000 = 3,72,600

(4) Marginal relief = 3,72,600 – 1,00,000 = ₹ 2,72,600

Tax payable =	₹ 31,97,600
Less: Marginal relief	2,72,600
	29,25,000
Add: EC&SHEC @ 3%	87,750
	30,12,750

OTHER THAN INDIVIDUALS

ASSESSEE	RATE OF TAX	SURCHARGE	EDUCATION CESS
PARTNERSHIP FIRM	30% ON WHOLE OF TOTAL INCOME	12%, if total income > ₹ 1crores.	3%
LOCAL AUTHORITY	30% ON WHOLE OF TOTAL INCOME	12%, if total income > ₹ 1crores.	3%
CO-OPERATIVE SOCIETY	Upto ₹ 10,000 @ 10% 10,001 to 20,000 @20% If exceeds ₹ 20,000 @ 30%	12%, if total income > ₹ 1crores.	3%
DOMESTIC COMPANY	30% ON WHOLE OF TOTAL INCOME	7%, if Total Income > ₹ 1 crore but ≤ ₹ 10 crores. 12%, if Total Income > ₹ 10 crores.	3%
FOREIGN COMPANY	50% ON SPECIFIED ROYALTIES AND TECHNICAL SERVICES AND 40% ON THE BALANCE	2%, if Total Income > ₹ 1 crores but ≤ ₹ 10 crores. 5%, if Total Income > ₹ 10 crores.	3%
HUF, AOP, BOI, ARTIFICIAL JURIDICAL PERSON	Upto ₹ 250000: NIL 250001 to 500000 @ 10% 500001 to 1000000 @ 20% Above 1000000 @ 30%	12%, if total income > ₹ 1crores.	3%

APPLICABILITY OF SURCHARGE

► ON INCOME TAX

Assessee	Situation	Rate (%)
Individual/HUF/AOP/BOI	Total income > ₹ 1crores	12%
Artificial Juridical Person	Total income > ₹ 1crores	12%
Firm	Total income > ₹ 1crores	12%
Domestic Company	Total Income > 1 crores but ≤ ₹ 10 crore	7%
	Total Income > ₹10 crore	12%
Foreign Company	Total Income > 1 crores but ≤ ₹ 10 crore	2%
	Total Income > ₹10 crore	5%
Co-operative society , Local Authority	Total income > ₹ 1crores	12%

SALARY

Transport Allowance: Exemption upto ₹1600 p.m. for commuting between place of his residence and place of his duty. But in case of an employee who is blind or deaf and dumb (inserted w.e.f 23.9.2015) or orthopedically handicapped with disability of the lower extremities of the body, to meet his expenditure for commuting between his residence and place of duty – Exemption upto ₹3,200 per month.

BUSINESS PROFESSION

(1) **Additional depreciation:** Subsequent year depreciation allowed for remaining portion if in the year of acquisition asset is used for less than 180 days. Further, Rate of additional depreciation 35% in notified backward area of WB/Bihar/Telangana/ Andhra Pradesh

Additional Depreciation in case of new factory plant and Machinery [Section 32]

Where assessee is engaged in the business of manufacture or production of article or thing or in generation or generation and distribution of power then he shall be allowed 20% additional depreciation on the actual cost of new plant and machinery, which has been acquired and installed during the year.

From A.Y 2016-17: Additional depreciation shall be 35% instead of 20%,
[In case of manufacturing unit is set up on or after 1.4.2015 in any notified backward area, in the State of Andhra Pradesh or Telangana or Bihar or West Bengal, and the assessee acquires and installs any new plant or machinery between 1.4.2015 to 31.3.2020]

However if the asset is put to use for less than 180 days in the year of acquisition the rate of additional depreciation shall be 50% of the normal rate (i.e, 10%/17.5%) and in the immediately subsequent year balance 50% shall be allowed.

Plants on which additional depreciation shall not be allowed:

- (i) Second Hand Plant & Machineries; or
 - (ii) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house; or
 - (iii) any office appliances or road transport vehicles; or
 - (iv) Ship or aircraft
 - (v) Any machinery or plant for which 100% deduction/depreciation is allowed in the same year;
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(2) SECTION 32AC: SPECIAL DEDUCTION ALLOWED TO COMPANY FOR INVESTMENT IN NEW PLANT OR MACHINERY

(1) Where an assessee, being a company, engaged in the business of manufacture or production of any article or thing, acquires and installs new assets and the amount of actual cost of such new assets acquired and installed during any previous year exceeds ₹ 25 crore, then, there shall be allowed a deduction of a sum equal to 15% of the actual cost of such new assets for the assessment year relevant to that previous year [Section 32AC(1A)]

However, No deduction shall be allowed from A.Y 2018-19.

(2) **“new asset”** Same as Additional depreciation (exception under additional depreciation road transport vehicle are not included but u/s. 32AC any vehicle are not included).

(3) If the assets has been sold or transferred (except amalgamation or demerger or reorganisation) within a period of 5 years from the date of its installation, then deduction allowed u/s. 32AC shall be taxable under “Profit or Gains from Business or Professions ” in the year of such sale. Further, in addition to that if any capital gains arises on account of such transfer u/s. 50 shall also be taxable

(4) **In case of amalgamation/demerger**, the amalgamated/ the new company would required to hold such assets for the remaining lock in period. Otherwise taxable in same manner as given in point(3) in the hands of such amalgamated/new company.

Example: Compute Deduction allowed u/s. 32AC(1A)

Amount invested in new plant & Machinery: P.Y 2015-16 ₹ 25 crore P.Y 2016-17 ₹ 30 crore P.Y 2017-18 ₹ 30 crore	<u>Deduction allowed u/s. 32AC (1A):</u> In P.Y 2015-16 = NIL (since investment does not exceed ₹ 25 crore) In P.Y 2016-17 = 15% of 30 crore = ₹ 4.5 crore. In P.Y 2017-18 = Nil (No deduction shall be allowed w.e.f A.Y 2018-19)
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(3) SECTION 32AD: SPECIAL DEDUCTION ALLOWED TO ANY ASSESSEE FOR INVESTMENT IN NEW PLANT OR MACHINERY IN NOTIFIED BACKWARD AREA OF ANDHRA PRADESH/ TELANGANA/BIHAR/WEST BENGAL

[newly inserted from A.Y 2016-17]

(1) Where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Bihar or in the State of Telangana or in the State of West Bengal, and acquires and installs any new asset for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, there shall be allowed a deduction of a sum equal to 15% of the actual cost of such new asset for the assessment year relevant to the previous year in which such new asset is installed.

Point (2), (3) & (4): - same as section 32AC.

CLASS DISCUSSIONS

(1) Summary section 32AD:

- (i) any assessee set up manufacturing or production unit on or after 1.4.2015 in notified backward area in the state of Andhra Pradesh or Telangana or Bihar or West Bengal AND
- (ii) acquires and installed new asset (plant or machinery) between 1.4.2015 to 31.3.2020.
- (iii) Deduction allowed u/s. 32AD:- 15% of the actual cost of such new plant or machinery.

(2) Difference between section 32AC and 32AD

	Section 32AC(1A)	Section 32AD
Assessee:	Applicable to only company engaged in manufacturing or production.	Applicable to any assessee engaged in manufacturing or production.
Place of applicability:	Anywhere in India	Only Notified backward area in the state of Andhra Pradesh, Telangana, Bihar and West Bengal.
Minimum Investment	Deduction allowed only if gross investment in new asset exceeds ₹	No such limit.

Amount:	25 crore.	
Period of Setting up of unit	Existing manufacturing or production unit can take the benefit	Only unit set up on or after 1.4.2015 can take the benefit.
Deduction allowed till	P.Y 2016-17.	P.Y 2019-2020

(3) Unit set up in notified area in the state of Andhra Pradesh/ Telangana/ Bihar/West Bengal on or after 1.4.2015 can take benefit of both section 32AC(1A) and 32AD in addition to normal depreciation and additional depreciation u/s. 32.

(4) Notified backward area u/s. 32AD: BIHAR

1. Patna, 2. Nalanda, 3. Bhojpur, 4. Rohtas, 5. Kaimur, 6. Gaya, 7. Jehanabad, 8. Aurangabad, 9. Nawada, 10. Vaishali, 11. Sheohar, 12. Samastipur, 13. Darbhanga, 14. Madhubani, 15. Purnea, 16. Katihar, 17. Araria, 18. Jamui, 19. Lakhisarai, 20. Supaul, 21. Muzaffarpur.

Question 1: X Ltd. has set up a manufacturing unit on 1.04.2015, in a notified backward area in West Bengal. The company purchased Plant and Machinery as Under -

		<u>₹ crores</u>
01.05.2015	Factory plant & machinery	30
01.12.2015	Factory plant & machinery	10
01.06.2015	Motor Car	2
1.12.2015	Office appliances	8
		<u>50 crores</u>

Compute total deduction allowed to the assessee during the P.Y 2015-16 in relation to the above investment. Can the assessee claim additional depreciation in the next year in relation to the plant and machinery purchased during the year?

Question 2: Is there any change in your answer if in Question 1 the assessee is an Individual instead of company?

Question 3: Is there any change in your answer if in Question 1 the manufacturing unit is set up in Kolkata?

Question 4: X Ltd. has set up a new manufacturing unit in notified Backward area of Bihar. The Company has purchased a factory plant and machinery of ₹ 20 crores. Discuss the tax implication.

(4) SECTION 35: EXPENDITURE ON SCIENTIFIC RESEARCH

Section 35(2AA): weighted deduction of 200% shall be allowed on donation made to National Laboratory; Indian Institute of technology (IIT) or university or approved specified person for **approved** scientific research programme. [Now, as per the amendments, such scientific research programme must be approved by prescribed authority in order to get weighted deduction of 200%]

Section 35(2AB): Weighted deduction of 200% shall be allowed to a company assessee on in house scientific research subject to the following conditions -

- (i) such company should not be a company approved u/s. 35(1)(ia) [means don't take any donation from outside for scientific research]
- (ii) such company must engaged in Manufacturing any goods (including biotechnology product) other than goods of 11th Schedule
- (iii) make an agreement for co-operation with prescribed authority and
- (iv) fulfils such conditions with regard to maintenance and audit of accounts and also furnishing prescribed reports. [new compliance procedure inserted]

Compliance and monitoring procedures tightened as per the recommendation of C&AG

The prescribed authority must satisfy itself about the feasibility of conducting scientific research before granting approval and required to submit its report to the Principal chief commissioner/ chief commissioner or principal Director General/Director General.

(5) Interest on Borrowed capital –Section 36(1)(iii) – amendments made in line of ICDS

- (i) Interest on Loan is allowed as deduction only if loan is utilised for business purpose.
- (ii) If loan is taken for construction or acquisition of the asset then interest on loan till the date when asset is put to use is capitalized and added to cost of the asset. [whether or not such acquisition of asset is for extension of business or profession]
- (iii) The term interest includes any service fee or other charges incurred in respect of the moneys borrowed
- (iv) Income Computation and Disclosure Standard (ICDS – IX) must be followed regarding treatment of Borrowing Cost along with this section.

(6) Bad debt: Section 36(1)(vii): Bad debt allowed even if not written off in BOA but shown as income under Income Tax as per ICDS.

As per Section 36(1) (vii) any amount written off as bad debts as irrecoverable in the accounts of the assessee for the previous year shall be allowed as deduction if:

- (a) such debt or part thereof has been taken into account in computing the income of the assessee of the previous year or earlier previous year or
- (b) It represents money lent in the ordinary course of the business of banking or money lending which is carried on by the assessee.

Note: It is possible that any income is considered under Income Tax as per ICDS –IV but such income is not considered in the Books of Accounts as per AS 9. In such a case, if the amount becomes irrecoverable then bad debt shall be allowed as deduction even though the same is not written off in accounts.

(7) Co-operative society manufacturing sugar is allowed deduction for sugarcane purchase at govt. rate.

Section 36(1)(xvii): The amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government shall be allowed as deduction. [From A.Y 2016-17]

(8) Section 40(a)(i): Disallowances w.r.t payment in the nature of section 195, restricted to income taxable in India. [Circular No.3/2015]

(9) Treatment of Government Grants: Define as Income as per section 2(24) read with ICDS

Section 2(24)(xviii): Income for the purpose of Income tax includes -
“assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of *Explanation 10* to clause (1) of section 43”

As per ICDS –VII: If it is received on purchase of any depreciable asset then it will be reduced from the cost of such asset and in all other cases it is taxable as business Income/ other sources.

It has been clarified by the MOF in Press Release dated 5th May, 2015, that the amended definition of income shall not apply to the LPG subsidy or any other welfare subsidy received by an individual in his personal capacity and not in connection with the business or profession carried on by him.

CAPITAL GAINS

(1) EXEMPTED TRANSFER IN CASE OF TRANSFER OF CAPITAL ASSET IN OUTSIDE INDIA BY ONE FOREIGN COMPANY/ NON-RESIDENT TO ANOTHER FOREIGN COMPANY/NON-RESIDENT

(1) any transfer of a capital asset, being a Government Security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident. [Section 47(viib)]

(2) any transfer of capital asset being share of a foreign company (which derives its value directly or indirectly substantially from the share(s) of an Indian Company) to another foreign company under amalgamation/ demerger is exempted provided that –

(i) at least 25% (in case of demerger 3/4th in the value of shares) of the shareholders of the amalgamating/demerged foreign company continue to remain shareholders of the amalgamated/resulting foreign company; and

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

(iii) the provisions of sections 391 to 394 of the Companies Act, 1956 shall not apply in case of demergers referred to in this clause; [Section 47(viab)/(vice):- w.e.f A.Y 2016-17]

Note: Period of Holding and cost of acquisition shall be calculated with reference to previous owner.

(2) TRANSFER OF UNIT OF MUTUAL FUND UNDER CONSOLIDATION SCHEME

[i.e. merger of various schemes of mutual fund with other schemes]

Section 47 (xviii): any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund, shall be exempted:

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

(a) Period of Holding [Section 2(42A)]: the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee;

(b) Cost of Acquisition [Section 49(2AD)]: the cost of acquisition to the assessee of the unit or units in the consolidating scheme of the mutual fund.

(3) Period of holding and cost of acquisition of shares acquired by non-resident on redemption of GDR:

In the case of a capital asset, being share or shares of a company, which is acquired by the non-resident assessee on redemption of Global Depository Receipts shall be liable for capital gain taxation @ 10% without indexation benefit and the period of holding and the cost of acquisition shall be as under-

(a) the period shall be reckoned from the date on which a request for such redemption was made. [Section 2(42A)]

(b) the cost of acquisition of the share or shares shall be the price of such share or shares prevailing on any recognised stock exchange on the date on which a request for such redemption was made. [Sec. 49(2ABB)]

(4) **Circular No. 6/2015:** No capital gains arises in the hands of unit holders in case of extension of period of maturity of unit of mutual fund held under Fixed Maturity Plans as the scheme remains same. However, capital gains arises at the time of redemption of the unit/ opting out of the scheme.

(5) **Section 48:** “Cost Inflation Index” in relation to a previous year shall mean such index as may be notified by the Central Government having regard to 75% of average rise in the Consumer Price Index (Urban) for the immediately preceding previous year to such previous year. [applicable from A.Y 2016-17, Finance Act (No.2), 2014]

[Earlier it was based on 75% of average rise in the Consumer Price Index (CPI) for urban non-manual employees (UNME)]

CII for the F.Y 2015-16 = 1081

(6) **Circular No. 17/2015:** Agricultural Land: the distance between the municipal limit and the agricultural land is to be measured having regard to -

- (i) the shortest Aerial distance [applicable from A.Y 2014-15 and onwards]
- (ii) the shortest road distance [Applicable prior to A.Y 2014-15]

[Based on decisions of Bombay High Court on 30.3.2015 in the case of Smt. Maltibai R Kadu]

RESIDENTIAL STATUS

(1) Calculation of NO. of days of stay in India for member of outgoing crew – CBDT prescribes rules:

In the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India, in respect of eligible voyage, shall not include the period from the date of joining the ship to the date of signing off from the ship in respect of such voyage. [The date of joining and signing off are entered in the Continuous Discharge Certificate.]

“eligible voyage” shall mean a voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where- (i) for the voyage having originated from any port in India, has as its destination any port outside India; and (ii) for the voyage having originated from any port outside India, has as its destination any port in India.’[A.Y 2016-17]

(2) Residential Status of Company [Section 6(3)]:- Substituted w.e.f A.Y 2016-17

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

- (i) it is an Indian company; or
- (ii) its place of effective management, in that year, is in India.

What is meant by 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.’

Note: Under the earlier provision foreign company was regarded as resident only when its control and management was wholly in India. So there was a scope that a foreign company can avoid of being resident of India by conducting only one board meeting outside India during the previous year even though it is mainly controlled and managed from India because of use of the words ‘**controlled and managed wholly in India**’

Now, after the use of concept ‘place of effective management’, the said practice would not help a foreign company to become non-resident of India if the control and management in substance is in India.

Note: There is no concept of ordinarily or not ordinarily resident in the case of Company.

CHARITABLE TRUST

(1) charitable purpose u/s. 2(15):

Section 2(15) defines Charitable purpose to include

- (1) relief of the poor,
- (2) education,
- (3) **yoga (newly inserted)**
- (4) medical relief,
- (5) preservation of environment (including watersheds, forests and wildlife)
- (6) preservation of monuments or places or objects of artistic or historic interest and

(7) the advancement of any other object of general public utility. However, **the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—**

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

(ii) the aggregate receipts from such activity or activities during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year. [earlier the limit was 25 lakh]

ACCUMULATION OF INCOME [SECTION 11(2)]

Where 85% of the income is not applied to charitable or religious purposes in India during the previous year but is accumulated or set apart, such income so accumulated or set apart shall be exempted, provided the following conditions are complied with, namely:

(a) such person furnishes a statement in the Form 10 and in the prescribed manner to the AO, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed 5 years;

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

(c) the statement in Form 10 is furnished on or before the due date specified u/s. 139(1) for furnishing the return of income for the previous year:

Provided that in computing the period of 5 years, the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Consequential amendments: If both the return of Income and Form 10 is not filed within the due date of section 139(1), then the benefit of accumulation shall not be available and such income shall be deemed income of that year. [Section 13(9)]

Question 5: Discuss the following with respect to recent amendments:

(1) A charitable trust the object of which is “the advancement of any other object of general public utility” and engaged in the activity of nature of trade, commerce or business. It applied 85% of such income for its object. In P.Y 2015-16, receipts from trading activities is ₹ 12,00,000 and the total receipts of the trust (including donation) is ₹ 50,00,000. The nature of trade and commerce undertaken by the trust is relates to its object. Can the trust considered as charitable trust for the purpose of section 2(15)?

(2) Is your answer is different if in point (1) the object of the trust is to conduct yoga programme all over the world.

(3) a charitable trust the object of being advancement of general public utility having income from trade and commerce is 1% of its total receipts but the nature of trading activities does not relates to its object. Can it be consider as charitable for the purpose of section 2(15)?

(4) A charitable trust accumulated 85% of its income for construction of a school with in 5 years but unable to file its declaration in Form 10 within the Return filing date.

Answer to Question 5:

(1) The Finance Act, 2015 has substituted the proviso to section 2(15) which provides that , in case the object of the trust falls under the category of advancement of general public utility then the trust cannot engage itself in commercial activities unless (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and (ii) the aggregate receipts from such activity or activities during the previous year, do not exceed 20% of the total receipts of the trust of that previous year, irrespective of the nature of use or application of the income

Since in the given case, receipts from trading activities exceeds 20% of total receipts [i.e, 12 lakh/50 lakh = 24%], therefore the assessee ceases to be charitable trust even if 85% has been applied for its object

(2) The Finance Act, 2015 has amended the definition of section 2(15) to include ‘Yoga’ as charitable purpose. Further, the restriction of trade and commerce shall not be applicable to a trust the object of which other than advancement of general public utility [i.e, medical, relief to poor, Yoga etc].

Therefore, such a trust may be engaged in commercial or business activities provided it is incidental to the object of the trust. Hence, it can be considered as charitable trust for the purpose of section 2(15).

(3) The Finance Act, 2015 has substituted the first proviso to section 2(15) which provides that a trust having object of being advancement of general public utility can be considered as charitable for the purpose of section 2(15) if the following two condition has been satisfied –

- (i) the business receipts should not exceeds 20% of its total receipts and
- (ii) such trading activity must be undertaken in the course of actual carrying out of such advancement of any other object of general public utility

(4) The Finance Act, 2015 has amended the provisions of section 11(2), which provides that where 85% of the income is not applied to charitable or religious purposes in India during the previous year but is accumulated or set apart, such income so accumulated or set apart shall be exempted, provided the following conditions are complied with, namely:

(a) such person furnishes a statement in the Form 10 and in the prescribed manner to the AO, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed 5 years;

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

(c) the statement in Form 10 is furnished on or before the due date specified u/s. 139(1) for furnishing the return of income for the previous year:

Further, the amended section 13(9) provides that if both the return of Income and Form 10 is not filed within the due date of section 139(1), then the benefit of accumulation shall not be available and such income shall be deemed income of that year.

EXEMPTION TO SPECIFIC ASSESSEE/GENERAL EXEMPTION

Summary

- (a) Income under Sukanya Samriddhi A.c is exempted under section 10(11A)
- (b) Specific Income under core settlement guarantee fund exempted u/s. 10(23EE).
- (c) Income of Swachh Bharat Kosh and Clean Ganga Fund is exempted u/s. 10(23C)
- (d) Substantially Govt. financed educational Institute/hospital u/s. 10(23C) means: Govt. finance exceeds 50% of total receipts **including any voluntary contributions during the relevant previous year.**

Section 10(11A): any Payment from an account, opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873 shall be exempt; [w.r.e.f.A.Y 2015-16]

Section 10(23C)(iiiiaa)/(iiiiaaa): Any income received by any person on behalf of the following is exempt-

- (i) The Swachh Bharat Kosh, set up by the Cent. Govt.
 - (ii) The Clean Ganga Fund, set up by the Central Government.
- [w.r.e.f. A.Y 2015-16]

Section 10(23EE): Recognized clearing corporation are required to set up a fund called core settlement Guarantee Fund (SGF) for each segment of recognized stock exchange to guarantee the settlement of trades executed in the respective segment of exchange, as per the SEBI regulations.

The following specified income of Core Settlement Guarantee Fund, set up by a recognised clearing corporation shall be exempt:-

- (a) the income by way of contribution received from specified persons;
- (b) the income by way of penalties imposed by the recognised clearing corporation and credited to the Core Settlement Guarantee Fund; or
- (c) the income from investment made by the Fund;

However if such exempted income is shared with the specified person then, the entire amount so shared shall be deemed to be income of the previous year in which such amount is shared and chargeable to income-tax.

“specified person” shall mean,—

- (a) any recognised clearing corporation which establishes and maintains the Core Settlement Guarantee Fund; and
- (b) any recognised stock exchange being a shareholder in such recognised clearing corporation or a contributor to the Core Settlement Guarantee Fund; and
- (c) any clearing member contributing to the Core Settlement Guarantee Fund;”.

DEDUCTION UNDER CHAPTER VIA

Summary of amendments

1. Section 80C: Amount deposited under Sukanya Samiriddhi A.c. eligible for deduction
2. Section 80CCC: Limit extended to 1,50,000. (pension fund of Insurance co.)
3. Section 80CCD(1B): Additional deduction provided over and above the limit of 80CCE of ₹ 50,000 on contribution made towards NPS. Condition of 1,00,000 u/s. 80CCD(1A)- withdraw
4. Section 80D: medical exp. of very snr citizen maximum 30,000.
5. Section 80DD & 80U: exemption limit extended to 75,000 and 125000
6. Section 80DDB: limit for very snr. citizen 80,000
7. Section 80EE: Interest on housing loan - not allowed w.e.f A.Y 2016-17
8. Section 80G: 100% without ceiling limit Swach Bharat Kosh, Clean Ganga Funds and National Fund for control of Drug Abuse
9. 80JJAA: Benefit extended to any assessee instead of company only. Limit of new regular workmen employed reduce from 100 to 50. Further, deduction not allowed in case factory is acquired through any business reorganization instead of amalgamation as before.

(1) Section 80C: Deduction allowed to the parents or legal guardian w.r.t any sum deposited under Sukanya Samiriddhi A/c Scheme in the name of self or girl child during the previous year. [w.r.e.f A.Y 2015-16]

(2)

80CCC (Individual)	Amount invested in annuity plan of LIC or any other insurer [Pension Fund] out of taxable income	<u>Deduction allowed:-</u> Amount invested or 1,50,000; whichever is lower
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(3) Section 80CCD: Amount invested in new pension trust

Particulars	Deduction allowed
1) Self employed [Section 80CCD(1)]	Lower of the following - (a) Amount contributed or (b) 10% of GTI or
2) Employed:- (a) Employee contribution [Sec 80CCD(1)] To Pension fund of new pension trust	Lower of the following - (a) Amount contributed or (b) 10% of salary or
(b) Employer contribution [Sec. 80CCD(2)] To Pension fund of new pension trust: First taxable under salary	Lower of the following - (a) Amount contributed or (b) 10% of Salary or [limit of 1,50,000 not applicable]

1. Meaning of salary: Basic + D.A (if forming part)

2. The date of joining of service for Central Govt. employee should be on or after 1.1.2004. But for other employee date of joining is not relevant.

(4)

SECTION 80CCE	SEC 80C + SEC80CCC + SEC 80CCD(1) (i.e,other than employer's contribution to Pension Fund of Section 80CCD)	Maximum Limit ₹1,50,000
Section 80CCD(1B)	Contribution made to NPS of the Central Govt.	₹ 50,000 (over and above the above limit)

	[Deduction is claimed whether or not any deduction is allowed u/s. 80CCD(1)]	[No deduction u/s. 80CCD(1B) w.r.t amount on which deduction u/s. 80CCD(1) has been claimed and allowed]
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SUMMARY

Section No.	Contribution towards:	Maximum Limit(₹)
80C	Various Saving funds, LIP, Housing loan etc	1,50,000
80CCC	Pension fund of Insurance company	1,50,000
80CCD(1)	New Pension Scheme of Central Govt. (any person being employed or not)	10% of Salary/GTI
Section 80CCE	Total Deduction u/s. 80C + 80CCC+ 80CCD(1)	1,50,000
Section 80CCD(2)	Employer's contribution to NPS scheme of Central Govt. [over and above the limit of section 80CCE]	10% of salary
Section 80CCD(1B)	Amounted contributed to NPS of Central Govt. [other than amount allowed in section 80CCD(1)], by any person being employed or not. [over and above the limit of section 80CCE]	50,000.

Question 6: Compute deduction under chapter VIA from the following-

	₹
Contribution to LIC policy (policy value ₹ 6,00,000)	80,000
PPF in the name of son	1,00,000
FD in the name of son	70,000
Pension plans/ Annuity Plan of LIC	1,60,000
Own Contribution to New Pension Trust of Sec. 80CCD [Salary is ₹ 60,00,000]	1,35,000
Employer's contribution to New Pension Trust	80,000

Solution to Question 6: computation of deduction allowed under Chapter VIA

	₹
Section 80C	
Contribution to LIC policy (maximum 10% of ₹ 6,00,000)	60,000
PPF in the name of minor son	1,00,000
15 year term deposit in the name of minor son – not allowed	<u>Nil</u>
	<u>1,60,000</u>
- Maximum allowed u/s. 80C	1,50,000

Deduction u/s. 80CCC

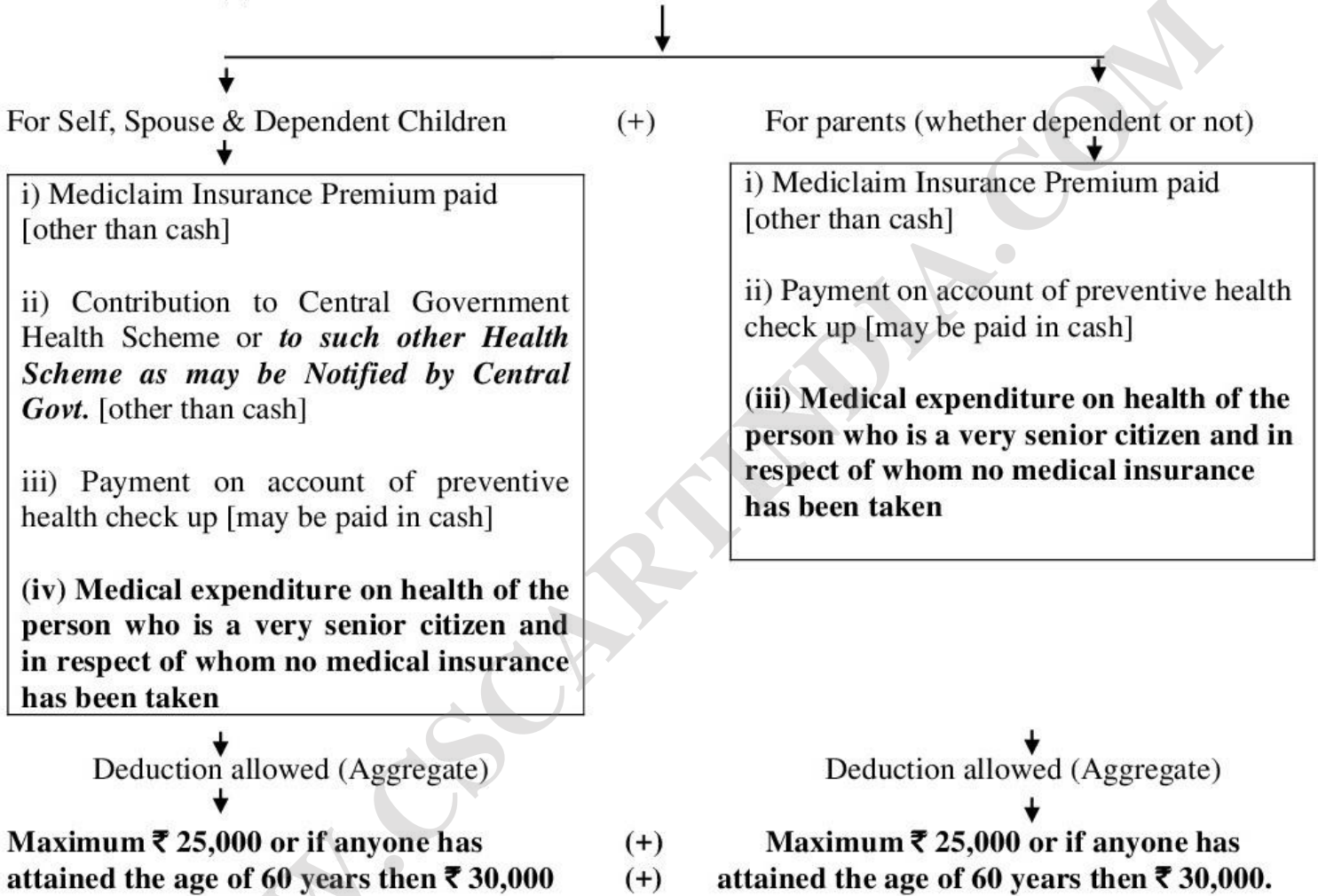
Pension plans/ Annuity Plan of LIC [maximum allowed 1,50,000]	1,50,000
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Deduction u/s. 80CCD(1)

Own Contribution to New Pension Trust ₹ 1,35,000		
Less: Set aside u/s. 80CCD(1B)	<u>50,000</u>	
	85,000	
Maximum limit 10% of 60,00,000	<u>6,00,000</u>	<u>85,000</u>

Sec. 80C + Sec. 80CCC + Sec. 80CCD(1)	<u>3,85,000</u>
(A) Max. deduction allowed as per Sec. 80CCE	1,50,000
 (B) Employer's contribution to NPT u/s. 80CCD(2) [maximum limit 10% of ₹ 60 lakh or 80,000; lower]	 80,000
 (C) Additional Deduction for own contribution to NPS u/s. 80CCD(1B)	 <u>50,000</u>
Total deduction (A + B +C)	2,80,000

(5) SECTION 80D: HEALTH INSURANCE PREMIUM



POINTS TO BE NOTED

- (1) The Individual limit of payment for preventive health check up is ₹ 5,000 [for self, spouse, Dependent children and parents]
- (2) The age limit of senior citizen is 60 years and for very senior citizen it is 80 years.
- (3) **The limit of medical expenditure incurred is ₹ 30,000 [for self, spouse, Dependent children and parents]**
- (4) Contribution to Contributory Health Scheme of the Department of Space shall be eligible for deduction U/s 80D.
- (5) Where the assessee is a Hindu undivided family, the sum referred to in sub-section (1), shall be the aggregate of the following, namely:—

(a) whole of the amount paid to effect or to keep in force an insurance on the health of any member of that Hindu undivided family as does not exceed in the aggregate ₹25,000 [for senior/very senior citizen 30,000; and

(b) the whole of the amount paid on account of medical expenditure incurred on the health of any member of the Hindu undivided family as does not exceed in the aggregate ₹30,000 rupees:

Provided that the amount referred to in clause (b) is paid in respect of a very senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person:

Provided further that the aggregate of the sum specified under clause (a) and clause (b) shall not exceed thirty thousand rupees.”;

Question 7: From the following information given by Mr. X (aged 55 years) compute total deduction available u/s. 80D for the A.Y2016-17.

- 1) Mediciam insurance premium paid in Cheque for Father (aged 85 yrs) and dependent children ₹ 15,000 each.
- 2) Contribution to Central Govt. Health Scheme in cheque for self, spouse and dependent children ₹ 8,000.
- 3) payment on account of preventive check up in cash for self and for parents ₹ 4,000 each
- 4) Medical expenditure incurred: For mother (aged 80 yrs) - ₹ 15,000; For Father (aged 85 years) ₹ 20,000. Both father and mother are resident of India.

Solution:

(A) For self, spouse & Dependent children	₹
1) Mediciam insurance premium paid in Cheque	15,000
2) Contribution to CGHS in Cheque	8,000
3) payment on account of preventive health check up ₹ 4,000 but since the maximum aggregate does not exceed ₹ 25,000, therefore restricted to	<u>2,000</u>
Deduction allowed (A)	25,000

(B) For parents [age 70 years]

1) Mediciam insurance premium paid for father	15,000
2) <u>Medical expenditure incurred:</u>	
For father – not allowed since covered under Health Insurance scheme	Nil
For mother:	<u>15,000</u> 15,000
3) payment on account of preventive health check up:	
Lower of the following –	
(a) amount incurred	₹ 4,000
(b) Maximum deduction allowed	
(-) Deduction already claimed	
[5,000 – 2,000]	<u>₹ 3,000</u> <u>3,000</u>
Gross	33,000
Maximum limit	<u>30,000</u>
Deduction allowed (B)	30,000
Total Deduction (A+B)	55,000

Question 8: From the following information given by Mr. X (aged 40 years) compute total deduction available u/s. 80D for the A.Y 2016-17.

- 1) Medclaim insurance premium paid in Cheque for Father (aged 80 years) and dependent children ₹ 18,000 each.
- 2) Contribution to Central Government Health Scheme in cheque for self, spouse and dependent children ₹ 1000.
- 3) payment on account of preventive check up in cash for self and for parents ₹ 6,000 each
- 4) Medical expenditure incurred of mother (aged 75 yrs) ₹ 10,000
- 5) Parents are resident of India.

Solution :

(A) For self, spouse & Dependent children

	₹	₹
1) Medclaim insurance premium paid in Cheque	18,000	
2) Contribution to CGHS in Cheque	1,000	
3) preventive health check up ₹6,000 but maximum allowed	<u>5,000</u>	
Maximum limit	<u>25,000</u>	24,000

(B) For parents:

1) Medclaim insurance premium paid father	18,000	
2) payment on account of preventive check up [Maximum limit for both 5,000]	NIL	
3) <u>Medical expenditure incurred:</u>	Nil	
(i) For father: not allowed since covered under Health Insurance Scheme		
(ii) For mother: not allowed since not attain Age of 80 yrs or more		
Maximum limit	<u>30,000</u>	<u>18,000</u>
Deduction allowed u/s. 80D		<u>42,000</u>

(6)

SEC 80DD Resident Individual/ HUF	Any expenses made for disabled dependent relative (amount not relevant): <u>Expenses related to medical treatment (including nursing), training and rehabilitation and paid to LIC or other insurance company for the maintenance of disabled dependant.</u>	Fixed deduction:- ₹ 75,000 ₹ 1,25,000 (if severely disabled)
SEC 80U Resident Individual	If assessee is a disabled [he may not incur any expenses] Note: Deduction can be claimed u/s 80DD or 80U and not Both. <u>Certificate must be obtained from medical authority to be a person with disability at any time during the previous year.</u>	Fixed deduction:- ₹ 75,000 ₹ 1,25,000 (if severely disabled)

Example:

incurred expenditure for treatment say ₹ 4000

Mr. X or → Mr. Y [Disabled Dependent relatives]
paid to insurance co. ₹ 3000 for the [relative - Spouse, children, Parents, Brother and sisters]
benefit of

Amount of deduction:

For Mr. X u/s. 80DD: ₹ 75,000/ (₹ 1,25,000 incase Mr. Y is severely disabled) – irrespective of amount spent.

For Mr. Y u/s. 80U: Mr. Y who himself is a disabled person can claim deduction of ₹ 75,000/ [₹ 1,25,000 if severely disabled] – without incurring any expenditure.

However, either Mr. X or Mr. Y can get deduction and not both.

Definitions (a) “disability” shall include “autism”, “cerebral palsy” and “multiple disability”.

(b) person with severe disability” means—

(i) a person with 80% or more of one or more disabilities, as referred to in section 56(4) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

(ii) a person with severe disability referred to in section 2(o) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999

(7)

SECTION	PARTICULARS	DEDUCTIBLE AMOUNT
80DDB	Medical treatment of specified disease of self or dependent relatives.	(i) Amount incurred xxx
Resident		(ii) Maximum limit:
Individual/ HUF		Aged 80 yrs or more 80,000
		Aged 60yrs but less than 80yrs 60,000
		Below the age of 60yrs or HUF 40,000
		Less: Insurance claim received
Or amount reimbursed by Employer <u>xxx</u>		
	Amount of deduction xxx	

Specified diseases:

(i) Neurological Diseases where the disability level has been certified to be of 40% and above,—(a) Dementia ; (b) Dystonia Musculorum Deformans ;(c) Motor Neuron Disease ;(d) Ataxia ;(e) Chorea ;(f) Hemiballismus ;(g) Aphasia ;(h) Parkinsons Disease; (ii) Malignant Cancers ;(iii) Full Blown Acquired Immuno-Deficiency Syndrome (AIDS); (iv) Chronic Renal failure ; (v) Hemophilia ; (vi) Thalassaemia.

Note: In order to get the benefit the assessee must obtain a prescription of medical treatment from a specialist doctor (whether or not working in a Government Hospital)

Mr. X -----→incurred expenditure -----→self or Dependent relative
(for specified disease) [relative-Spouse, children, Parents, Brother and sisters]

Example- Mr. X incurred ₹ 74,000 for medical treatment of specified disease of his father aged 65 years. He received a medical insurance claim of ₹ 22,000. Compute net deduction u/s. 80DDB

Solution – Amount incurred or ₹ 60,000 – lower = 60,000
Less: Insurance claim received 22,000
Net deduction u/s. 80DDB **38,000**

(8) Section 80G: Following are the amendments

100% deduction allowed without any ceiling limit (payment exceeding ₹ 10,000 should be made other than cash)

(1) Swachh Bharat Kosh (other than amount spent as CSR) – allowed to all assessee [w.r.e.f A.Y 2015-16]

(2) Clean Ganga Fund (other than amount spent as CSR) – only resident assessee [w.r.e.f A.Y 2015-16]

(3) National Fund for Control of Drug Abuse – allowed to all assessee w.e.f A.Y 2016-17

Note: these are the further additional to the category 100% deduction without ceiling limit and there are no changes w.r.t other provisions of section 80G.

(9)

80JJAA All assessee	Deduction allowed to all assessee Indian company (omitted w.e.f 01.04.2016) deriving profits from manufacture of goods in its factory in relation to additional wages paid to new regular workmen employed in such factory.	<p>i) Amount of deduction: 30% of additional wages to paid to new regular workmen employed in the factory .</p> <p>ii) Time limit: 3 year including the year of employment.</p> <p>iii) No deduction if the factory is hived off or transferred from another exiting entity or acquired on account of amalgamation if the factory is acquired by the assessee by way of transfer from any other person or as a result of any business re-organisation.</p> <p>iv) Additional wages shall mean wages paid to new regular workmen in excess of 400 50 workers employed during the year.</p>
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Factory includes where - i) 10 or more worker carrying manufacturing process with the aid of power. ii) 20 or more worker carrying manufacturing process without the aid of power. But does not include Mines, mobile unit of armed forces, a railways running shed or a hotel, restaurant or eating place.	'Regular Workmen' – does not include i) a casual workman; or ii) a workman employed through contract labour; or iii) any other workman employed for a period of less than 300 days during the previous year.	'Additional Wages': the wages paid to the new regular workman, in excess of 400 50 workmen employed during the previous year. For existing factory: - The additional wages shall be nil if the increase in the number of new regular workmen employed during the year is less than 10% of existing number of workmen employed in such factory as on the last day of the preceding year.
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Example: M/s X Ltd. employs 70 workmen in P.Y. 2015-16 and total wages is ₹ 1,20,000. Deduction U/s 80JJAA shall be 30% of wages to 20 workers (70-50) i.e. 30% of ₹ 20,000 = ₹ 6,000

In P.Y. 2016-17 the company employs 6 more workers. No deduction will be available since increase in new workers is less than 10%. Alternatively, it employs 10 new workers. The deduction shall be 30% of wages paid to these 10 new workers only.

Question 9: Mr. X owns a factory commencing from 1-4-2015. During the previous year it earns profits of ₹ 90 lakh before allowing any deduction for wages. Determine its total income for the Assessment year 2016-17 by considering the following employment schedules of workers-

Date of employment	No. of workers	Status of workers	Rate of wages
1-5-2015	60	Regular	5000 p.m
1-6-2015	20	Casual	4000 p.m
1-1-2016	10	Regular	5000 p.m

Solution:

Profit before deduction of salary	90,00,000
Less: Expenses incurred towards payment of salary	
60 x 5000 x 11 = 33,00,000	
20 X 4,000 x 10 = 8,00,000	
10 x 5000 x 3 = <u>1,50,000</u>	<u>42,50,000</u>
Profit from Business/Gross Total Income	47,50,000
Less: Deduction u/s. 80JAA (Note 1)	<u>1,65,000</u>
Total Income	45,85,000

Note 1: Deduction allowed u/s. 80JAA

Additional wages paid to new regular workmen = 5000 p.m x 11m x 10(60 -50) = ₹ 5,50,000

Deduction allowed u/s. 80JAA for the A.Y = 30% of 5,50,000 = 1,65,000.

TAX DEDUCTION AT SOURCE

SUMMARY

- (1) Employer responsible for obtaining evidence of exemption/deduction claimed by employee in computing salary u/s. 192
- (2) Premature withdrawal from RPF – liable for TDS u/s. 192A, if 30,000 or more
- (3) Section 194A: interest on recurring deposit subject to TDS, interest of all CBS branch of same bank is clubbed for the purpose of limit of 10,000, co-operative banks are liable to TDS on payment of interest to members subject to some exception, TDS at the time of payment on interest from Motor accident claim (if exceeds 50,000).
- (4) Section 194C: NO TDS on furnishing of PAN: benefit of exemption not allowed for transporter owning more than 10 goods carriage.
- (5) Section 194LD: period of concessional rate of TDS @ 5% extended to 31.3.2017
- (6) Section 195: compliance procedures
- (7) Section 197A: benefit of no TDS extended to payment covered in Sec. 194DA.
- (8) Section 203A: Notified deductor not required to obtain TAN
- (9) Processing of return u/s. 200A: Also determine fine u/s. 234E

(1) The person responsible for making the payment shall, for the purposes of estimating income of the assessee or computing tax deductible, obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in such form and manner as may be prescribed. [Section 192(2D) w.e.f A.Y 2016-17]

(2)

Section	Nature of Payment	Monetary Limit	Rate of Tax	Notes
192A w.e.f 1 st June 2015	Payment of accumulated balance due to employee (on account of Premature withdrawal from RPF, if not exempted)	No TDS if the payment is less than 30,000	10%. If PAN is not furnished then maximum marginal rate.	(1) tax is deductible at the time of payment.

Notes:

(1) The trustees of the EPF, Scheme, 1952, or any person authorized under the scheme to make payment of accumulated balance due to employees, shall, in a case where the accumulated balance due to an employee participating in a recognized provident fund is includible in his total income owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable.

(2) Rule 8 of Part A of the Fourth Schedule of the IT Act provides withdrawal of accumulated balance from RPF is exempt in certain cases. However, if the employee withdraws money before continuous service of 5 years (other than the case of termination of employment due to ill health or discontinuation of business etc.) and does not opt for transfer of accumulated balance to new employer then the withdrawal is taxable.

(3)

Section	Nature of Payment	Monetary Limit	Rate of Tax	Notes
194A	Interest other than Interest on Securities	If the payer is a banking company including co-operative banks or in case of deposit under post office - ₹10,000 p.a. In any other case: ₹5000 p.a. (w.e.f 1.6.2015 The ceiling limit applies with respect to aggregate of payment made by all branches having core banking solutions). In case of Non-CBS, limit applicable for each branch separately)	10%	Tax need not be deducted in the following cases: (a) Interest paid or credited by firm to its partners (b) Interest paid to Banking companies, UTI, notified institution etc. (c) Interest other than on term/time/ recurring deposits/ paid by Banking companies, co-operative society.[Therefore, no interest is deducted on payment of interest on savings bank account;]

(1) Provisions of TDS where interest is paid/credited by a co-operative society:

Interest on term deposit paid/credited by a co-operative banks to its members are subjected to TDS u/s. 194A. [w.e.f 1.06.2015].

NO TDS in the following cases: However, the provisions of TDS shall not be attracted

(a) where interest is paid/credited by a co-operative society to its members.

(b) where interest is paid/credited by one co-operative society (including co-operative banks) to another co-operative society (including co-operative banks) on term deposit made by it.

(a) Where interest is paid/credited by a primary agricultural credit society/ primary credit society/ co-operative land mortgage bank or land development banks.

(2) w.e.f 1.6.2015 the definition of time/term deposit has been amended to include 'recurring deposit' hence the provisions of section 194A shall now be applicable on recurring deposit also subject to the ceiling limit.

(3) w.e.f 1.6.2015: The ceiling limit of ₹ 10,000/5,000 shall be computed with reference to aggregate of interest credited/ paid by all the branches of a banking company/ the co-operative society/ the public company, having facility of CBS (core banking solutions).

(4) w.e.f 1.6.2015: No TDS at the time of credit of interest on compensation amount awarded by the Motor Accidents Claims Tribunal . TDS is deductible at the time of payment only if the interest paid during the financial year exceeds ₹ 50,000. [earlier the provisions of TDS attracted on credit or payment, whichever is earlier]

Example 1: Mr. X has made one fixed deposits with Brach 1 of SBI and one recurring deposits with Brach 2 of SBI. On 30.6.2015 Interest on branch 1 is credited ₹ 9,000 and from branch 2 is ₹ 5,000. [The banks has adopted CBS]

Answer: TDS @ 10% shall be deductible by SBI on interest of ₹ 13,000.

Example 2: X Ltd pays interest on loan to Mr. Y ₹ 6,000.

Answer: Tax is deducted at source 10% of ₹ 6000 i.e. ₹ 600. (For banks the limit is ₹ 10,000 and for the others the limit is ₹ 5000.)

(4) Section 194C: where the contractor is engaged in the business of plying, hiring, or leasing goods carriages, no tax shall be deductible on payment of transport charges if the following two condition is satisfied –

- (1) **such contractor owns 10 or less goods carriages at any time during the previous year and**
- (2) furnished a declaration along with PAN to the payer.

Note: Earlier the exemption is allowed to any transporter irrespective of number of goods carriage owned on furnishing of PAN.

(5) Section 194LD: TDS 5% on any amount paid to FII or QFI

Interest on rupee denominated bond of an Indian company and Government securities paid at approved rate between 1.6.2013 to 31.5.2015 **30.06.2017** to FII (Foreign Institutional Investors) Or QFI (Qualified Foreign Investors).

(6) Section 195(6): The person responsible for paying to a non-resident/foreign company, any sum, **whether or not chargeable** under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed. [w.e.f 1.6.2015]. **[In case of failure penalty may be levied upto ₹ 1 lakh u/s. 271-I]**

(7) Section 197A: In respect of interest income u/s. 193/194A, **premature withdrawal from RPF u/s. 192A and LIP maturity u/s. 194DA,** the assessee (other than a company or firm) can make an application to the payer not to deduct tax at source where tax on his total income is NIL. This application is not possible where the amount of interest exceeds maximum exemption limit. [amended w.e.f 1.6.2015]

(8) The person deducting tax at source must apply for Tax Deduction and Collection Account Number (TAN) [section 203A]

However, w.e.f 1.06.2015, obtaining and quoting of TAN shall not be required for such person as may be notified by the Central Government.

(9) Processing of statements of tax deducted at Source[Section 200A]

Amendments has been brought to enable calculation of fee payable u/s. 234E at the time of processing of TDS statement [w.e.f 1.6.2015]

Section 200A:

(1) The following adjustment can be made during the computerized processing of statements of tax deducted at source -i) any arithmetical error in the statement; or ii) an incorrect claim, apparent from any information in the statement.

(2) the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement;

(3) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(4) After making adjustments, tax, interest and fee would be calculated and sum payable by the deductor or refund due to the deductor will be determined. Accordingly an intimation shall be sent within 1 year from the

end of the financial year in which the statement is filed to the deductor regarding amount payable or refundable and refund due shall be granted to the deductor.

(5) The processing of these statements can be done in Centralized processing centre.

Explanation: For this purpose “**an incorrect claim apparent from any information in the statement**” shall mean a claim, on the basis of an entry, in the statement –

- i) of an item, which is inconsistent with another entry of the same or some other item in such statement
- ii) in respect of rate of TDS , where such rate is not in accordance with the provisions of this Act.

Question 10: Answer the following w.r.t applicability TDS as per recent amendments:

(1) Mr. X has made one fixed deposit with Branch 1 of SBI and one recurring deposit with Branch 2 of SBI. On 30.6.2015 Interest on branch 1 is credited ₹ 9,000 and from branch 2 is ₹ 5,000. [both the branches are CBS branches]

(2) a co-operative bank paid interest of ₹ 30,000 to one of its member during the year.

(3) a co-operative bank paid interest of ₹ 50,000 to another co-operative bank.

(4) Interest on delayed compensation awarded by Motor Accident claims Tribunal of more than 50,000 is subjected to TDS on due basis.

(5) An individual is engaged in plying goods carriage. He owns 20 goods carriage till 30.09.2015. He sells 15 goods carriage on 1.10.2015. No further purchase or sell of goods carriage has been taken place during the year. He claims that he is eligible for exemption from TDS on furnishing of PAN to the payer for payment received on or after 1.10.2015.

(6) All the persons responsible for deducting tax at source must obtain TAN.

(7) An employee withdraws ₹ 1,00,000 from RPF A/c. He is not eligible for get exemption from such premature withdrawal under Income Tax Act. comment

(8) At the time of deducting tax at source the employer is not responsible for obtaining any evidence in respect of Deduction under Chapter VIA claimed by the employee.

(9) Statement filed under the provisions of TDS cannot be rectified.

(10) Processing of TDS statement u/s. 200A means determination of amount of TDS and Interest thereon. Comment.

Answer: briefly put (in exam you are required to write relevant provisions in detail)

(1) TDS @ 10% shall be deductible by SBI on interest of ₹ 13,000. [recurring also included in the definition of term deposit u/s 194A. Further, in order to determine the limit u/s. 194A the interest credited/paid by all CBS branches of same bank are to be clubbed]

(2) Liable for TDS @ 10% u/s. 194A on ₹ 30,000.

(3) No TDS: Specific exemption provided u/s. 194A.

(4) False. Tax is deducted at the time of payment and not at the time of due/credited.

(5) False. Exemption u/s. 194C(6) shall not be allowed since during the F.Y 2015-16 the assessee owned more than 10 goods carriage even though on the date of payment it owned less than 10 goods carriage.

(6) False. Person Notified by Central Govt. are not required to obtain TAN.

(7) Premature withdrawal from RPF of 30,000 or more if not exempted under Income tax shall be subjected to TDS u/s. 192A @ 10% at the time of payment.

(8) As per section 192(2D) the employer is binding to obtain evidence of claiming various benefit by the employee in computing taxable salary for the purpose of section 192.

(9) False. The Deductor may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered in such form and verified in such manner as may be specified by the authority. [Proviso to section 200(3)]

(10) It also determined the fine levied u/s. 234E for delaying filing of statement of TDS.

Question 11: Discuss whether in the following cases tax shall required to be deducted u/s. 194C or not

(1) ₹ 2,00,000 paid for plying, leasing or leasing goods carriage to a transporter who does not own any goods carriage during the year.

(2) Mr. T, an individual owns five goods carriages from 1st April, 2015 to 31st October, 2015. On 1st November, 2015, he purchased 6 more goods carriages. On 1st January, 2016, he sold 8 goods carriages. X Ltd. makes following payment of transport charges to 'Mr. T' during the financial year 2015-16:

15th April, 2015 - ₹ 35,000

15th July, 2015 - ₹ 40,000

15th November, 2015 - ₹ 20,000

15th December, 2015 - ₹ 20,000

15th February, 2016 - ₹ 50,000

Answer:

(1) **TDS @ 1% u/s. 194C shall be applicable.** The exemption given u/s. 194C(6) is applicable only in respect of transport charges received for plying, hiring or leasing of goods carriage (s) owned by the transporter. Therefore, if a person receives payment in respect of plying, hiring or leasing of goods carriage (s) which are not owned by him, he shall not be entitled to claim exemption from TDS in respect of these payments. [Circular No. 19/2015, dated 27.11.2015]

(2) **Answer as per MOF clarification vide Circular No. 19/2015,27.11.2015**

Payment made	TDS us/. 194C deductible or not
15th April, 2015 - ₹ 35,000	No tax is deductible, if 'T' furnishes his PAN as per the pre-amended provisions of section 194C (6) of the Income-tax Act.
15th July, 2015 - ₹ 40,000	No tax is deductible, if 'T' furnishes a declaration that he does not own more than 10 goods carriages during the relevant financial year along with his PAN as per the requirement of the amended provision of section 194C(6) of the Income-tax Act.
15th November, 2015 - ₹ 20,000	NO TDS. Even though T owns more than 10 goods carriage. Since, the payment does not exceed ₹ 30,000 and the aggregate of payments during the period from 1st June, 2015 [i.e. the date of effectivity of the amended provision of section 194C(6)] to 15th November, 2015 does not exceed ₹ 75,000 as specified in proviso to section 194C(5) of the Income-tax Act.
15th December, 2015 - ₹ 20,000	Tax at the rate of 1% i.e. ₹ 200/- is deductible as 'T' owns more than 10 goods carriages on that date and the aggregate of the

	payments made during the period from 1st June, 2015 to 15th December, 2015 exceeded the threshold of ₹ 75,000.
15th February, 2016 - ₹ 50,000	TDS @ 1% is deductible, even though 'T' did not own more than 10 goods carriages on 15th February, 2016. Since, 'T' owned more than 10 goods carriages during the financial year 2015-16 and the payment exceeded both the specified threshold for individual and aggregate payments.

RESIDENT & ORDINARY RESIDENT OF INDIA MUST FILE ITS RETURN
[Fourth proviso to section 139(1) as substituted by the Finance Act, 2015 from A.Y 2016-17]

Resident and ordinary resident of India, who is not required to furnish a return u/s. 139(1), shall required to furnish its return of loss or income on or before the due date of section 139(1) if any of the following conditions is satisfied, at any time during the previous year:

- (a) holds any asset located outside India as beneficial owner or otherwise; or
- (b) has signing authority in any account located outside India; or
- (c) is a beneficiary of any asset located outside India; (However, where, income, arising from such asset is includible in the income of the person referred to in clause (a) & (b) above, as per the provisions of IT Act, then the beneficiary is not required to file its return as per fourth proviso).

Notes:

- (1) Assets include any financial interest in any entity.
- (2) "beneficial owner" in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.
- (3) "beneficiary" in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.;
- (4) such person is required to furnish details of asset of prescribed nature and value in the prescribed return form. [Section 139(6)]

Example: Mr. X (Resident and ordinarily resident of India for the P.Y 2015-16)

	<u>Case 1</u>	<u>Case 2</u>
Capital Gains income from property Situated in India	1,50,000	-
Capital Gains income from property situated Abroad (as beneficial owner)	_____	<u>1,50,000</u>
Filing of return	Not required	Required to file return

Question 12: Mr. X a resident and ordinary resident of India has gifted a Canadian Bonds to his Minor Son and the minor son earned ₹ 1,00,000 interest during the P.Y 2015-16. Total Income of Mr. X during the P.Y is ₹ 12,00,000. Discuss the implication of filing of return.

Answer: Minor son's income is to be clubbed in the hands of Mr. X and therefore Mr. X is required to file its return showing his total income along with income earned by the minor son after allowing exemption u/s. 10(32).

Since, Income of minor son has already included in the hands of Mr. X and therefore the minor son being beneficiary of asset located outside India shall not required to file a separate return under fourth proviso to section 139(1).

SOME SPECIAL PROVISIONS W.R.T RESIDENTIAL STATUS & SCOPE OF TOTAL INCOME:

Summary

(1) Taxability of offshore transactions

(2) Fund managers in India not to constitute business connection of funds registered outside India [Section 9A]

(3) Taxability of interest paid to outside India by a PE in India engaged in banking Business. [Explanation to section 9(1)(v)]

(1) TAXABILITY OF OFFSHORE TRANSACTIONS (briefly put)

(1) Capital assets include "Right in shares of Indian company". If such right is transferred by directly or indirectly then it is taxable in India.

(2) Share of a foreign company is deemed to be situated in India if such shares derives its value substantially directly/indirectly from the assets located in India. [Explanation 5 to section 9(1)(i)]

Share of a foreign company shall deemed to be derive its value substantially from the asset (tangible/intangible) located in India, if, on the specified date, the Fair Market value of such asset exceeds ₹ 10 crore and represents at least 50% of the value of all the assets owned by the company/entity. [Explanation 6 to section 9(1)(i) – w.e.f A.Y 2016-17]

(3) **Nothing taxable in the hands of transferor (foreign company):**

If the transferor hold less than 5% voting power and has no right in control/ management of the company in the preceding 12 months then nothing shall be taxable in the hands of transferor.

(4) in a case where all the assets are not owned in India then capital gains shall be taxable on proportionate basis.

(2) FUND MANAGERS IN INDIA NOT TO CONSTITUTE BUSINESS CONNECTION OF FUNDS REGISTERED OUTSIDE INDIA [SECTION 9A]

(1) The fund management activity carried out through an eligible fund manager acting on behalf of an **eligible investment fund** shall not constitute business connection in India. [This section overrides section 9(1)]

(2) an eligible investment fund shall be treated as Non resident.

Notes:

(1) **What is eligible investment fund for the purpose of section 9A?**

The eligible investment fund, means a fund established/ incorporated/ registered outside India, which collects funds from its members for investing it for their benefit and fulfils the prescribed conditions.

(2) Who is eligible fund manager for the purpose of section 9A?

The eligible fund manager, in respect of an eligible investment fund, means any person who is engaged in the activity of fund management and fulfils the following conditions,;—

- (a) the person is not an employee of the eligible investment fund or a connected person of the fund;
- (b) the person is registered as a fund manager or an investment advisor in accordance with the specified regulations;
- (c) the person is acting in the ordinary course of his business as a fund manager;
- (d) the person along with his connected persons shall not be entitled, directly or indirectly, to more than 20% of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through the fund manager.

(3) Taxability of interest paid to outside India by a PE in India engaged in banking Business. [Explanation to section 9(1)(v)] – from A.Y 2016-17

Any interest payable by the PE in India of a non – resident (engaged in Banking business) to outside India to its HO/ any other PE/ any other part of such non-resident, shall be deemed to accrue or arise in India,

The permanent establishment in India & outside India shall be deemed to be separate persons.

Question 13: Discuss the scope and taxability of following income in India –

(1) Interest payable by a non-resident carrying Banking business through a permanent establishment in India to its H.O.

(2) X Inc. a foreign company (a 100% subsidiary of Y Inc another foreign company) holds 75% shares in A Ltd. (an Indian Company). The value of such shares is ₹ 500 crores and it represents 70% of the total value of asset of X Inc. During the year if -

- (i) Y Inc. sold out all the shares in X Inc, to Z Inc.(a foreign company) in outside India.
- (ii) Y Inc. gets amalgamated with Z Inc. (a foreign company) .
- (iii) X inc. declares and paid dividend to Y inc.

(3) If in the above case Y inc. holds only 1% voting power in X inc. What will be the tax implication if it sold out its voting right to Z inc. (foreign company).

(4) The fund management activity carried out through an eligible fund manager acting on behalf of an eligible investment fund. What is the tax implication of the said fund and of fund manager?

(5) a foreign company having place of effective management in India but during the year conduct a board meeting outside India. whether the company is a resident of India or not.

Answer:

(1) Any interest payable by the PE in India of a non – resident (engaged in Banking business) to outside India to its HO/ any other PE/ any other part of such non-resident, shall be deemed to accrue or arise in India. Hence, taxable in India.

(2) Share of a foreign company is deemed to be situated in India if such shares derives its value substantially directly/indirectly from the assets located in India. Share of a foreign company shall deemed to be derive its value substantially from the asset (tangible/intangible) located in India, if, on the specified date, the value of such asset exceeds ₹ 10 crore and represents at least 50% of the value of all the assets owned by the company/entity. [Explanation 5 and 6 of section 9(1)]

In the given case X inc. has substantial interest in A Ltd.(Indian Company). Accordingly the tax implication under various situations are as under -

(i) Transfer of shares of foreign company (deriving its value substantial from an Indian company) by one foreign company to another outside India shall be liable for capital gain tax in India.

(ii) **Exempted transfer u/s. 47:** any transfer of capital asset being share of a foreign company (which derives its value directly or indirectly substantially from the share(s) of an Indian Company) to another foreign company under amalgamation/ demerger is exempted provided that –

(a) at least 25% (in case of demerger 3/4th in the value of shares) of the shareholders of the amalgamating/demerged foreign company continue to remain shareholders of the amalgamated/resulting foreign company; and

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

(c) the provisions of sections 391 to 394 of the Companies Act, 1956 shall not apply in case of demergers referred to in this clause

(iii) not taxable in India. Dividend declared and Paid by a foreign company outside India which derives its value substantially from an asset in India shall not be deemed to be accrue or arise in India, since it does not involves transfer of shares as provided in Explanation 5 to section 9(1) [Circular No. 4/2015]

(3) Nothing taxable in India, Explanation 5 to section 9(1) shall not gets attracted as per specific provisions of Explanation 7 to Section 9(1) which provided that if transferor along with its associated enterprises at any time in the 12 months preceding the date of transfer – (a) neither holds the right of management/control; (b) nor holds more than 5% of the total voting power/share capital/interest in the foreign company/entity who directly holds Indian Asset, then nothing shall be taxable in India.

(4) The fund management activity carried out through an eligible fund manager acting on behalf of an eligible investment fund shall not constitute business connection in India as per section 9A. Hence, not taxable in India. However, this section shall not exclude any income from the total income of the eligible investment fund, which would have been so included irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not.

Further, the provisions of section 9A shall not alter the scope of total income of the eligible fund manager.

(5) Resident of India. since in substance the place of effective management is in India.

Question 14: Examine the following w.r.t recent amendments

- 1) LPG subsidy received from Central Govt. on purchase of LPG cylinder for personal use.
- 2) Govt. grants received for purchase of depreciable asset

- 3) Govt. grant as cash assistance received during the course of Export Business.
- 4) Transfer of shares of an Indian company by a foreign company to another foreign company on account of amalgamation.
- 5) an Individual started manufacturing of goods for the first time in a factory and employed 60 new regular workmen. Whether he is eligible to get any benefit under Income Tax?
- 6) Transfer of mutual fund unit under consolidation scheme of Mutual Fund shall be subjected to capital gains in the hands of unit holder.
- 7) Income of core settlement guarantee fund set up by recognized clearing corporations are taxable.
- 8) The A.O is the prescribed authority for the purpose of granting exemption to educational institute u/s. 10(23C).
- 9) CII is based on 75% of average rise in the Consumer Price Index (CPI) for urban non-manual employees (UNME).
- 10) X Ltd. purchased a Plant and machinery of ₹30 crores on 1/12/2015 which is used in the factory newly set up in specified backward area of Telengana.

Answer: briefly put (in exam you are required to write relevant provisions in detail)

- 1) Not taxable. It has been clarified by the MOF in Press Release dated 5th May, 2015, that the amended definition of income shall not apply to the LPG subsidy or any other welfare subsidy received by an individual in his personal capacity and not in connection with the business or profession carried on by him.
- 2) It is reduced from the cost of such asset.
- 3) Taxable as business income
- 4) Exempted transfer u/s. 47
- 5) In addition to deduction on entire salary paid to such workers u/s. 37(1). Deduction u/s. 80JAA shall be allowed w.r.t 30% of salary paid to new regular workmen in excess of 50.
- 6) False. It is exempted transfer u/s. 47.
- 7) Specified income is exempted u/s. 10(23EE): write provisions in detail in exam.
- 8) False, the prescribed authority is the Commissioner of Income Tax (Exemptions)
- 9) False w.e.f A.Y 2016-17, it is based on 75% of the average rise in the CPI (Urban).

10) Total Deduction in computing business Income:

- (i) Normal Depreciation: 7.5% in P.Y 2015-16 and 7.5% in 2016-17. (since used for less than 180 days)
- (ii) Additional Depreciation: 17.5% in P.Y 2015-16 and 17.5% in 2016-17 ((since used for less than 180 days)
- (iii) Deduction u/s. 32AC(1A) @ 15% on 30 cr. in P.Y 2015-16
- (iv) Deduction u/s. 32AD @ 15% on 30 cr. in P.Y 2015-16

(B) INDIRECT TAX

SERVICE TAX

(7) SECTION 66B: RATE OF SERVICE TAX

Period	Service Tax	EC&SHEC	Swachh Bharat Cess (SBC)	Effective Rate of Service Tax
From 1.4.2015 to 31.05.2015	12%	3%	NIL	12.36%
From 01.06.2015 to 14.11.2015	14%	Not applicable (subsumed in revised rate of service tax)		14%
From 15.11.2015 to 31.03.2016	14%	Not applicable	0.5 % on taxable value.	14.5%

All the above rates are relevant for exam depending on the date of point of taxation.

Note 1: CALCULATION OF SBC ON COMPOSITE TAX RATE

COMPOSITE RATE X 0.5

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For example: in case of air travel agent the composite rate of service tax is 0.7% of the basic fare in the case of domestic bookings. If the basic fare is ₹ 20,000, then Service tax to be paid ₹ 140 and SBC to be ₹ 5 i. e. [(140/14) x 0.5].

Note 2: Provisions of reverse charge equally applicable for SBC also.

Note 3: CENVAT credit cannot be utilised for payment of SBC. Credit is also not available on such payment.

Note 4: Swachh Bharat Cess shall not be leviable on services which are exempt from service tax or otherwise not leviable to service tax under section 66B of the Finance Act, 1994.

Note 5: SBC is calculated on taxable value [i.e after providing abatement]

Note 6: value of taxable services for the purposes of the Swachh Bharat Cess shall be the value as determined in accordance with the Service Tax (Determination of Value) Rules, 2006.

(8) SECTION 65B(44): DEFINITION OF SERVICE TAX

Explanation 2 w.e.f 14.05.2015 (substituted): Following are regarded as services and chargeable to tax:

- (i) any activity relating to use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;
- (ii) any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out—

(a) by a lottery distributor or selling agent in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner;

(b) by a foreman of chit fund for conducting or organising a chit in any manner.;

Section 65B (23A): “foreman of chit fund” shall have the same meaning as is assigned to the term “foreman” in clause (j) of section 2 of the Chit Funds Act, 1982.;

Section 65B(31A): “lottery distributor or selling agent” means a person appointed or authorised by a State for the purposes of promoting, marketing, selling or facilitating in organising lottery of any kind, in any manner, organised by such State in accordance with the provisions of the Lotteries (Regulation) Act, 1998.;

(9) What constitute Consideration for the purpose of Service Tax?

Clause (a) of Explanation to Section 67, provides that “consideration” includes:-

- (i) any amount that is payable for the taxable services provided or to be provided;
- (ii) any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed [Refer Rule 5];
- (iii) any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, or, the discount received, [i.e, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket] . [Substituted w.e.f 14.05.2015]

(10) Negative List Section 66D

(1) Manufacturing of Goods: services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption”

“process amounting to manufacture or production of goods” means a process on which excise duty is leviable whether under Central Excise Act, 1944; or the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 or any process amounting to manufacture of ~~alcoholic liquors for human consumption~~, opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force. [Section 65B(40)]

Note: w.e.f 1.6.2015 services by way of carrying out any process amounting to manufacture of alcoholic liquor for human consumption shall be liable for service tax.

(2) Entertainment events/amusement facilities are omitted from Negative list from 1.6.2015. However, some specified items are covered under Mega exemption.

~~“entertainment event” means an event or a performance which is intended to provide; recreation, pastime, fun or enjoyment, by way of exhibition of cinematographic film, circus, concerts, sporting event, pageants, award functions, dance, musical or theatrical performances including drama, ballets or any such event or programme; [Section 65B(24)]~~ **omitted from 1.6.2015**

~~“amusement facility” means a facility where fun or recreation is provided by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places but does not include a place within such facility where other services are provided; [Section 65B(9)]~~ **—omitted from 1.6.2015**

(3) Activities of betting/gambling/lottery

Betting, gambling or lottery shall not be taxable. However, auxiliary services used for organizing or promoting betting or gambling event.

For the purposes of this clause, the expression “betting, gambling or lottery” shall not include the activity specified in *Explanation 2* to clause (44) of section 65B- 1.6.2015

(4) Any service provided to business entity by Government or local authority is outside the Negative list and therefore taxable from a date to be notified. Currently, only support service is taxable.

(5) "Government" means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder; [Section 65B (26A) newly inserted w.e.f 14.5.2015]

(11) Section 66F(1): Unless otherwise specified, reference to a main service shall not include reference to a service which is used for providing main service.

Illustration: The services by the Reserve Bank of India, being the main service within the meaning of clause (b) of section 66D, does not include any agency service provided or agreed to be provided by any bank to the Reserve Bank of India. Such agency service, being input service, used by the Reserve Bank of India for providing the main service, for which the consideration by way of fee or commission or any other amount is received by the agent bank, does not get excluded from the levy of service tax by virtue of inclusion of the main service in clause (b) of the negative list in section 66D and hence, such service is leviable to service tax.

(12) COMPOSITION SCHEME

(1) Option to air Travel Agent: In this case service tax is payable by the assessee as per the following option-

- i) **14%** on commission; or
- ii) **0.7%** of the basic fare in the case of domestic bookings, and
- iii) **1.4%** of the basic fare in the case of international bookings,

[Before 1.6.2015, the rate was 12%, 0.6% and 1.2% as the case may be plus EC & SHEC]

(2) Life insurance business: An insurer carrying on life insurance business shall have the following option to pay Service tax –

- (i) @ **14%** on the risk premium;

Risk premium = Gross premium charged from a policy holder (-) amount allocated for investment, or savings on behalf of policy holder, if such amount is intimated to the policy holder at the time of providing of service;

- (ii) In all other cases: [only if break up not known]

First year: @ **3.5%** of the premium charged from policy holder

Subsequent year: @ **1.75 %** of the premium charged from policy holder

[Before 1.6.2015, the rate was 12%, 3% and 1.5% as the case may be plus EC and SHEC]

(3) Distributor or Selling agent of lotteries.

Normal Scheme: Service Tax @ 14% on (commission + if any amount retained from gross sale amount of lottery ticket).

Optional composition Scheme (Rule 6(7C):

→ Who can take the benefit: The distributor or selling agents rendering the taxable service of promotion, marketing or organizing/ assisting in organizing lottery.

→ Effective rate

Where the guaranteed lottery prize payout is > 80%	₹ 8200 on every or part of ₹10 lakh of aggregate face value of lottery tickets printed by the organizing state for a draw.
Where the guaranteed lottery prize payout is ≤ 80%	₹ 12800 on every or part of ₹10 lakh of aggregate face value of lottery tickets printed by the organizing state for a draw.

[Before 1.6.2015, the rate was 7000 and 11,000, as the case may be plus EC and SHEC]

(4) Money- changing services provided by a foreign exchange broker (including banks)

Optional composition scheme: Rule 6(7B)

The person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

Gross amount of currency exchanged [GACE]	Rate of service Tax
Upto ₹ 1, 00,000	0.14% or ₹ 35; higher
₹ 1, 00,001 to ₹ 10, 00,000	₹ 140 + 0.07% of GACE
Exceeding ₹ 10, 00,000	₹ 770 + 0.014% of GACE <i>subject to maximum ₹ 7,000</i>

[Before 1.6.2015, the rate was 0.12%, 0.06%, 0.012% and maximum 6000, as the case may be plus EC and SHEC]

(13) MEGA EXEMPTION

(1) New Exemption applicable from 1.04.2015

(i) Services by operator of Common Effluent Treatment Plant by way of treatment of effluent; (ii) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables; (iii) Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo; (iv) Service provided by way of exhibition of movie by an exhibitor to the distributor or an association of persons consisting of the exhibitor as one of its members;	“Zoo” means an establishment, whether stationary or mobile, where captive animals are kept for exhibition to the public but does not include a circus and an establishment of a licensed dealer in captive animals.
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(2) New Exemption applicable from 1.6.2015:

Services by way of right to admission to,- (i) exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet; (ii) recognised sporting event; (iii) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event, where the consideration for admission is not more than ` 500 per person.”	“recognised sporting event” means any sporting event,- (i) organised by a recognised sports body where the participating team or individual represent any district, state, zone or country; (ii) covered under entry 11.
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(3) From 1.6.2015, job work processing in relation to alcoholic liquors for human consumption is liable to service tax.

(4) Services by the following persons in respective capacities – are exempt.

(a) sub-broker or an authorised person to a stock broker;

(b) authorised person to a member of a commodity exchange;

~~(c) mutual fund agent to a mutual fund or asset management company;~~

~~(d) distributor to a mutual fund or asset management company;~~

~~(e) selling or marketing agent of lottery tickets to a distributor or a selling agent;~~

[From 1.4.2015 services covered in point (c),(d) and (e) is taxable and covered under reverse charge]

(f) selling agent or a distributor of SIM cards or recharge coupon vouchers;

(g) business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; or [substituted by the following clauses from 21.10.2015]

(g) business facilitator or a business correspondent to a banking company with respect to a Basic Savings Bank Deposit Account covered by Pradhan Mantri Jan Dhan Yojana in the banking companys rural area branch, by way of account opening, cash deposits, cash withdrawals, obtaining e-life certificate, Aadhar seeding;

“ Basic Savings Bank Deposit Account means a Basic Savings Bank Deposit Account opened under the guidelines issued by Reserve Bank of India relating thereto”

(ga) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in clause (g);

(gb) business facilitator or a business correspondent to an insurance company in a rural area; or”

(h) sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt;

(5) charitable activities includes Yoga.

- advancement of religion or spirituality or yoga; [yoga inserted w.e.f 21.10.2015]

(14) REVERSE CHARGE

From a date to be notified by the Central Government, all services (except renting and services covered under section 66D(a)(i)/(ii)/(iii)] provided by government to business entity are under full reverse charge.

[Currently, only support services are under reverse charge]

MISCELLANEOUS AMENDMENTS & CLARIFICATIONS

[self study]

SERVICE TAX

(1) **Notification No. 17/2015-Service Tax, dated 19.5.2015:** Taxable services provided by way of, re-gasification of Liquefied Natural Gas imported by the Gas Authority of India Limited (GAIL) and its transportation is exempted.

(2) **Mega Exemption: Hotel Service:** Where declared Tariff is exact Rs. 1000 or more then the same shall be taxable under Service Tax. Service Tax shall be charged on Actual Tariff less abatement.

INCOME TAX

(1) **Notification No. 72/2015, dated 24.08.2015:** The income of press trust of India Limited, New Delhi shall be exempted u/s. 10(22B).

(2) **Circular No. 16/2015:** The cost of production of an abandoned [unsuccessful] feature film, is fully allowed as deduction.

(3) APPLICABILITY OF MAT ON FOREIGN COMPANY

A foreign company shall not be liable to pay MAT in India in the following cases:-

capital gains arising on transactions in securities; or (ii) the interest, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII [i.e., special tax rate], if such income is credited to the profit and loss account and the income-tax payable thereon in accordance with the provisions of this Act, other than the provisions of this Chapter, is at a rate less than 18.5%.

(4) **MAT not applicable on share of income received by a member being a company from an AOP.**

(5) **Provisions of MAT not applicable on notional gain/loss on exchange of shares in Special Purpose vehicle by sponsor for units of Business Trust as referred u/s. 47(xviii). MAT is applicable on actual capital gains [w.e.f A.Y 2016-17]**

(6) **Furnishing of specified Information by Indian Entity u/s. 285A**

The Indian concern where the Indian assets are held by foreign company shall be required to furnish specified information as per section 285A. In case of failure, penalty shall be levied u/s. 271GA 2% of value or ₹ 5,00,000 as the case may be.

(7) **SECTION 115A:** Royalty and fees for technical services received under agreement entered on or after 31.03.1976: **RATE OF TAX REDUCED FROM 25% TO 10% FROM A.Y 2016-17**

(8) Section 139A(5): Transactions in relation to which permanent account number is to be quoted [w.e.f 1.1.2016]

Every person shall quote his permanent account number in all documents pertaining to the transactions specified in the Table below,

Sl.No.	Nature of transaction	Value of transaction (in ₹)
1.	Sale or purchase of a motor vehicle other than two wheeled vehicles.	Any amount
2	Opening an account [other than a time-deposit and a Basic Savings Bank Deposit Account]	Any amount
3	Making an application for issue of a credit or debit card.	Any amount
4	Opening of a demat account	Any amount
5	Cash payment to a hotel or restaurant against a bill or bills at any one time.	> 50,000
6	Cash payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time.	> 50,000
7	Payment to a Mutual Fund for purchase of its units.	> 50,000
8	Payment to a company or an institution for acquiring debentures or bonds issued by it.	> 50,000
9	Payment to the Reserve Bank of India, for acquiring bonds issued by it.	> 50,000
10	Cash deposit with a bank/ co-operative bank	> 50,000 during any one day.
11	Purchase of bank drafts or pay orders or banker's cheques in cash	> 50,000 during any one day.
12	A time deposit with, - (i) a banks/ co-operative bank; (ii) a Post Office; (iii) a Nidhi company; or (iv) registered NBFC.	> 50,000 or aggregating more than 5,00,000 during a financial year.
13	Payment in Cash/DD/pay order/banker's cheque for one or more pre-paid payment instruments, prescribed by RBI to a banks/ co-operative banks.	> 50,000 in a financial year.
14	Payment as life insurance premium to an insurer	> 50,000 in a financial year.
15	A contract for sale or purchase of securities (other than shares).	> 1,00,000 per transaction.
16	Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange.	> 1,00,000 per transaction.
17	Sale or purchase of any immovable property.	Actual consideration or value of SVA u/s. 50C > ₹ 10 lakh.
18	Sale or purchase, by any person, of goods or services of any nature other than those covered above (Sl. No. 1 to 17)	> 2,00,000 per transaction.

The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015
[briefly given. for details refer ICSI supplementary study module]

(1) Applicable: w.e.f 1.7.2015

(2) Normal Scheme:

- (i) Tax 30% and penalty 90% on the value of undisclosed assets held abroad by resident of India.
- (ii) rigorous imprisonment of 3 to 10 years for willful attempt to evade tax in relation to an undisclosed foreign income or asset.
- (iii) the value of the asset has to be determined as per Fair Market Value to be determined as per prescribed rules.

(3) One-time compliance Scheme:

- (a) Section 59 to 72 of the Act provides for a one - time compliance window for a limited period.
 - (b) Person availing it will have to make a declaration of undisclosed foreign asset and acquired from income chargeable to tax under the Income-tax Act for any assessment year prior to the assessment year 2016-17 for which he had, earlier failed to furnish a return u/s. 139 or failed to disclose such income in a return furnished before the date of commencement of the Act, or such income had escaped assessment by reason of the omission or failure on the part of such person.
 - (c) Declaration to be made on or before 30.09.2015 in Form 6. Tax and penalty to be paid by 31.12.2015. in case of failure of to pay tax and penalty within the due date the declaration shall be invalid.
 - (d) Declaration cannot be made for matter already pending before Income Tax authority, assessment pending for survey/search cases, information in respect of undisclosed asset received on or before 30.6.2015 under agreement of Sec. 90/90A**
 - (e) If the declaration has been made by misrepresentation or suppression of facts or information then it shall be invalid.
 - (f) Benefit of the scheme:**
 - (1) Rate of tax and reduced penalty:** 30% tax and 30% penalty. [Total 60% of the value of the undisclosed asset declared]. No imprisonment.
 - (2) Assessment already completed cannot be reopened under Income Tax Act. Further, amount of undisclosed investment in the asset declared shall not be included in the total income the Income-tax Act for any assessment year.
 - (3) Value of asset declared shall not be chargeable to Wealth Tax.
 - (4) The contents of the declaration shall not be admissible as evidence in in any penalty or prosecution proceedings under the Income-tax Act, the Wealth Tax Act, the Foreign Exchange Management Act, the Companies Act or the Customs Act;
 - (g) In case of invalid declaration** all the provisions of the Act, including penalties and prosecutions, shall apply and any tax or penalty paid in pursuance of the declaration shall not be refundable under any circumstances.
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INCOME TAX RETURN FORMS AND CHALANS

Form No.	Assessee
ITR-1 SAHAJ	For Individuals having Income from Salary & Interest
ITR-2	For Individuals & HUFs not having Income from Business or Profession
ITR-2A	For Individuals & HUFs not having Income from Business or Profession and Capital Gains and who do not hold foreign assets
ITR-3	For Individuals / HUFs being partners in firms and not carrying out business or profession under any proprietorship
ITR-4	For Individuals & HUFs having Income from a proprietary business or profession
ITR-4S – SUGAM	For Individuals / HUFs having Income from presumptive business
ITR-5	For person other than, - (i) individual, (ii) HUF, (iii) Company and (iv) person filing Form ITR-7
ITR-6	For Companies other than companies claiming exemption under section 11
ITR-7	For person including companies required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D) or section 139(4E)
ITNS-280	Income tax payment challans
ITNS-281	TDS/TCS payment challans

Form for filing TDS statements

Quarterly TDS statements shall be furnished in following forms:-

- 1) Form 24Q - Statement of deduction of tax from salary
- 2) Form 26Q - Statement of deduction of tax from other than salary (resident payee)
- 3) Form 27Q: Statement of deduction of tax from other than salary. (non-resident payee)

However in case tax is deducted under section 194-IA, the deductor shall furnish a challan-cum-statement in Form 26QB within a period of seven days from the end of the month in which the deduction is made. In this case, no statement shall be filed separately.

1. Reasonable efforts have been made in this book to avoid errors and omissions. In spite of this errors/omissions may creep in. Also there may be misprints in the book. It is, therefore, notified that the author/ publisher does not take any responsibility for any damage or Loss of action to any one, of any kind, in any manner. It is advised that the readers should cross check the facts, Laws and contents of the publication with the original Govt. publications and notifications.
2. Tax Laws are a subject matter of opinion and interpretations. Same provisions and case Laws may be interpreted in different ways. It is advised that the readers/students should form their own opinion based on class discussions, discussions contained in this book and original Govt. publications and notifications.
3. These notes should not be read in isolation. It has to be read along with class discussions and dictations. This book contains the discussions which, in the opinion of the author, are relevant for class discussions and examinations. Attempt has been made to simplify the provisions for beginners and give them a basic idea of the provisions. It should be supplemented with the ICSI study material provided to the students and the original Govt. publications and notifications.
4. This material has been designed for academic purposes and not for professional practice purpose.

ADDENDUM FOR CS EXECUTIVE & FINAL JUNE 2016 EXAMINEES

INDIRECT TAX

(1) SECTION 66B: RATE OF SERVICE TAX

Period	Service Tax	EC&SHEC	Swachh Bharat Cess (SBC)	Effective Rate of Service Tax
From 1.4.2015 to 31.05.2015	12%	3%	NIL	12.36%
From 01.06.2015 to 14.11 2015	14%	Not applicable (subsumed in revised rate of service tax)		14%
From 15.11.2015 to 31.03.2016	14%	Not applicable	0.5 % on taxable value.	14.5%

All the above rates are relevant for exam depending on the date of point of taxation.

Notes:

(1) CALCULATION OF SBC ON COMPOSITE TAX RATE: $\frac{\text{COMPOSITE RATE} \times 0.5}{14}$

For example: in case of air travel agent the composite rate of service tax is 0.7% of the basic fare in the case of domestic bookings. If the basic fare is ₹ 20,000, then Service tax to be paid ₹ 140 and SBC to be ₹ 5 i. e. $[(140/14) \times 0.5]$.

(2) Provisions of reverse charge equally applicable for SBC also.

(3) CENVAT credit cannot be utilised for payment of SBC. Credit is also not available on such payment.

(4) Swachh Bharat Cess shall not be leviable on services which are exempt from service tax or otherwise not leviable to service tax under section 66B of the Finance Act, 1994.

(5) SBC is calculated on taxable value [i.e after providing abatement]

(6) value of taxable services for the purposes of the Swachh Bharat Cess shall be the value as determined in accordance with the Service Tax (Determination of Value) Rules, 2006.

DIRECT TAX

(1) **INCOME COMPUTATION AND DISCLOSURE STANDARD (brief notes):** CBDT has prescribed ICDS I to ICDS X, which are applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources". These are not relevant for the purpose of maintenance of books of accounts. It is applicable for assessee following mercantile system of accounting.

(2) **Section 139A(5): Transactions in relation to which permanent account number is to be quoted :** W.e.f 1.1.2016, every person shall quote his permanent account number in all documents pertaining to the transactions specified in the Table below,

Sl.No.	Nature of transaction	Value of transaction (in ₹)
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9	Payment to the Reserve Bank of India, for acquiring bonds issued by it.	> 50,000
10	Cash deposit with a bank/ co-operative bank	> 50,000 during any one day.

11	Purchase of bank drafts or pay orders or banker's cheques in cash	> 50,000 during any one day.
12	A time deposit with, - (i) a banks/ co-operative bank; (ii) a Post Office; (iii) a Nidhi company; or (iv) registered NBFC.	> 50,000 or aggregating more than 5,00,000 during a financial year.
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14	Payment as life insurance premium to an insurer	> 50,000 in a financial year.
15	A contract for sale or purchase of securities (other than shares).	> 1,00,000 per transaction.
16	Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange.	> 1,00,000 per transaction.
17	Sale or purchase of any immovable property.	Actual consideration or value of SVA u/s. 50C > ₹ 10 lakh.
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(d) Declaration cannot be made for matter already pending before Income Tax authority, assessment pending for survey/search cases, information in respect of undisclosed asset received on or before 30.6.2015 under agreement of Sec. 90/90A

(e) If the declaration has been made by misrepresentation or suppression of facts or information then it shall be invalid.

(f) Benefit of the scheme:

(i) Rate of tax and reduced penalty: 30% tax and 30% penalty. [Total 60% of the value of the undisclosed asset declared]. No imprisonment.

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(iii) Value of asset declared shall not be chargeable to Wealth Tax.

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