

CS PROFESSIONAL DIRECT TAX AMENDMENTS

FOR JUNE/ DEC 20 EXAM OLD & NEW SYLLABUS

NEW SYLLABUS

S N	CHAPTER NAME
1	Corporate Tax Planning And Tax Management
2	Taxation Of Companies, LLP And Non-Resident
3	General Anti Avoidance Rules 'GAAR'
4	Basics Of International Taxation
5	Double Taxation avoidance agreement
6	Income Tax Implication On Specified Transaction
7	Advance Rulings

OLD SYLLABUS

S N	CHAPTER NAME
1	Computation Of Total Income
2	Taxation Of Companies, LLP And Non-Resident
3	General Anti Avoidance Rules 'GAAR'
4	Basics Of International Taxation
5	Double Taxation avoidance agreement
6	Advance Ruling

TAX RATES FOR AY 20-21

Tax rate	Resident Individual age < 60 (Male & Female), HUF, AOP, BOI & AJP	Resident Individual (Age >= 60 during PY) Senior citizen(Male& Female)	Resident Individual (Age >=80 during PY) Super senior citizen(Male & Female)
NIL	2,50,000	3,00,000	5,00,000
5%	2,50,001 to 5,00,000	3,00,001 to 5,00,000	NA
20%	5,00,001 to 10,00,000	5,00,001 to 10,00,000	5,00,001 to 10,00,000
30%	Above 10,00,000	Above 10,00,000	Above 10,00,000
Add: Surcharge <u>Amendment</u>	Income		Rate
	50,00,000 to 1,00,00,000		10%
	1,00,00,000 to 2,00,00,000		15%
	200,00,000 to 5,00,00,000		25% [FA 2019]
	Above 5,00,00,000		37% [FA 2019]
Health & Education Cess	4% on Tax plus Surcharge		

REBATE U/ 87A**Amendment**

1 <u>Conditions</u>		
	1	A resident individual whose net income does not exceed Rs. 5,00,000 can avail rebate u/s. 87A. [FA 2019]
	2	The amount of rebate is 100% of income tax or Rs. 12,500 whichever is less. [FA 2019]
2 <u>Key notes</u>		
	a	Net income = GTI - Deduction u/s 80C to 80U
	b	It is to be deducted before H & EC.

COMPUTATION OF TOTAL INCOME (OLD SYLLABUS)

Dear students

Please refer CS EXECUTIVE amendment file for amendments in above chapter and lectures uploaded on you tube

CORPORATION TAX PLANNING & TAX MANAGEMENT**(NEW SYLLABUS)****NO AMENDMENTS****TAXATION OF COMPANIES, LLP AND NON-RESIDENT (OLD & NEW SYLLABUS)****TAX RATES****FOR DOMESTIC COMPANIES**

		Surcharge		
Particulars	AY 20-21	Income between 1 cr to 10 cr	Above 10 cr	cess
If turnover of or gross receipt during PY 16-17 dose not exceeds 250 cr	25%	7%	12%	4%
If turnover of or gross receipt during PY 17-18 dose not exceeds 400cr [Amendment FA 2019]	25%	7%	12%	4%
Otherwise	30%	7%	12%	4%

SPECIAL PROVISIONS OF TAX ON CERTAIN INCOME OF DOMESTIC MANUFACTURING COMPANY AND OTHER DOMESTIC COMPANY AS PER PROVISIONS OF SECTION 115BAB AND SECTION 115BBA OF THE INCOME-TAX ACT, 1961.

Sr	Particulars	Section 115BAB	Section 115BAA
1.	Applicability	Domestic manufacturing company	Any domestic company
2.	Rate of tax	15%	22%
3.	Rate of surcharge	10%	10%
4.	Effective rate of tax [including surcharge & cess]	17.16%	25.168%
5.	Applicability of concessional rate of tax on total income of company.	The rate of tax [i.e., 17.16%] is notwithstanding anything contained in the Income-tax Act, 1961 but subject to the provisions of Chapter XII, other than section 115BA and 115BAA.	The rate of tax [i.e. 25.168%] is notwithstanding anything contained in the Income-tax Act, 1961 but subject to the provisions of Chapter XII, other than section 115BA and 115BAB.
		<p>Note : This implies that this rate [i.e., 17.16% / 25.168%] would prevail in respect of all income, other than income subject to special rates of tax under Chapter XII, for which the special rates would continue to apply. For example, in case of such companies opting for section 115BAA or 115BAB, long-term capital gains chargeable to tax under section 112 and 112A and short-term capital gains chargeable to tax under section 111A would be subject to tax at the rates mentioned in the said sections. However, other income, like short term capital</p>	

		gains [other than those covered under section 111A], income from house property and income from other sources would be taxable at the rate of 17.16% / 25.168%, as the case may be.		
6.	Conditions to be fulfilled for availing the concessional rate of tax and exemption from MAT.	(i)	The company should be set-up and registered on or after 1-10-2019.	No time limit specified. Both existing companies and new companies can avail benefit.
		(ii)	It should commence manufacturing on or before 31-3-2023.	Need not be a manufacturing company.
		(iii)	It should not be formed by splitting up or the reconstruction of a business already in existence [except in case of an undertaking formed by reconstruction or revival of a person of the business of any undertaking referred to in section 33B in the circumstances and within the period	No similar condition has been prescribed.

			specified therein]	
		(iv)	It does not use any machinery or plant previously used for any purpose [Refer Note at the end]	No similar condition has been prescribed.
		(v)	It does not use any building previously used as a hotel or a convention centre [meanings assigned in section 80-ID(6)]	No similar condition has been prescribed.
		(vi)	It should not be engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.	No similar condition has been prescribed.
7.	Common condition for both sections	The total income should be computed -		
		(i)	Without providing for deduction under any of the following provisions :-	

	for availing the concessional rate of tax and exemption from MAT.		Section	Provision
			10AA	Exemption of profits and gains derived from export of articles or things or from services by an assessee, being an entrepreneur from his Unit in SEZ.
			32(1)(iia)	Additional depreciation @ 20% or 35%, as the case may be, of actual cost of new plant and machinery acquired and installed by manufacturing and power sector undertakings.
			32AD	Deduction @ 15% of actual cost of new plant and machinery acquired and installed by an assessee in a manufacturing undertaking located in the notified backward areas of Andhra Pradesh, Telengana, Bihar and West Bengal.
			33AB	Deduction @ 40% of profits and gains of business of growing and manufacturing tea, coffee or rubber in India, to the extent deposited with NABARD in accordance with scheme approved by the Tea/Coffee/Rubber Board.
			33ABA	Deduction @ 20% of the profits of a business of prospecting for, or extraction or production of, petroleum or natural gas or both in India, to the extent deposited

				with SBI in an approved scheme or deposited in Site Restoration Account.
			35(1)(ii)/ (iia)/(iii)	Deduction / weighted deduction for payment to any research association, company, university etc. for undertaking scientific research or social science or statistical research.
			35(2AA)	Weighted deduction @ 150% of payment to a National Laboratory or University or IIT or approved specified person for scientific research.
			35(2AB)	Weighted deduction @ 150% of in-house scientific research expenditure incurred by a company engaged in the business of bio-technology or in the business of manufacture or production of an article or thing.
			35AD	Investment-linked tax deduction for specified businesses.
			35CCC	Weighted deduction @ 150% of expenditure incurred on notified agricultural extension project.
			35CCD	Weighted deduction @ 150% of expenditure incurred by a company on notified skill development project.
			80-IA to	Deductions from gross total income under Chapter VI-A under the heading "C -

			80RRB	Deductions in respect of certain incomes" other than the provisions of section 80JJAA.
		(ii)	Without set-off of any loss carried forward from any earlier assessment year, if such loss is attributable to any of the deductions listed in (i) above [Such loss would be deemed to have been already given effect to and no further deduction for such loss shall be allowed for any subsequent year].	
		(iii)	By claiming depreciation u/s. 32 determined in the prescribed manner. However, additional depreciation u/s. 32(1)(iia) cannot be claimed.	
		Note : A domestic company exercising option for availing benefit of lower tax rate under section 115BAA shall not be allowed to claim set off of any brought forward loss on account of additional depreciation for an Assessment Year for which the option has been exercised and for any subsequent Assessment Year. Since there is no time line without which option under section 115BAA can be exercised, a domestic company having brought forward losses on account of additional depreciation may, if it so desires, exercise the option after set of the lossess so accumulated.		
8.	Applicability of MAT	Not applicable		Not applicable
9.	Availability of set-off of MAT credit brought	Since it is a new company, there would be not brought forward MAT credit		Brought forward MAT credit cannot be set-off against income u/s. 115BAA.

	forward from earlier years.		
10.	Adjustments for transactions with persons having close connection.	<p>If the Assessing Officer opines that the course of business between the company and any other person having close connection therewith is so arranged that the business transacted between them produces more than the ordinary profits to the company, he is empowered to take into account the amount of profits as may be reasonably deemed to have been derived there from, while computing profits and gains of such company.</p> <p>In case the arrangement referred to above involves a specified domestic transaction referred to in section 92BA, then, the amount of profits from such transaction would be determined by considering the arm's length price [ALP]</p> <p>Note : The scope of "specified domestic transaction" referred to in section 92BA has been expanded to include within its ambit, any business transacted between such persons</p>	No such requirement to make any adjustment.

		with close connection, where one such person is a company claiming benefit under section 115BAB.	
11.	Exercise of option by the company within the prescribed time.	<p>The beneficial provisions of this section would apply only if option is exercised in the prescribed manner on or before the due date u/s. 139(1) for furnishing the first of the returns of income for any previous year relevant to A.Y. 2020-21 or any subsequent assessment year.</p> <p>Such option, once exercised, would apply to subsequent assessment years.</p> <p>Further, once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.</p> <p>Note : The option has to be exercised at the time of furnishing the first of the returns of income for any previous year. If a person fails to so exercise such option, he cannot exercise the option for any subsequent previous year.</p>	<p>The beneficial provisions of this section would apply if option is exercised in the prescribed manner on or before the due date u/s. 139(1) for furnishing the return of income for any previous year relevant to A.Y. 2020-21 or any subsequent assessment year.</p> <p>Such option, once exercised, would apply to subsequent assessment years.</p> <p>Further, once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.</p> <p>Note : The option can be exercised even in a later year, but once exercised, cannot be withdrawn subsequently.</p> <p>Further, where the person exercises option under section</p>

			115BAA, the option under section 115BA may be withdrawn.
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Note : For the purpose of point no. 7(iv) in column (3) of the above table, any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled, namely :-

- (a) Such machinery or plant was not, at any time previous to the date of the installation by the person, used in India;
- (b) Such machinery or plant is imported into India from any country outside India;
- (c) No deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Income-tax Act, 1961 in computing the total income of any person for any period prior to the date of installation of the machinery or plant by the person.

Further, where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of the machinery or plant or part so transferred does not exceed 20% of the total value of the machinery or plant used by the company, then, the condition specified that the company does not use any machinery or plant previously used for any purpose would be deemed to have been complied with.

MINIMUM ALTERNATE TAX

Rate of MAT reduce from 18.5% to 15% from AY20-21.

SEC. 9 INCOME DEEMED TO ACCRUE OR ARISE IN INDIA

- i) **Income arising outside India, being any sum of money referred to in Section 2(24)(xviii) i.e. gifts of money, paid on or after 05-07-2019 by a person resident in India to a non-resident, not being a company, or to a foreign company. [Amended by Finance (No. 2) Act, 2019 w.e.f. 1-4-2020 i.e. AY 2020-21].**

Objective of amendment : Under the existing provisions of the Act, a gift of money or property is taxed in the hands of donee, except for certain exemptions provided in Section 56(2)(x). It has been reported that gifts are made by persons being residents in India to persons outside India and are claimed to be non-taxable in India as the income does not accrue or arise in India.

To ensure that such gifts of money made by residents to persons outside India are subject to tax, it has been provided that income by way of any sum of money referred to in Section 2(24)(xviii), arising from any sum of money paid, or any property situate in India transferred, on or after 5th July, 2019 by a person resident in India to a person outside India shall be deemed to accrue or arise in India. Gift of property outside India shall not be deemed to accrue or arise in India. However, the existing provision for exempting gifts as provided in proviso to Section 56(2)(x) will continue to apply for such gifts deemed to accrue or arise in India. In a treaty situation, the relevant article of applicable DTAA shall continue to apply for such gifts as well.

10(15)(ix)	Any income by way of interest payable to a non-resident by a unit located in an International Financial Services Centre in respect of monies borrowed by it on or after 01-09-2019. [Amended by Finance (No. 2) Act, 2019 w.e.f. 01-04-2020 i.e. AY 2020-	Objective of amendment : With a view to facilitate external borrowing by the units located in IFSC, section 10(15) of the Act is amended so as to provide that any income by way of interest payable to a non-resident by a unit located in IFSC in respect of
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	21]	monies borrowed by it on or after 01-09-2019, shall be exempts].
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GENERAL ANTI AVOIDANCE RULES 'GAAR' (NEW AND OLD SYLLABUS)

NO AMENDMENTS

BASICS OF INTERNATIONAL TAXATION (NEW AND OLD SYLLABUS)

SECTION 92CD: EFFECT OF ADVANCE PRICING AGREEMENT

1	<p><u>Modified return to be furnished in accordance with APA:</u></p> <p>Where any person has entered into APA prior to the date of entering into the APA, he has furnished a return under section 139 for any assessment year to which APA applied such person shall furnish, within period of 3 months from the end of the month in which the said APA was entered into, a modified return in accordance with limited to the APA i.e. modification can only be made shall on account of such APA in the return to be filed. The modified return so furnished shall be a return filed under section 139</p>
2	<p><u>Modified order to be made in accordance with modified return [Amended by Finance (No. 2) Act, 2019 w.e.f. 01-09-2019] :</u> If the assessment or reassessment proceedings for an assessment year relevant to a previous year to which the APA applies have been completed before the expiry of period allowed for furnishing of modified return, the Assessing Officer shall pass an order modifying the total income of the relevant assessment year determined in such assessment or reassessment, as the case may be, having regard to and in accordance with the APA.</p> <p><u>Time-limit for making of modified order :</u> Notwithstanding anything contained in</p>

	Section 153 or Section 153B or Section 144C, such order shall be passed within a period of 1 year from the end of the financial year in which the modified return is furnished. [Omitted by Finance (No. 2) Act, 2019 w.e.f. 01-09-2019]
3	<p><u>Time-limit for completion of assessment/reassessment:</u></p> <p>Notwithstanding anything in section 153 or section 153B or section 144c, such order of assessment, reassessment or recomputation of total income shall be passed within a period of 1 year from the end of the financial year in which the modified return is furnished</p>
4	<p><u>Pending assessment to be completed in accordance with modified return:</u></p> <p>Where the assessment or reassessment proceeding for an assessment year relevant to the previous year to which the APA applies are pending on the date of filing of modified return, the Assessing officer shall proceed to complete the assessment or reassessment proceeding in accordance with the APA taking into consideration the modified return so furnished</p>
5	<p><u>Extension by 12 months:</u></p> <p>Notwithstanding anything contained in section 153 or section 153B or section 144C, the period of limitation as provided in section 153 or section 144C for completion of such pending assessment proceeding shall be extended by a period of 12 months</p>

SECTION 92D: RECORDS TO BE MAINTAINED

1	<p><u>Documents required to be maintained:</u></p> <p>Every person who has entered into an international transaction or specified domestic transaction shall keep and maintain such information and document in respect thereof, as may be prescribed. As per Rule 10D (1),</p> <p><u>Prescribed Documents required to be maintained : Every person, -</u></p> <p>i) Who has entered into an international transaction or specified domestic</p>
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transaction shall keep and maintain such information and document in respect thereof as may be prescribed;

- ii) Being a constituent entity of an international group, shall keep and maintain such information and document in respect of an international group as may be prescribed.

Explanation :

- i) "Constituent entity" shall have the meaning assigned to it in Section 286(9)(d);
- ii) "International group" shall have the meaning assigned to it in Section 286(9)(g);

The constituent entity is required to keep and maintain the information and document irrespective of the fact whether or not any international transaction is undertaken by such constituent entity. The constituent entity has to furnish the information and document to the authority prescribed u/s. 286(1), i.e., Director General of Income-tax [Risk Assessment] in the prescribed manner, on or before prescribed date.

- 2** Information and documents to be maintained for prescribed period : Without prejudice to the provisions contained in section 92D(1), the Board may prescribe the period for which the information and document shall be kept and maintained under the said sub-section.

- 3** **Furnishing of records :** The Assessing Officer or the Commissioner [Appeals] may, in the course of any proceeding under this Act, require any person referred to in Section 92D(1)(i) to furnish any information or document referred therein, within a period of thirty days from the date of receipt of a notice issued in this regard.
- However, the Assessing Officer or the Commissioner [Appeals] may, on an application made by such person, extend the period of thirty days by a further period not exceeding 30 days.

4	Furnishing of records by constituent entity of an international group to prescribed authority : The person, referred to in Section 92D(1)(ii) shall furnish the information and document referred therein to the authority prescribed u/s. 286(1), in such manner, on or before such date, as may be prescribed.	
5	a	Enterprise - wise documents: These are documents that describe the enterprise, the relationships with other associated enterprise, the nature of business carried out etc. This information is, largely, descriptive
	b	Transaction - specific documents: These are documents that explain the international transaction in a greater detail. It includes information with regard to each transaction like nature and terms of the contract, description of the functions performed, asset employed and risks assumed by each party to the transaction, economic and market analyses, etc. This information is both descriptive and quantitative in nature
	c	Computation related documents: These are documents which describe and detail the methods considered, actual working assumptions, policies etc., adjustments made to transfer prices and any other relevant information, data; document relied for determination of ALP
6	<u>Relief from maintenance of specified records:</u> If total value of international transactions (as per books of account of assessee) is upto Rs.1 core, the assessee need not to maintain specified information and documents, but he will have to substantiate that income from international transactions was computed as per Section 92	
7	<u>Information and documents specified should be contemporaneous:</u> The information and documents specified above, should as far as possible, be contemporaneous and should exist latest by the due date mentioned under section	

139(1).

However, where an international transaction continues to have effect over more than one previous year, fresh documentation need not be maintained separately in respect of each previous year, unless there is any significant change in the nature of terms of the international transaction, in the assumptions made, or in any other factor which could influence the transfer price, and in case of such significant change, fresh documentation as may be necessary shall be maintained bringing out the impact of the change on the pricing of the international transaction.

8 Period for which records to be maintained:

The specified information and documents are to be maintained for a period of 8 years from the end of the relevant Assessment Year.

9 Furnishing of records:

The Assessing Officer or the Commissioner (Appeals) may require such person who has entered into an international transaction or specified domestic transaction to furnish specified information / documents within 30 days from date of receipt of notice issued in this regard. The said period of 30 days may be extended by a further period not exceeding 30 days.

TAX TREATIES (DOUBLE TAXATION AVOIDANCE AGREEMENT)

NO AMENDMENTS

INCOME TAX IMPLICATION ON SPECIFIED TRANSACTION

special provisions relating to tax on distributed income of domestic company for buy back of shares.

Tax on distributed income to shareholders [Section 115QA]

(1) Tax on distribution income on buy back of shares to be charged @ 23.296%

[Section 115QA(1)] : A domestic company shall in addition to the income-tax chargeable in respect of the total income be liable to pay additional income-tax at the rate of 20% [plus surcharge @ 12% and health and education cess @ 4% i.e. 23.2960% on any amount of distributed income on buy-back of shares from a shareholder. **[Omitted by Finance (No. 2) Act, 2019 w.e.f. 5-07-2019]**

Taxable in case of buyback of shares and other specified securities can be summarized as under :

Taxable in the hands of the	Buyback of shares by domestic companies	Buyback of shares by a company, other than a domestic company	Buyback of specified securities by any company.
Company	Subject to additional income-tax @ 23.296% [Listed companies are liable to pay tax u/s. 115QA w.e.f. 05-07-2019]	Not subject to tax in the hands of the company.	Not subject to tax in the hands of the company.
Shareholder/	Income arising to	Income arising to	Income arising to holder

holder of specified securities	shareholders of listed / unlisted companies is exempt under section 10(34A) [Amended w.e.f. 05-07-2019]	shareholder taxable as capital gains u/s. 46A.	of specified securities taxable as capital gains u/s. 46A.
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Explanation :

	Term	Meaning
(a)	Buy-back	Purchase by a company of its own shares in accordance with the provisions of any law for the time being in force relating to companies.
(b)	Distributed income	The consideration paid by the company on buy-back of shares as reduced by the amount, which was received by the company for issue of such shares, determined in the manner as may be prescribed.

VALUATION OF CONSIDERATION IN CASE OF LAND OR BUILDING OR BOTH

[SECTION 50C]

In case of transfer of immovable capital asset being land or building or both, sale consideration shall be higher of the following

1	Actual consideration received or accrued on such transfer; or
2	105% of the value adopted or assessed or assessable# by any authority of a State Government (i.e. Stamp Valuation authority) for the purpose of payment of stamp duty.
3	<p><u>Where date of agreement and date of registration are not same</u></p> <p>Where the date of an agreement fixing the value of consideration and the date of registration of immovable property are not same then the stamp duty value may be taken as on date of the Agreement for transfer and not as on date of registration for such transfer only if the amount of consideration or a part</p>

	thereof has been received by way of an account payee cheque or draft or by use of ECS to a bank account on or before the date of agreement for transfer.
4	In order to promote digital transactions, the payments or receipts through other notified electronic modes. Have been proposed to be included in the list of acceptable mode of payment. [Amendment FA 2019]