

DIRECT TAX AMENDMENTS

BY FINANCE ACT, 2018
ASSESSMENT YEAR 2019-20



CA MEHUL THAKKER
Ahmedabad

DIRECT TAX AMENDMENTS

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Special Thanks to CA Chetan V Chaudhary

Law stated in this book is as amended by the Finance Act, 2018

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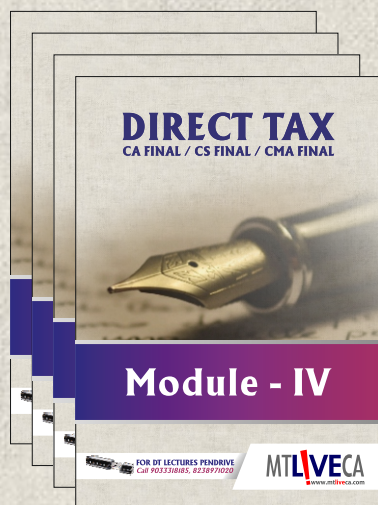
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PART - I

PRACTICAL ASPECTS

OF

AMENDMENTS MADE BY

FINANCE ACT, 2018



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PRACTICALS

1 – BASICS OF INCOME TAX

1.1 SCOPE OF TERM “INCOME” EXPANDED

Section:- 2(24) – Effective from A.Y.2019-20

The definition of income as per the Income-tax Act, 1961 begins with the words “Income includes”. Therefore, it is an inclusive definition and not an exhaustive one. Such a definition does not confine the scope of income but leaves room for more inclusions within the ambit of this term.

At present, the following items of receipts are specifically included in income: —

- (i) Profits and gains.
- (ii) Dividends.
- (iia) Voluntary contributions received by a trust/institution created wholly or partly for charitable or religious purposes or by an association or institution referred to in section 10(21) or section (23C)(iiiad)/(iiiae)/(iv)/(v)/(vi)/(via) or an electoral trust.
- (iii) The value of any perquisite or profit in lieu of salary taxable under section 17.
- (iia) Any special allowance or benefit other than the perquisite included above, specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit.
- (iib) Any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living.
- (iv) The value of any benefit or perquisite whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company or by a relative of the director or such person and any sum paid by any such company in respect of any obligation which, but for such payment would have been payable by the director or other person aforesaid.
- (iva) The value of any benefit or perquisite, whether convertible into money or not, which is obtained by any representative assessee mentioned under section 160(1)(iii) and (iv), or by any beneficiary or any amount paid by the representative assessee for the benefit of the beneficiary which the beneficiary would have ordinarily been required to pay.
- (v) Deemed profits chargeable to tax under section 41 or section 59. Profits and gains of business or profession chargeable to tax under section 28(ii)/(iii).
- (va) Profits and gains of business or profession chargeable to tax under section 28(iia).
- (vb) Profits and gains of business or profession chargeable to tax under section 28(iib).
- (vc) Profits and gains of business or profession chargeable to tax under section 28(iic).
- (vd) The value of any benefit or perquisite taxable under section 28(iv).
- (ve) Profits and gains of business or profession chargeable to tax under section 28(v).
- (vi) Any capital gains chargeable under section 45.
- (vii) The profits and gains of any insurance business carried on by Mutual Insurance Company or by a cooperative society, computed in accordance with Section 44 or any surplus taken to be such profits and gains by virtue of the provisions contained in the first Schedule to the Act.

- (viia) The profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members.
- (viii) [Omitted by the Finance Act, 1988, w.e.f. 1-4-1988.];
- (ix) Any winnings from lotteries, cross-word puzzles, races including horse races, card games and other games of any sort or from gambling, or betting of any form or nature whatsoever. For this purpose,
- (a) “Lottery” includes winnings, from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;
- (b) “Card game and other game of any sort” includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game.
- (x) Any sum received by the assessee from his employees as contributions to any provident fund (PF) or superannuation fund or Employees State Insurance Fund (ESI) or any other fund for the welfare of such employees.
- (xi) Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy will constitute income.
Explanation:- “Keyman insurance policy” means a life insurance policy taken by a person on the life of another person where the latter is or was an employee or is or was connected in any manner whatsoever with the former’s business.
- (xii) Any sum referred to clause (va) of section 28. Thus, any sum, whether received or receivable in cash or kind, under an agreement for not carrying out any activity in relation to any business or profession; or not sharing any know-how, patent, copy right, trade-mark, licence, franchise, or any other business or commercial right of a similar nature, or information or technique likely to assist in the manufacture or processing of goods or provision of services, shall be chargeable to income tax under the head “profits and gains of business or profession”.
- (xiia) **the fair market value of inventory in case of conversion of stock in trade into capital asset;**
[Inserted by Finance Act, 2018 w.e.f A.Y. 2019-20]



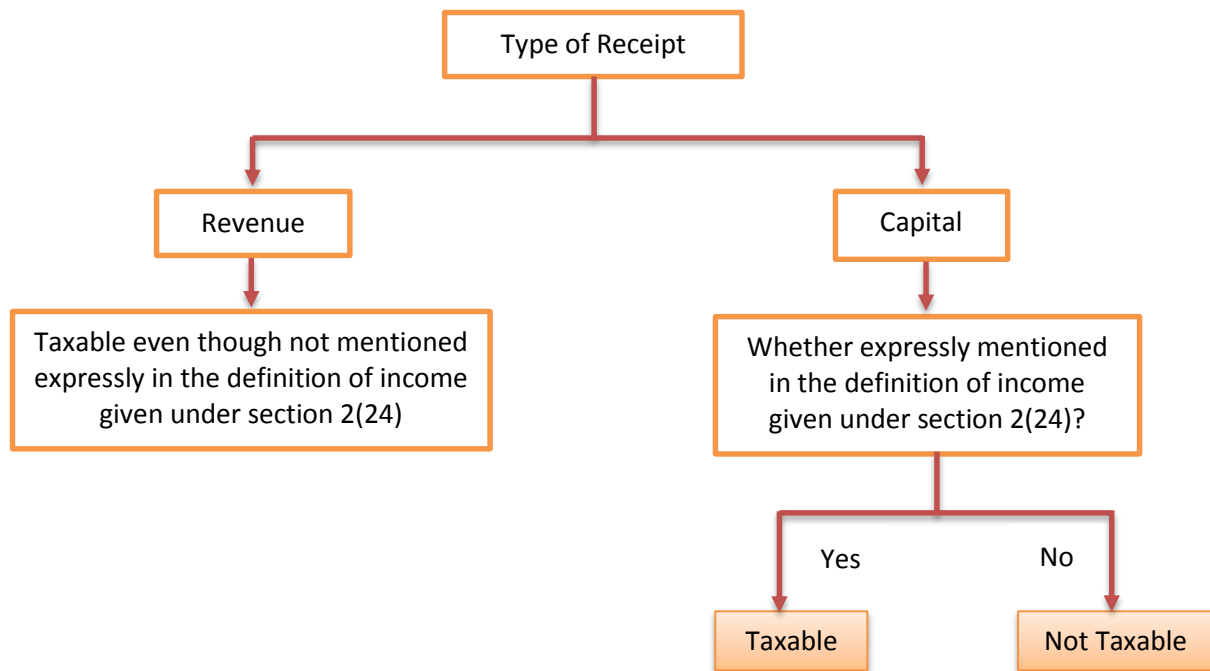
SECTION 28(via), Section 49(9), Section 2(42A) and Explanation 1A to section 43(1)

For detailed discussion: Refer Chapter 6 – Capital Gains and Chapter 45- Depreciation

- (xiii) Any sum referred to in section 56(2)(v);
- (xiv) Any sum referred to in section 56(2)(vi);
- (xv) Any sum of money or value of property referred to in clause (vii) or clause (viiia) of section 56(2).
- (xvi) Any consideration received for issue of shares as exceeds the fair market value of the shares [section 56(2)(viib)].
- (xvii) Any sum of money received as advance, if such sum is forfeited consequent to failure of negotiation for transfer of a capital asset [section 56(2)(ix)].
- (xviiia) Any sum of money or value of property received without consideration or for inadequate consideration by any person [section 56(2)(x)].
- (xviiib) **Any compensation on termination of employment or modification of terms of employment.**
[Inserted by Finance Act, 2018 w.e.f A.Y. 2019-20]

**SECTION 56(2) (xi)****For detailed discussion: Refer Chapter 7 – Income from Other Sources**

- (xviii) 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 is included in the definition of income.



2 – INCOME WHICH DO NOT FORM PART OF TOTAL INCOME

2.1 ROYALTY/FEEES FOR TECHNICAL SERVICES BY NATIONAL TECHNICAL RESEARCH ORGANISATION (NTRO) TO NON-RESIDENT

Section:- 10(6D) - Effective from A.Y.2019-20

Sec.	Eligible Assessee	Nature of Income	Conditions/Definitions/Comments
10(6D)	Non-resident / Foreign Company	<i>Royalty/fees for technical services</i>	Such royalty is received from, or fees for technical services rendered in or outside India to National Technical Research Organisation (NTRO)

2.2 TAX-FREE WITHDRAWAL FROM NPS TO SELF-EMPLOYED

Section:- 10(12A) - Effective from A.Y.2019-20

Sec.	Eligible Assessee	Nature of Income	Conditions/Definitions/Comments
10(12A)	Employee Assessee	<i>40% of total amount payable to him is exempt.</i>	<p>(1) Such amount is payable to employee at the time of closure of his account under NPS or opting out of the pension scheme referred to in section 80CCD.</p> <p>(2) If above amount has been received by nominee on death, then as per proviso to 80CCD (3), nothing shall be taxed in the hands of nominee.</p> <p>Refer Practical 1</p>
10(12B)	Employee	Any payment from NPS to an employee on partial withdrawal	<p>(1) Withdrawal is made in accordance with the terms and conditions, specified under the Pension Fund Regulatory and Development Authority Act, 2013 and</p> <p>(2) <i>Exemption shall not exceed twenty-five percent of the amount of contributions made by him.</i></p> <p>Refer Practical 2</p>

Practical 1

Mr. Suresh, an employee of ECO POWER LTD contributed Rs.5,00,000 to New Pension System (NPS) since few years and claimed deduction under section 80CCD. Mr. Suresh was in need of money and therefore, planning to make partial withdrawal of Rs. 2,00,000 from the contribution made by him. Discuss taxability, if any.

What would have been your answer if he decided to opt out of NPS and received Rs. 11,00,000?

Practical 2

Suppose in the above problem, Mr. Suresh is a self-employed person. Discuss taxability, if any, under both the possibilities i.e. partial withdrawal and opting out of the scheme.

2.3 DISALLOWANCE PROVISIONS UNDER SECTION 40(a)(ia), 40A(3) & DEEMED INCOME UNDER SECTION 40A(3A) MADE APPLICABLE TO CERTAIN ENTITIES

Section:- 10(23C) - Effective from A.Y.2019-20

Sec.	Eligible Assessee	Nature of Income	Conditions/Definitions/Comments
10(23C)	<p><i>Income received by any person on behalf of following entities</i></p> <p>(a) Prime Minister's National Relief fund.</p> <p>(b) Prime Minister's fund for promotion of folk art</p> <p>(c) Prime Minister's Aid to Students Fund</p> <p>(d) National foundation for communal harmony</p> <p>(e) Swachh Bharat Kosh Clean Ganga Fund</p> <p>(f) Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund</p> <p>(g) University or other Educational Institution wholly or substantially financed by the Government</p>	Any income	<ol style="list-style-type: none"> The fund, trust, university, hospitals, charitable organization requiring approvals shall make an application in prescribed form to prescribed authority for the grant of or continuation of exemption. Exemption shall not be available for anonymous donations referred to in section 115BBC. The provisions of section 11, 12 or 12AA shall also apply to various institutions referred to herein. The institutions where their income exceeds the maximum amount chargeable to tax shall get their accounts audited. In case of other charitable trusts, universities, hospitals, charitable organization approved by specified authority in which case 1st proviso to Sec.2(15) applies exemption under this sec. shall not be allowed. Where any income is required to be applied (or accumulated or set apart for application), then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation (or otherwise) in respect of any asset, acquisition of which has been claimed as an application of income under section 10(23) in the same or any other previous year. <p>(1) For Entities mentioned at (h) and (i)</p> <p>Any university or other educational institution, hospital or other institution referred therein, shall be considered as being substantially financed by the Government for any previous year, if the Government grant to such university or other educational institution, hospital or other institution exceeds such percentage of the total receipts including any voluntary contributions, as may be prescribed (50% prescribed), of such university or other educational institution, hospital or other institution, as the case may be, during the relevant previous year.</p>

Sec.	Eligible Assessee	Nature of Income	Conditions/Definitions/Comments
10(23C)	<p>(h) Hospital or other institution wholly or substantially financed by Central govt. for treatment of specified illness and established for philanthropic purpose only.</p> <p>(i) University or educational institution set up for education purpose and not for profit and whose gross receipt does not exceed Rs.1 crore.</p> <p>(j) Hospital or other institution set up for philanthropic purpose for treatment of specified illness and whose gross receipts do not exceed Rs. 1 crore.</p> <p>(k) Other charitable trusts, universities, hospitals, charitable organization approved by specified authority</p>	Any income	<p>(2)For Entities mentioned at (l)</p> <ul style="list-style-type: none"> - Entities which have been approved or notified for claiming benefit of exemption u/s 10(23) would not be entitled to claim any benefit of exemption under other provisions of section 10 (except the exemption in respect of agricultural income). - With effect from Assessment Year 2018-19, any donation (contribution) given to a trust or institution with a specific direction that they shall form part of the corpus of recipient trust or institution, then it shall not be treated as application of income for the donor trust or institution falling under point no. (l). - With effect from Assessment Year 2019-20, For the purpose of determining application of income, the provisions of section 40(a)(ia) and 40A(3)(3A), shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head “Profits and gains of business or profession”. [Amendment by Finance Act, 2018] <p>Refer Practical 1 in Chapter 19- Taxation of Trusts</p>

2.4 EXEMPTION FROM LONG-TERM CAPITAL GAINS SCHEME MODIFIED

Section:- 10(38) - Effective from A.Y.2019-20

Nothing contained in this clause shall apply to any income arising from the transfer of long term capital asset, being an equity share in a company or unit of an equity oriented fund or unit of a business trust, made on or after the 1st day of April, 2018.

2.5 SCOPE OF EXEMPTION ENLARGED IN CASE OF A FOREIGN COMPANY ON SALE OF LEFTOVER STOCK OF CRUDE OIL EVEN ON TERMINATION OF AGREEMENT OR ARRANGEMENT

Section:- 10(48B) - Effective from A.Y.2019-20

Sec.	Eligible Assessee	Nature of Income	Conditions/Definitions/Comments
10(48)	<i>Foreign Company</i>	Income received on account of sale of crude oil, any other goods or rendering of services as may be notified by Central Government in this behalf	(i) Income is received in India in Indian currency. (ii) Receipt of such income in India by the foreign company is pursuant to an agreement/arrangement entered into by the Central Government or approved by the Central Government. (iii) The foreign company and the agreement/ arrangement are notified by the Central Government in this behalf. <i>[Name of Notified company is:- National Iranian Oil Company]</i>
10(48A)	<i>Foreign Company</i>	<i>Any income accruing or arising on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India.</i>	1. Storage and sale by the foreign company in pursuant to an agreement or arrangement entered into by the Central Government or approved by the Central Government. 2. Further, such agreement and foreign company is notified by the Central Government.
10(48B)	<i>Foreign Company</i>	<i>Any income accruing or arising on account of sale of leftover stock of crude oil from the facility in India after the expiry of the agreement or arrangement or on the termination of the agreement or arrangement u/s 10(48A). (Amended by Finance Act, 2018 w.e.f. A.Y. 2019-20)</i>	This exemption is subject to such conditions as Central Government may notify in this behalf.

3 – SALARY

3.1 STANDARD DEDUCTION TO SALARIED PERSON

Section:- 16 - Effective from A.Y.2019-20

The income chargeable under the head "Salaries" shall be computed after making the following deductions:

(1) Standard Deduction {Section 16(ia)}

Deduction of Rs.40,000 or the amount of the salary, whichever is less [Inserted by Finance Act, 2018, w.e.f. A.Y.2019-20]

(2) Entertainment Allowance {Section 16(ii)}

Entertainment allowance received from employer shall be first included in salary and then deduction u/s 16(ii) will be allowed only to the Government employees which is least of the following:

- (a) Rs.5000/-
- (b) 20% of Basic salary
- (c) Actual amount of entertainment allowance

(3) Professional Tax or Tax on Employment {Section 16(iii)}

Professional tax or tax on employment levied under article 276(2) of the Constitution is allowed as a deduction.

3.2 WITHDRAWAL OF EXEMPTION PERTAINING TO TRANSPORT ALLOWANCE

Section:- 10(14) - Effective from A.Y.2019-20

Allowances	Exemptions limits
Transport allowance	Rs. 1600 p.m and Rs. 3200 p.m for blind / handicapped employee

3.3 WITHDRAWAL OF EXEMPTION PERTAINING TO REIMBURSEMENT OF MEDICAL EXPENDITURE

Section:- 17(2) - Effective from A.Y.2019-20

The following shall not be treated as perquisite

- (a) Medical treatment of the employee or his family (spouse and children, dependent-parents, brothers and sisters):**
- Provided in any hospital maintained by the employer.
 - Any sum paid by the employer towards expenditure actually incurred by the employee in any hospital:
 - Maintained by employer or Government or Local Authority or any other hospital approved by Central Government for the purposes of medical treatment of its employees;
 - Approved by the Chief Commissioner having regard to the prescribed guidelines in respect of prescribed diseases.

(b) Premium paid by an employer by cheque to General Insurance Corporation to effect/keep in force:

- Insurance on the health of his employees.
- Medical Insurance Premium.

(c) ~~Any sum, not exceeding ₹ 15,000 paid to any hospital/nursing home/clinic other than (a & b)~~

Practical 1

Mr. Krishna is a chartered accountant and employed by Dwarika Ltd. He is paid Rs.2,50,000 per month as salary and bonus equivalent to one month pay. Besides, Dwarika Ltd. provides the following-

- (1) Transport allowance: Rs. 1,600 per month.
- (2) Entertainment allowance: Rs. 4,000 p.a.
- (3) Medical facility in a hospital owned by Dwarika Ltd. Cost to the company for providing this facility to Mr. Krishna was Rs. Rs.51,000.
- (4) Medical facility in private hospital costing Rs.22,500 (this private hospital is approved by the Central Government for the medical treatment of its employees).
- (5) Medical facility in a hospital approved by the Chief Commissioner: Rs.5,000.
- (6) Medi-claim insurance premium paid by Dwarika Ltd. for Mr. Krishna and his family: Rs.15,000.
- (7) Reimbursement of other medical expenditure: 15,000.
- (8) Professional tax paid by employer: Rs.2,000

Determine the income from Salary.

4 – HOUSE PROPERTY

No Amendment

5 – PROFITS AND GAINS FROM BUSINESS OR PROFESSION

5.1 CHARGEABILITY UNDER THE HEAD “PGBP” EXPANDED

Section:- 28 – Effective from A.Y.2019-20

Section	Chargeable Income
28(i)	Profits and gains of any business or profession which was carried on by the assessee at any time during the previous year.

Section	Chargeable Income
28(ii)	<p>Compensation or other payment received by, -</p> <ul style="list-style-type: none"> (a) any person managing the whole or substantially the whole of affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto; (b) any person managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the term and conditions relating thereto; (c) any person, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or the modification of the terms and conditions relating thereto; (d) any person, for or in connection with the vesting in the Government or in any corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business. (e) any person at or in connection with the termination or the modification of the terms and conditions, of any contract relating to his business; [Amended by Finance Act, 2018 w.e.f. A.Y.2019-20]

Practical 1

The assessee, Saurashtra Cement Ltd., a cement manufacturing company, entered into an agreement with a supplier for purchase of additional cement plant. One of the conditions in the agreement was that if the supplier failed to supply the machinery within the stipulated time, the assessee would be compensated at 5% of the price of the respective portion of the machinery without proof of actual loss. The assessee received Rs. 8.50 lakhs from the supplier by way of liquidated damages on account of his failure to supply the machinery within the stipulated time.

Discuss the taxability of such compensation in the hands of a company:

- (a) before the amendment made by Finance Act, 2018 in section 28 of the Act
- (b) After the amendment made by Finance Act, 2018 in the said section.

Section**Chargeable Income**

28(iii)	Income received by a trade or professional or similar association from specific services rendered to members
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Section**Chargeable Income**

28(iiiia)	Profit on sale of import license
28(iiib)	Cash assistance against exports under any scheme of Government of India
28(iiic)	Duty drawback against exports under the Drawback Rules

Section**Chargeable Income**

28(iv)	Benefit or perquisite arising from exercise of business or profession
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Section**Chargeable Income**

28(v)	Interest, salary, commission or remuneration received by a partner from firm to the extent firm allowed deduction for the same.
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Section**Chargeable Income**

28(va)	<p>Sum received or receivable, in cash or kind, under an agreement for-</p> <p>(a) not carrying out any activity in relation to business or profession or</p> <p>(b) not to share any known-how, patent copyright, trademark, license, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services.</p> <p>However, following shall not be charged under this head:</p> <p>(1) any sum received on account of transfer of the right to manufacture, produce or process any article or thing which is chargeable as capital gains;</p> <p>(2) any sum received on account of transfer of a right to carry on any business or profession, which is chargeable as capital gains;</p> <p>(3) any sum received as compensation from the multilateral fund of the Montreal Protocol under the United Nations Environment Programme, in accordance with the terms of agreement entered into with the Government of India.</p>
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Section**Chargeable Income**

28(vi)	Any sum received under Keyman insurance policy
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Section**Chargeable Income**

28(via)	the fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the prescribed manner. [Amended by Finance Act, 2018 w.e.f. A.Y.2019-20]
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SECTION 49(9): For detailed discussion: Refer Chapter 6 -Capital Gains

Section**Chargeable Income**

28(vii)	any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD.
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Explanation to section 28**Chargeable Income****Explanation 2**

Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business shall be deemed to be distinct and separate from any other business.

5.2 MARKED TO MARKET LOSS or EXPECTED LOSS

Section:- 36(1)(xviii) – Effective from A.Y. 2017-18 (*Retrospective*)

Marked to market loss or other expected loss computed in accordance with the ICDS.

[Inserted by Finance Act, 2018 w.r.e.f. A.Y.2017-18]

5.3 MARKED TO MARKET LOSS OTHER THAN UNDER SECTION 36(1)(xviii)

Section:- 40A(13) - Effective from A.Y. 2017-18 (*Retrospective*)

No deduction or allowance shall be allowed in respect of any marked to market loss or other expected loss except as allowable under section 36(1)(xviii). [Inserted by Finance Act, 2018 w.r.e.f. A.Y.2017-18]

Practical 2

Explain the meaning of marked to market loss & also discuss its allowability under the Income Tax Act.

5.4 TAX TREATMENT OF TRANSACTIONS IN RESPECT OF TRADING IN AGRICULTURAL COMMODITY DERIVATIVES

Section:- 43(5) – Effective from A.Y.2019-20 (*Retrospective*)

(1) Meaning [Section 43(5)]

Speculative transaction means a transaction involving a contract for purchase and sale of commodities, including stocks and shares, which is periodically or ultimately settled other than by actual delivery or transfer of commodities or scrips.

(2) Exceptions: [Proviso to Section 43(5)]

Following transactions are not regarded as speculative transactions

- a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him;
- a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations;
- a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member;

- (d) an eligible transaction in respect of trading in derivatives referred to in clause (ac) of section 2 of the Securities Contracts (Regulation) Act, 1956 carried out in a recognised stock exchange;
- (e) an eligible transaction in respect of trading in commodity derivatives carried out in a recognised association, which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013. **However, in respect of trading in agricultural commodity derivatives, the requirement of chargeability of commodity transaction tax under Chapter VII of the Finance Act, 2013 shall not apply. [Amended by Finance Act, 2018 w.e.f. A.Y.2019-20]**

Practical 3

Surana Trading Pvt. Ltd. provides following information:

S.N.	Particulars	Rs.
(i)	Surplus from trading in goods (Delivery based)	4,80,000
(ii)	Surplus from trading in goods (Contracts settled without delivery)	3,22,000
(iii)	Loss from trading in commodity derivatives carried out on a recognized association, chargeable to CTT	1,22,000
(iv)	Loss from trading in agricultural commodity derivatives carried out on a recognized association, not chargeable to CTT	2,22,000
(v)	Surplus from trading in stock derivatives carried out on a recognized stock exchange	22,000

Find out income chargeable under the head “PGBP”.

5.5 TAXATION OF FOREIGN EXCHANGE FLUCTUATION

Section:- 43AA – Effective from A.Y.2017-18

[Inserted by Finance Act, 2018, w.r.e.f. A.Y.2017-18]

Section 43AA provides that any gain or loss arising on account of any change in foreign exchange rates shall be treated as income (or loss) and such income (or loss) shall be computed in accordance with ICDS notified under section 145(2).

It further provides that gain (or loss) arising on account of the effects of change in foreign exchange rates shall be in respect of all foreign currency transactions including those relating to

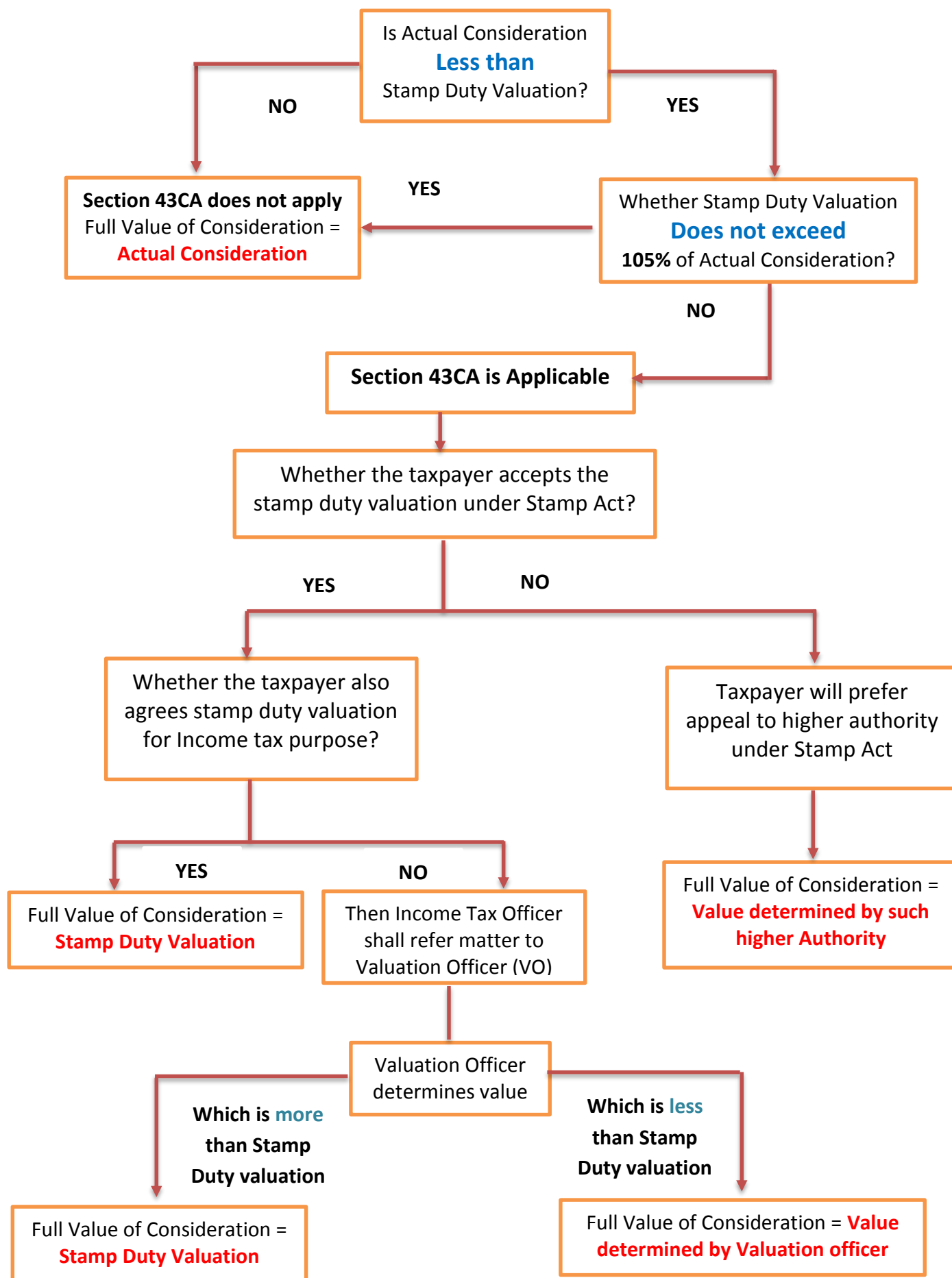
- (a) monetary items and non-monetary items;
- (b) translation of financial statements of foreign operations;
- (c) forward exchange contracts;
- (d) foreign currency translation reserves.

Remark: The above provisions (of section 43AA) shall not be applicable where provisions of section 43A are applicable.

5.6 STAMP DUTY VALUE OF LAND AND BUILDING TO BE TAKEN AS THE FULL VALUE OF CONSIDERATION IN RESPECT OF TRANSFER, EVEN IF THE SAME ARE HELD BY THE TRANSFEROR AS STOCK-IN-TRADE

Section:- 43CA – Effective from A.Y. 2019-20

This section is applicable when consideration received on transfer of land or building or both is less than the value adopted by Stamp Authority for the purpose of payment of stamp duty. Consider the following chart:-



NOTES RELEVANT FOR SECTION 43CA:

- (1) Following proviso shall be inserted in sub-section (1) of section 43CA by the Finance Act, 2018, w.e.f. 1-4-2019:

Provided that where the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed one hundred and five per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration. Readers must note that the effect of this proviso has already been incorporated in the chart discussed above.

- (2) As per sub-section (3) and (4) of Section 43CA, if there is a time gap between date of agreement and date of registration, **the stamp duty value may be taken as on the date of agreement** instead of the date of registration.

However, for the same, at least a part of the consideration has been received ~~by any mode other than cash~~ **by way of an account-payee cheque or draft or by use of electronic clearing system through a bank account (substituted by Finance Act, 2018, w.e.f. A.Y. 2019-20)** on or before the date of agreement



SECTION 50C: For detailed discussion: Refer Chapter 6 -Capital Gains

Practical 4

M/s. Radheshyma Builders would like to sell the flats constructed by it. The valuation of one flat for the purpose of stamp duty is Rs. 25,00,000. Find out the revenue to be booked under the head PGBP under following alternatives, if actual consideration received by it is:

Alternative I	Alternative III	Alternative III
Rs.25,21,000	Rs.24,00,000	Rs.23,00,000

Solution

Alt er nat ive	Actual Considera tion (AC)	Stamp Duty Valuation (SDV)	Is AC <SDV?	If yes, then find out 105% of AC.	Whether SDV does not exceed 105% of AC?	Applica bility of section 43CA?	Revenue to be booked under the head PGBP
I	25,21,000	25,00,000	No	NA	NA	NA	AC=25,21,000
II	24,00,000	25,00,000	Yes	25,20,000	Yes	NA	AC=24,00,000
III	23,00,000	25,00,000	Yes	24,15,000	No	Yes	SDV=25,00,000

Reader's Note:

Practical 5

Rahul, a property dealer sold building to Shweta, details of which are as under:

1. Date of entering into agreement: **1.8.2017**.
2. Agreed consideration : Rs. 100 lakhs
3. Down payment of Rs. 5 lakhs was received by bearer cheque on the date of agreement.
4. Stamp duty value of the building on the date of agreement was Rs. 135 lakhs.

5. On receipt of balance payment, registration of sale deed took place on **1.1.2018**.
6. Stamp Duty value on the date of registration of sale deed was Rs. 145 lakhs.
7. Rahul has purchased this building for Rs. 65 Lakh on **12.07.2016**.

Discuss tax implication in the hands of Rahul,

(a) Before the amendment made by Finance Act, 2018 under sub-section (4) of 43CA

(b) After the amendment made by Finance Act, 2018 under sub-section (4) of 43CA

Solution

(a) Before the amendment made by Finance Act, 2018 under sub-section 4 of 43CA

Computation of taxable business income

Particulars	Amount Rs. in lakhs	Remarks
Sale Consideration	135	As per Section 43CA(3)& (4), if there is a time gap between date of agreement and date of registration, the stamp duty value may be taken as on the date of agreement instead of the date of registration. However, for the same, at least a part of the consideration has been paid by any mode other than cash on or before the date of agreement.
Less: Purchase Price	<u>65</u>	-
Business Income	<u>70</u>	-

(b) After the amendment made by Finance Act, 2018 under sub-section 4 of 43CA

Computation of taxable business income

Particulars	Rs. in lakhs	Remarks
Sale Consideration	145	The amendment made by Finance Act, 2018 under section 43CA(4) gives an option to adopt stamp duty value on the date of registration provided some consideration has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of the agreement Readers shall pay attention to the fact that Rahul received bearer cheque. Therefore, he cannot take advantage of above amendment.
Less: Purchase Price	<u>65</u>	-
Business Income	<u>80</u>	-

Reader's Note:

5.7 COMPUTATION OF INCOME FROM CONSTRUCTION AND SERVICE CONTRACTS

Section:- 43CB – Effective from A.Y.2017-18

[Inserted by Finance Act, 2018 w.r.e.f. A.Y. 2017-18]

- Section 43CB (1) provides that the profits and gains arising from (i) a construction contract or (ii) a contract for providing services shall be determined on the basis of percentage of completion method in accordance with the ICDS.

- It further provides that profits and gains arising from a contract for providing services -
 - (a) with duration of not more than 90 days shall be determined on the basis of project completion method.
 - (b) involving indeterminate number of acts over a specific period of time shall be determined on the basis of straight-line method.
- Section 43CB (2) provides that for the purpose of project completion method or straight line method
 - (a) the contract revenue shall include retention money.
 - (b) the contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.

Practical 6

Vrindavan Construction Private Limited undertaken a construction contract on 01/04/2017. The fixed contract price agreed was Rs. 2,00,00,000 (including retention money Rs. 10,00,000). The company incurred Rs. 81,00,000 in previous year 2017-18 for 45% work and received Rs. 79,00,000 as progress payment from the customer. The cost incurred in previous year 2018-19 was Rs. 89,00,000 to complete the rest of work. During previous year 2018-19 company also earned a small gain of Rs. 88,000 on disposal of plant specifically purchased for this contract. Besides, company recovered interest of Rs. 1,12,000 on advances made to sub-contractor for this contract.

You are required to ascertain:

- (a) Contract Revenue
- (b) Contract Cost for the previous year 2017-18 and 2018-19
- (c) Profit to be recognized for the previous year 2017-18 and 2018-19 from this construction contract.

5.8 PRESUMPTIVE TAXATION FOR ASSESSEE ENGAGED IN BUSINESS OF PLYING, HIRING AND LEASING GOODS CARRAIGES

Section:- 44AE – Effective from A.Y.2019-20

(1) Eligible assessee:

Eligible assessee would mean an assessee engaged in business of plying, hiring and leasing goods carriages and not owning more than 10 goods carriages at any time during the previous year

(2) Presumptive Income

- **The profits and gains from each goods carriage**
 - (a) being heavy goods vehicle, shall be an amount equal to Rs.1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount actually earned from such vehicle, whichever is higher;
 - (b) other than heavy goods vehicle, shall be an amount equal to Rs.7,500 for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount actually earned from the vehicle, whichever is higher
- **The expressions “goods carriage”, “gross vehicle weight” and “unladen weight” shall have the respective meaning assigned to them in section 2 of the Motor Vehicles Act, 1988.**

- The expression “heavy goods vehicle” means any goods carriage, the gross vehicle weight of which exceeds 12000 kilograms.

[Section 44A(2) has been substituted by Finance Act, 2018 w.e.f. A.Y.2019-20]

(3) Other salient features of this presumptive scheme

- All the deductions under section 30 to 38 shall deemed to have been allowed.
- If eligible assessee is a firm then it can claim deduction in respect of interest and salary paid to partners subject to the conditions and limits specified under section 40(b).
- The WDV of any asset shall be deemed to have been calculated as if the eligible assessee had claimed the deduction in respect of the depreciation for each of the relevant assessment years.
- An assessee opting for the above scheme shall be exempted from maintenance of books of accounts related to such business as required under section 44AA of the Income-tax Act.
- Where an eligible assessee declares lower profits than the profits required under this section, then he shall be required to keep and maintain books of accounts and other documents as per section 44AA and get them audited and furnish a report of such audit as required u/s 44AB.
- An assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.

Practical 7

M/s. Chhabada & Co., a partnership firm is engaged in the business of plying goods carriages. On **1st April, 2018**, it owns 10 goods carriages (9 goods carriages – gross vehicle weight of each being 30,000 kgs and one goods carriage heaving gross vehicle weight of 12,000 kg.). On **2nd May, 2018**, firm sold one of the goods carriages (the gross vehicle weight was 12,000 kg.) and purchased another goods carriage (the gross vehicle weight was 1,285 kg) on **6th May, 2018**. This new goods carriage could however be put to use only on **15th June, 2018**. Compute the total income of M/s. Chhabada & Co. for the assessment year **2019-20**, taking note of the following data:

Particulars	Rs.	
Freight charges collected		39,60,000
Less : (1) Operational expenses	(6,25,000)	
(2) Depreciation as per section 32	(1,85,000)	
(3) Salary and interest to partners [as permitted by section 40(b)]	(20,00,000)	
(4) Other office expenses	(15,000)	(28,25,000)
Net profit		11,35,000
Income from other sources		70,000

6 – CAPITAL GAINS

6.1 COST OF ACQUISITION IN THE CASE OF CONVERSION OF STOCK-IN-TRADE INTO CAPITAL ASSET AND PERIOD OF HOLDING

Section:- 49(9) and 2(42A) - Inserted by Finance Act, 2018 w.e.f. A.Y. 2019-20.

[Inserted by Finance Act, 2018 w.e.f. A.Y. 2019-20]

- Section 49(9) provides that if stock in trade is converted in to capital asset, cost of such capital asset shall be deemed to be the fair market value which has been taken into account for the purpose of section 28(via) [i.e., fair market value on the date of conversion of stock-in-trade into capital asset].
- Further, section 2(42A) has been amended to provide that in case of conversion of stock-in-trade into capital asset, for determining the nature of converted asset, the period of holding shall be reckoned from the date of conversion.

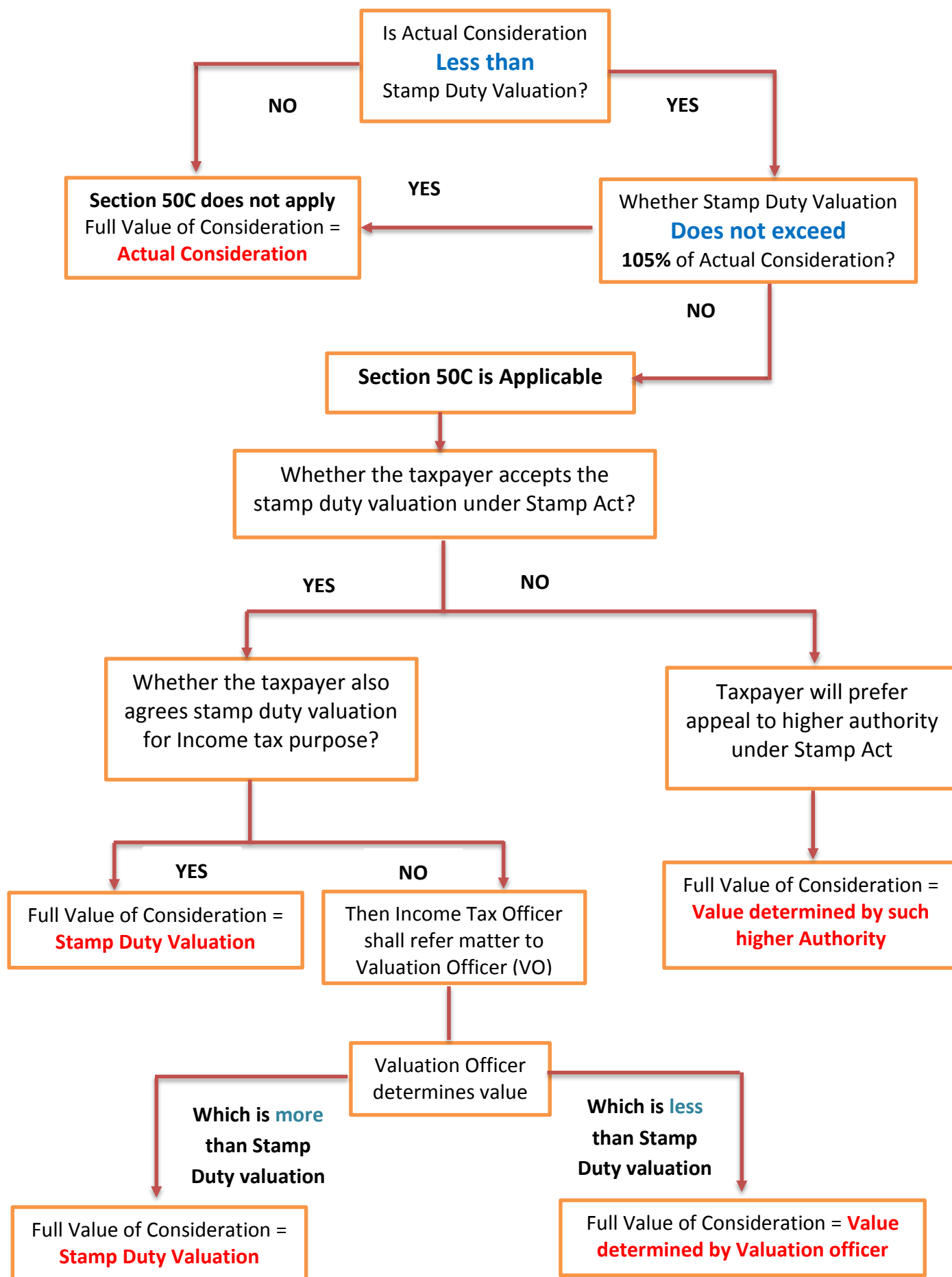
Practical 1

Mr. Rajesh Shah is a proprietor of “Abhushan Jewelers”. He closed down his shop w.e.f. 10th July, 2018 and converted stock-in-trade into capital asset with immediate effect. On such date, the book value of jewelry was Rs. 30,00,000 while fair market value of such jewelry was Rs. 30,62,000. Later on, he sold out such jewelry on 10th March, 2020 for Rs. 31,12,000. Discuss tax consequences in the hands of Mr. Rajesh assuming that such jewelry was purchased on 2nd April, 2018.

6.2 FULL VALUE OF CONSIDERATION IN CASE OF REAL ESTATE TRANSACTIONS

Section:- 50C(1) – Third Proviso Inserted by Finance Act, 2018 w.e.f. A.Y. 2019-20.

This section is applicable when consideration received on transfer of land or building or both is less than the value adopted by Stamp Authority for the purpose of payment of stamp duty. Consider the following chart:-



NOTES RELEVANT FOR SECTION 50C:

(1) Following third proviso shall be inserted in sub-section (1) of section 50C by the Finance Act, 2018, w.e.f. 1-4-2019.

Provided that where the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed one hundred and five per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of sec. 48, be deemed to be the full value of the consideration. Readers must note that the effect of this proviso has already been incorporated in the chart discussed above. [Inserted by Finance Act, 2018 w.e.f. A.Y.2019-20]

(2) As per first and second proviso to section 50 C(1) as inserted by Finance Act, 2016, if there is a time gap between the date of the agreement and the date of registration, the stamp duty value may be taken as on the date of agreement instead of the date of registration.

However, for the same, at least a part of the consideration has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of the agreement.

Practical 2

Bala sold his vacant site on **30.09.2018** for Rs. 7,00,000. It was acquired by him on 01.10.2004 for Rs. 1,50,000. The state stamp valuation authority fixed the value of the site at the time of transfer @ Rs. 13,00,000. Compute capital gains in the hands of Bala and give your reasons for computation. What would have been the capital gain if Bala sold this vacant site for Rs. 12,50,000?

Practical 3

Mr. Thomas inherited a house in Jaipur under will of his father in **May, 2011**. The house was purchased by his father in **January, 2000** for Rs. 2,50,000. He invested an amount of Rs. 7,00,000 in construction of one more floor in this house in **June, 2014**. The house was sold by him in **November, 2018** for Rs. 37,50,000. The valuation adopted by the registration authorities for charge of stamp duty was Rs. 47,25,000 which was not contested by the buyer, but as per assessee's request, the Assessing Officer made a reference to Valuation Officer. The value determined by the Valuation Officer was Rs. 47,50,000. Brokerage @ 1% of sale consideration was paid by Mr. Thomas to Mr. Sunil. The market value of house as on 01.04.2001 was Rs. 2,70,000. You are required to compute the amount of capital gain chargeable to tax for Previous Year **2018-19** with help of given information.

Practical 4

Suppose, in the above problem, valuation officer determines value under the stamp act at Rs. 47,00,000. What would be the amount of capital gain chargeable to tax?

Practical 5

Mr. Raj Kumar had purchased the land on **1st June 2014** for Rs. 5,19,000 and completed the construction of house on **1st October, 2017** for Rs. 14,00,000. He sold this house to his friend Mr. Dhruv on **1st November, 2018** for a consideration of Rs. 35,00,000. The sub-registrar refused to register the document for the said value, as according to him, stamp duty had to be paid on Rs. 65,00,000, which was the government guideline value. Mr. Raj Kumar preferred an appeal to the Revenue Divisional Officer under Stamp Act, who fixed the value of the house at Rs. 44,00,000 (Rs.29,00,000 for land and the balance for building portion). The differential stamp duty was paid, accepting the said value determined. Compute capital gain in the hands of Raj Kumar.

6.3 SCOPE OF EXEMPTION UNDER SECTION 54EC RESTRICTED AND LOCK-IN-PERIOD OF BONDS SUBSCRIBED ON OR AFTER 1ST APRIL, 2018 INCREASED

Section:- 54EC modified Effective from A.Y.2019-20

Q 1. Who can claim exemption?

Ans. Any person

Q2. What is the nature of capital asset which has been transferred?

Ans. Long Term Capital Asset

Q3. Which specific asset is eligible for exemption (that means which asset has been transferred?)

Ans. Long Term Capital Asset **being land or building or both** [inserted by Finance Act, 2018 w.e.f A.Y.2019-20].

Q4. Which asset the tax-payer shall acquire to avail exemption under this section?

Ans. Bonds of National High-way Authority of India (NHAI) or Rural Electrification Corporation Limited or any other notified by the Central Government in this behalf.

Notification No. 47/2017 dated 8th June, 2017:- Bonds (redeemable after three years) issued on or after 15th day of June, 2017 by Power Finance Corporation Limited are eligible for availing benefit u/s 54EC.

Notification No. 79/2017 dated 8th August, 2017:- Bonds (redeemable after three years) issued on or after 8th day of August, 2017 by Indian Railway Finance Corporation Limited are eligible for availing benefit u/s 54EC

Q5. What is time-limit for acquiring the new capital asset?

Ans. Six months from the date of transfer

Q6. What is the quantum of exemption?

Ans. Exemption under section 54EC = Amount invested in new asset or capital gain whichever is lower

Upper Limit for exemption: Under no circumstances, exemption under 54EC shall exceed Rs. 50 Lac in a financial year.

Q7. Is it possible to revoke the exemption in a subsequent year? (Can exemption be taken back?)

Ans. Yes.

If investment is made on or after 1 st April 2018	If new asset is transferred or converted into money or loan is taken on the security of new asset within 5 years from the date of its acquisition [Amended by Finance Act, 2018 w.e.f A.Y. 2019-20]
If investment is made before 1 st April 2018	If new asset is transferred or converted into money or loan is taken on the security of new asset within 3 years from the date of its acquisition

Q7.1.What is the nature of capital gain if exemption is taken back in subsequent year?

Ans. Long term

Q8. Is scheme of deposit available?

Ans. No

Practical 6

Mrs. X, resident woman, transfers (Date of transfer:-January 16, **2019**) a house property resulting into long term capital gain of Rs. 1,01,50,000. She invests a sum of Rs. 45,00,000 in capital gains bonds issued by Power Finance Corporation Limited on March 5, **2019**. She further invests a sum of Rs. 46,00,000 in the same bonds on May 5, **2019**. Accordingly, she wants to claim exemption of Rs. 91,00,000 under 54EC. Advise her suitably.

What would have been the amount of exemption under section 54 EC if Mrs. X transferred gold ornaments instead of house property?

7 – INCOME FROM OTHER SOURCES

7.1 MEANING OF DIVIDEND

Sections:- 56(2)(i) and 2(22)(a) to 2(22)(e)

Section 2(22) of the Income Tax Act defines term “dividend”. This definition is inclusive one. It covers five sub clauses (a) to (e). Let us understand each clause one by one.

(1) Distribution of accumulated profits entailing (requiring / necessitating) release of company’s assets [Section 2(22)(a)]

In order to be called dividend under this clause, following two conditions are required to be satisfied.

- First** Distribution by a company out of accumulated profits (whether capitalized or not) and
- Second** Such distribution entails release of the assets by the company to its shareholders.

(2) Distribution of accumulated profits in the form of debentures, preference bonus shares etc. [Section 2(22)(b)]

This clause covers following two distributions to be treated as deemed dividend to the extent of accumulated profits (whether capitalized or not)-

- a.** Distribution by a company to its shareholders of
 - debentures,
 - debenture-stock or
 - deposit certificates
 - in any form, whether with or without interest; and
- b.** Distribution by a company to its preference shareholders of preference bonus shares.

(3) Distribution of accumulated profits at the time of liquidation [Section 2(22)(c)]

Any distribution made to the shareholders of a company on its liquidation, to the extent to which distribution is attributable to the accumulated profits (whether capitalised or not) of the company immediately before its liquidation.

(4) Distribution of accumulated profits on the reduction of capital [Section 2(22)(d)]

Any distribution made to shareholders of the company on the reduction of capital is treated as dividend to the extent the company possesses accumulated profits (whether capitalized or not).

(5) Payment by way of loan or advance to a shareholder / concern. [Section 2(22)(e)]

Under this clause, following two types of transactions are covered:

- (A)** loan or advance to a shareholder to the extent company possesses accumulated profits.
- (B)** loan or advance to a concern to the extent company possesses accumulated profits.

(A) Loan or advance to a shareholder - Loan or advance to a shareholder is treated as dividend in the hands of shareholder if the following conditions are satisfied:

- a. loan or advance is given by a company in which the public are not substantially interested (closely held company);
- b. loan or advance is given to a shareholder (being a person who is a registered shareholder as well as the beneficial owner of at least 10 per cent equity shares);
- c. the company must possess accumulated profits (excluding capitalized profits) at the time of granting loan or advance.

(B) Loan or advance to a concern: - Loan or advance to a concern is treated as a deemed dividend in the hands of the shareholder if the following conditions are satisfied:

- a. loan or advance is given by a company in which the public are not substantially interested (closely held company) to a concern;
- b. there is a shareholder (being a person who is a registered shareholder as well as the beneficial owner) who holds 10 percent equity share capital in the above-mentioned company;
- c. the abovementioned shareholder also has substantial interest in such concern;
- d. the company must possess accumulated profit (excluding capitalized profits) at the time of granting loan or advance.

Substantial Interest: A person, shall be deemed to have a substantial interest in a concern, if he is at any time during the previous year, beneficially entitled to at least 20 per cent of income of such concern.

Similarly, a person, shall be deemed to have a substantial interest in a company, if he is the beneficial owner of at least 20 per cent equity share capital of that company.

7.4A | FEW DISTRIBUTIONS ARE NOT TREATED AS DIVIDEND

Section:- 2(22)

- (1) Any payment made by a company on purchase of its own shares in accordance with the provisions contained in section 77A of the Companies Act, 1956
- (2) Any distribution of shares made in accordance with the scheme of demerger by the resulting company to the shareholders of the demerged company whether or not there is a reduction of capital in the demerged company.
- (3) For the purpose of section 2(22) (c) and 2(22) (d), the following are not treated as dividend:
 - a. any distribution to preference shareholders when preference shares are issued for full cash consideration; and
 - b. any distribution to equity shareholders in respect of bonus shares allotted to them after March 31, 1964, but before April 1, 1965.

- (4) For the purpose of Section 2(22)(e), following payments are, however, not treated as dividend:
- Any advance or loan made to a shareholder or a concern by a company in the ordinary course of its business, where money-lending is a substantial part of the business of the company. and
 - Any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend under section 2(22)(e).

7.2 | MEANING OF ACCUMULATED PROFITS

Section:- Explanation 1, 2 and 2A of section 2(22) – Effective from A.Y. 2018-19

- An accumulated profit does not include capital gains arising before April 1, 1946 and after March 31, 1948 but before April 1, 1956.
- In case of a company, which is not in liquidation, it includes all profits of a company up to the date of distribution or payment.
- In case of a company, which is in liquidation, it includes all profits of the company up to the date of liquidation.
- In case of company, which is in liquidation consequent on the compulsory acquisition of a company's undertaking by the Government or a corporation owned or controlled by the Government, then accumulated profits do not include any profits of the company prior to the three successive years immediately preceding the previous year in which such acquisition took place
- In the case of an amalgamated company, accumulated profits or loss in the hands of the amalgamated company shall be increased by the accumulated profits of the amalgamating company (whether capitalized or not) on the date of amalgamation. [Inserted by Finance Act, 2018 w.r.e.f. A.Y. 2018-19].**

(A) Based on decisions of various courts, accumulated profit includes:

- Balance of Profit and loss account
- Current Profit
- General Reserve
- Development Rebate Reserve
- Investment Allowance Reserve
- Any other free Reserve e.g. Building Reserve Fund
- Additions made by Assessing Officer on account of concealed income
- Exempt Incomes
- Capital Gain chargeable to tax

(B) Based on decisions of various courts, accumulated profit does not include:

- Balancing Charge computed under section 41(2)
- Capital Gain not chargeable to tax
- Additions made by Assessing Officer in respect of inadmissible expenses
- Depreciation Reserve / Fund
- Provisions for taxation
- Proposed Dividend

Note: - For determining accumulated profits, depreciation as per Income tax Act has to be considered.

Practical 1

XYZ Ltd. is a company registered in India. The balance sheet of the company on March 31, 2019 is as under:

Liabilities	Rs.	Assets	Rs.
Preference share capital (issued for cash)	4,00,000	Fixed assets (before depreciation)	15,00,000
		Investment in share (market value Rs. 13,00,000)	4,00,000
Equity share capital			
- issued for consideration	6,00,000	Other assets	9,20,000
- issued as bonus shares in 1960 and 1976 by capitalising profits	6,00,000		
General reserve	3,00,000		
Investment allowance reserve	90,000		
Depreciation reserve	1,00,000		
P & L A/c balance as on April 1, 2018: Rs.2,40,000			
Add: Profit of the year ending March 31, 2019 Rs. <u>60,000</u>	3,00,000		
Provision for taxation and dividend	2,30,000		
Current liabilities	2,00,000		
	28,20,000		28,20,000

Additional Information:

- XYZ Ltd. took over ABC Ltd. on 1st April, 2018. The amalgamation was in the nature of merger.
- Profit and loss account balance on April 1, 2018 includes profit and loss account balance of ABC Ltd. Rs.30,000.
- General Reserve of Rs. 3,00,000 has been computed as under:

General Reserve of XYZ Ltd. before amalgamation	Rs.2,50,000
Add: General Reserve of ABC Ltd. (Amalgamating Co.) – The amalgamation was in nature of merger	Rs.1,50,000
Sub-Total	Rs.4,00,000
Less: Adjustment for amalgamation (The difference between the amount recorded as share capital issued and the amount of share capital of ABC Ltd. adjusted in reserves)	(Rs.1,00,000)
General Reserve as on 31-03-2019	Rs. 3,00,000

You are required to ascertain the accumulated profits of the company to apply the deeming fiction of Section 2(22).

7.3 SUM OF MONEY/PROPERTIES RECEIVED WITHOUT CONSIDERATION OR PROPERTIES RECEIVED FOR A CONSIDERATION WHICH IS LESS THAN FAIR MARKET VALUE OR STAMP DUTY, AS THE CASE MAY BE

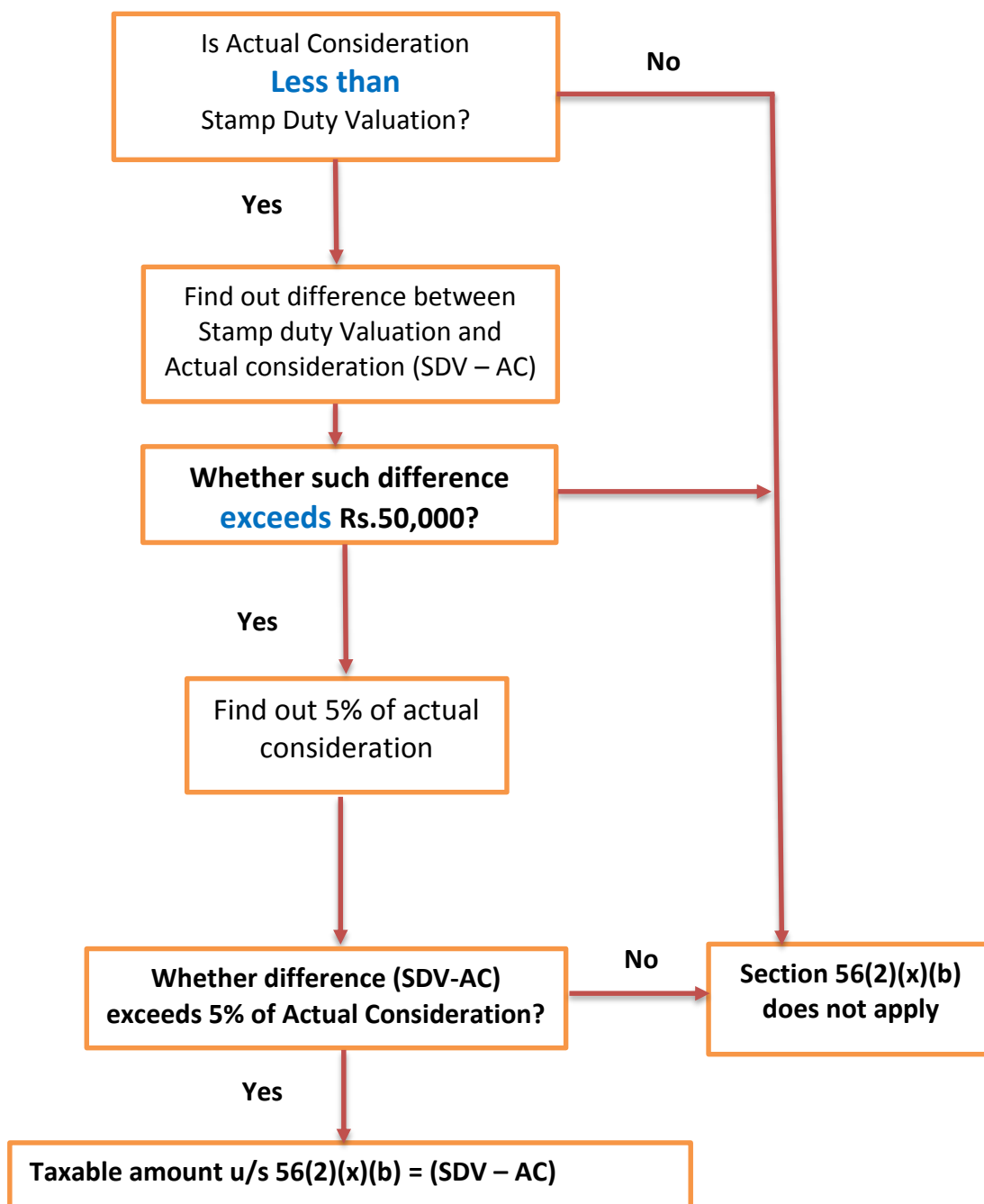
Section:- 56(2)(x)(b) – Substituted by Finance Act, 2018 Effective from A.Y.2019-20

Sub Clause (B) of section 56(2)(x) (b)

<i>Transaction</i>	<i>Condition</i>	<i>Taxable amount</i>
<i>Immovable property received for a consideration.</i>	the stamp duty value of such property as exceeds such consideration, if the amount of such excess is more than the higher of the following amounts, namely: (i) the amount of fifty thousand rupees; and (ii) the amount equal to five per cent of the consideration [Substituted by Finance Act, 2018 w.e.f. A.Y. 2019-20.]	<i>Difference between stamp duty value and the consideration (This rule shall be applicable for each property separately)</i>

Notes:

1. If there is a time gap between date of agreement and date of registration, **the stamp duty value may be taken as on the date of agreement** instead of the date of registration. However, for this purpose, at least a part of the consideration has been paid by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of agreement.
2. If assessee may dispute the stamp duty value of property on grounds mentioned under section 50C(2), then the assessing officer may refer the valuation of such property to the valuation officer, and the provisions of section 50C and section 155(15) shall apply accordingly for the purpose of sub clause (b) of Section 56(2)(x).



Practical 2

Ms. Radha would like to purchase flat. The valuation of this flat for the purpose of stamp duty is Rs. 25,00,000. Find out taxable amount under section 56(2)(x)(b), if any, under following alternatives, if actual consideration paid by her is:

Alternative I	Alternative II	Alternative III	Alternative IV
Rs.25,21,000	Rs. 24,70,000	Rs.24,00,000	Rs.23,00,000

7.4 COMPENSATION FOR TERMINATION OF EMPLOYMENT OR MODIFICATION OF THE TERMS AND CONDITIONS THERETO.**Section:-** 56(2)(xi) – Inserted by Finance Act, 2018 – A.Y. 2019-20

Clause (xi) has been inserted in section 56(2) w.e.f. A.Y. 2019-20 to provide that any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto shall be chargeable to tax under the head “Income from other sources”.

Conflict: Readers shall consider section 17(3) (i) which reads as under:

“the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of terms and conditions relating thereto” – shall be termed as “profits in lieu of salary”.

8 – CLUBBING OF INCOME

No Amendment

9 – SET OFF AND CARRY FORWARD OF LOSSES

9.1	CARRY FORWARD AND SET OFF OF LOSSES IN THE CASES OF CERTAIN COMPANIES
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Section:- 79 – Effective from A.Y. 2018-19**Refer Chapter No. 15 – Assessment of Companies**

10 – DEDUCTIONS FROM GROSS TOTAL INCOME

10.1 DEDUCTION IN RESPECT OF CERTAIN INCOMES NOT TO BE ALLOWED UNLESS RETURN IS FILED BY THE DUE DATE

Section:- 80AC Substituted by Finance Act, 2018 w.e.f. A.Y. 2018-19 (*Retrospective*)

Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after—

- (i) the 1st day of April, 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-IA or section 80-IAB, Section 80-IB or Section 80-IC or Section 80-ID or section 80-IE;
- (ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes",

no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.

10.2 DEDUCTION IN RESPECT OF MEDICAL INSURANCE PREMIA

Section:- 80D modified - effective from A.Y. 2019-20

(1) Eligible assessee: - Individual or Hindu undivided family

(2) Conditions –

- (a) Mediclaim insurance is paid by the individual or HUF. In the case of individual, payment can also be made to the Central Government Health Scheme or such other scheme as may be notified by the Central Government in this behalf and/or on account of preventive health check-up.
- (b) It is paid out of income chargeable to tax.
- (c) Payment shall be made by any mode other than cash. However, payment on account of preventive health check-up can be made by any mode including cash.

(3) Maximum Deductible Amount:- The maximum deductible amount and other relevant points are given below-

	Individual		HUF
	Family	Parents	
• For whose benefits payment can be made	For the benefit of the assessee, spouse of the assessee and dependent children of the assessee	For the benefit of the parents of the assessee whether dependent or not	For the benefit of any member of family
(A) Nature of payment			
a. Medi-claim insurance premium	Deduction available	Deduction available	Deduction available
b. Contribution made to Central Government Health Scheme or such other scheme as may be	Deduction available	-	-

notified by the Central Government in this behalf			
c. Payment made on account of preventive health check-up	Deduction available	Deduction available	-
Maximum amount of deduction			
- General deduction [applicable in respect of (a), (b) and (c) given above but payment on account of preventive health check-up of self, spouse, dependent children and parents cannot exceed Rs.5,000]	Rs.25,000	Rs.25,000	Rs.25,000
- Additional deduction (applicable only in the case of medi-claim insurance premium when policy is taken on the life of a senior citizen)			
➤ For A.Y. 2016-17 to 2018-19	Rs.5,000	Rs.5,000	Rs.5,000
➤ For A.Y. 2019-20	Rs.25,000	Rs.25,000	Rs.25,000
(B) Medical Expenditure on the health of a person who is a <i>senior citizen</i> if mediclaim insurance is not paid on the health of such person	<i>Deduction available</i>	<i>Deduction available</i>	<i>Deduction available</i>
- <i>Maximum deduction in respect of (B)</i>			
➤ For A.Y. 2016-17 to 2018-19	Rs.30,000	Rs.30,000	Rs.30,000
➤ For A.Y. 2019-20	Rs.50,000	Rs.50,000	Rs.50,000
(C) Maximum deduction in respect of (A) and (B)			
➤ For A.Y. 2016-17 to 2018-19	Rs.30,000	Rs.30,000	Rs.30,000
➤ For A.Y. 2019-20	Rs.50,000	Rs.50,000	Rs.50,000

Note: Senior citizen for the aforesaid purpose is a resident individual and whose age at any time during the relevant previous years should be at least 60 years.

Practical 1

Mr. Agam, resident individual, aged 39 years, paid medical insurance premium of

(a) Rs. 18,000 to insure his health as well as the health of his spouse.

(b) Rs. 48,000 to insure the health of his father, being resident, aged 63 years, who is not dependent on him.

He also contributed Rs. 5,600 to Central Government Health Scheme during the year.

He has incurred Rs. 5,200 in cash on preventive health check-up of himself and his spouse and Rs. 4,200 by cheque on preventive health check-up of his father.

Compute the deduction allowable under section 80D.

Practical 2

Mr. Shrenik, aged 44 years, paid medical insurance premium of

- (a) Rs. 24,000 to insure his health as well as the health of his spouse and dependent children.
- (b) Rs. 31,000 during the year to insure the health of his mother, aged 67 years, who is not dependent on him.

He also contributed Rs. 8,000 to Central Government Health Scheme during the year.

He also incurred medical expenditure of Rs. 29,000 on his father, aged 71 years, who is not covered under mediclaim policy. His father is also not dependent upon him.

Compute the deduction allowable under section 80D.

10.3 DEDUCTION IN RESPECT OF MEDICAL TREATMENT, ETC.

Section:- 80DDB modified - effective from A.Y. 2019-20

(1) Eligible assessee: - Resident Individual or Resident Hindu undivided family

(2) Conditions –

1. The assessee has actually paid any amount for the medical treatment of a specified disease or ailment as prescribed by the Board under rule 11DD.
2. If the assessee is an Individual, the expenditure is actually incurred for his medical treatment or wholly/ mainly dependent spouse, children, parents, brothers and sisters of such individual.
3. If assessee is a Hindu undivided family, the expenditure is actually incurred for the medical treatment of any member of the family who is wholly/mainly dependent upon the family.
4. The assessee is required to obtain a prescription from a specialist doctor for the purpose of availing this deduction.

(3) Amount of deduction - If all the aforesaid conditions are satisfied, the amount of deduction is Rs. 40,000 or the expenditure actually incurred, whichever is lower.

(a) Where the expenditure incurred is in respect of the assessee or his dependent or any member of a Hindu undivided family of the assessee and who is a senior citizen, then Rs. 60,000 **[Rs.1,00,000 as substituted by Finance Act, 2018 w.e.f. A.Y.2019-20]** or actual expenditure, whichever is lower, shall be the amount of deduction.

(b) Deduction under this section shall be reduced by the amount received, if any, under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the person referred to above.

(4) Senior citizen for the aforesaid purpose is a resident individual and whose age at any time during the relevant previous years should be at least 60 years.

Practical 3

Mr. Jagrut (45 years) is a resident individual. During the previous year, he incurs Rs. 1,08,000 on medical treatment of his dependent father (67 years) for specified disease. The insurance company reimbursed Rs. 25,000 while employer of Mr. Jagrut reimbursed Rs. 10,000 for such medical treatment of his father. Find out deduction under section 80 DDB under following alternatives:

- (i) Father of Mr. Jagrut is resident
- (ii) Father of Mr. Jagrut is non-resident

What would have been your answer if Mr. Jagrut is a non-resident?

10.4 SPECIAL PROVISIONS IN RESPECT OF SPECIFIED BUSINESS (START-UP)

Section:- 80-IAC – Effective from A.Y.2018-19 (*Retrospective*)

(1) Eligible Business

~~"eligible business" means a business which involves innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property;~~

Eligible business means a business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation. [substituted by Finance Act, 2018, w.r.e.f A.Y.2018-19]

(2) Conditions to be fulfilled for an eligible start-up

1. The assessee is a company or a limited liability partnership (LLP) and engaged in an eligible business.
2. The above company or LLP is incorporated after March 31, 2016 but before ~~April 1, 2019~~ **April 1, 2021 [Amended by Finance Act, 2018 w.r.e.f. A.Y.2018-19].**
3. The total turnover of the company or LLP does not exceed Rs.25 crore ~~in any of the previous years beginning from P.Y.2016-17 and ending with P.Y.2020-21~~ in the previous year relevant to the assessment year for which deduction under sub-section (1) is claimed **[Amended by Finance Act, 2018 w.r.e.f. A.Y.2018-19]**
4. It holds a certificate of eligible business from the Inter-Ministerial Board of certification as notified in the Official Gazette by the Central Government.
5. The above company or LLP is not formed by splitting up or reconstruction of a business already in existence.

Exception: This condition shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

6. Further, undertaking should not be set up by the transfer of old plant and machinery. However, following two cases old machinery is permitted:

Case 1:- If the value of the old assets does not exceed 20 per cent of the total value of the plant and machinery, this condition is deemed to have been satisfied.

Case2:- *Second-hand imported machinery is treated as new subject to satisfaction of few conditions in this regard.*

7. The other provisions with reference to furnishing of audit report, determination of quantum of deduction, power of assessing officer to re-compute profit in case of inter-unit transfer, restriction on double deduction, transactions between close connection activities of 80 IA are equally applicable to this section.

(3) Quantum of deduction

If the above conditions are satisfied, 100 per cent of the profits and gains derived from eligible business is deductible for 3 consecutive assessment years. However, this deduction may, at the

option of the assessee, be claimed by it for any 3 consecutive assessment years out of 5 years (7 years with effect from A.Y. 2018-19, Amendment by Finance Act, 2017) beginning from the year in which the eligible start-up is incorporated.

Practical 4

ABC Ltd. was incorporated on 1.4.2018 to carry on the business of innovation, development, deployment and commercialization of new processes driven by technology. It holds a certificate of eligible business from the notified IMBC.

Its estimated turnover and profits and gains from such business for the P.Y.2018-19 to P.Y.2024-25 are as follows:

	(Rs. in crores)						
	P.Y. 2018-19	P.Y. 2019-20	P.Y. 2020-21	P.Y. 2021-22	P.Y. 2022-23	P.Y. 2023-24	P.Y. 2024-25
Total turnover	15	18	20	21	22	23	24
Profits/ Losses	(2.50)	(1.30)	6.80	8.40	9.80	1.60	11.20

Is ABC Ltd. eligible for any tax advantage under the Income-tax Act, 1961? If yes, then suggest best course of action to ABC Ltd. for maximization of such benefits?

10.5 DEDUCTION IN RESPECT OF EMPLOYMENT OF NEW WORKMEN

Section:- 80JJAA modified - effective from A.Y. 2019-20

(1) Eligible Assessee and Amount of deduction

Where the gross total income of an assessee to whom section 44AB applies, includes any profits and gains derived from business, there shall, be allowed a deduction of an amount equal to thirty per cent of additional employee cost incurred in the course of such business in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

(2) Conditions

- (a) The business is not formed by splitting up, or the reconstruction, of an existing business:
However, this condition is not applicable in respect of a business which is formed as a result of re-establishment, reconstruction or revival by the assessee of the business in the circumstances and within the period specified in section 33B;
- (b) The business is not acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation;
- (c) The assessee furnishes alongwith the return of income the report of the accountant, as defined in the Explanation to section 288 giving such particulars in the report as may be prescribed.

(3) Other Points

(a) **Explanation.**—For the purposes of this section,—

- (i) "additional employee cost" means total emoluments paid or payable to additional employees employed during the previous year.

- However, in the case of an existing business, the additional employee cost shall be nil, if—
 - (a) there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year;
 - (b) emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account;
- For the first year of a new business, emoluments paid or payable to employees employed during that previous year shall be deemed to be the additional employee cost;
- (ii) "additional employee" means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year.
 - However, additional employee does not include,—
 - (a) an employee whose total emoluments are more than twenty-five thousand rupees per month; or
 - (b) an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; or
 - (c) an employee employed for a period of less than 240 days during the previous year; or (150 days if assessee is engaged in the business of manufacturing of apparel and **footwear or leather products [As inserted by Finance Act, 2018 w.e.f.A.Y.2019-20]**
 - (d) an employee who does not participate in the recognised provident fund;

Provided further that where an employee is employed during the previous year for a period of less than two hundred and forty days or one hundred and fifty days, as the case may be, but is employed for a period of two hundred and forty days or one hundred and fifty days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the provisions of this section shall apply accordingly [Inserted by Finance Act, 2018-A.Y. 2019-20].

- (iii) "emoluments" means any sum paid or payable to an employee in lieu of his employment by whatever name called, but does not include—
 - (a) any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee under any law for the time being in force; and
 - (b) any lump-sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.
- (b) No deduction under this section shall be allowed if it has not been claimed in the return of income.
- (c) Double deduction is not possible in respect of the same business income under section 80H to 80RRB.
- (d) The aggregate deductions under the various provisions referred to above, shall not exceed the profits and gains of the undertaking or unit or enterprise or eligible business, as the case may be.

Practical 5

Arjun Ltd. commenced the chain of medical stores on **1.4.2018**. It employed 200 employees during the **P.Y.2018-19**, the details of whom are as follows:

Sr. No.	No. of employees	Date of employment	Whether they participate in RPF?	Total monthly emoluments per employee (Rs.)
(i)	25	1.4.2018	Yes	20,000
(ii)	75	1.5.2018	Yes	30,000
(iii)	50	1.8.2018	No	17,000
(iv)	50	1.9.2018	Yes	22,000

Compute the deduction available to Arjun Ltd. under section 80JJAA for **A.Y.2019-20**, assuming that its total turnover is 20.21 crores and all the salary payments were made by an account payee cheques.

All the 50 employees joined on 1.9.2018 continue to be employed for the financial year **2019-20**.

10.6 DEDUCTION IN RESPECT OF CERTAIN INCOME OF PRODUCER COMPANIES

Section:- 80PA –Effective from A.Y.2019-20

[Inserted by Finance Act, 2018 w.e.f. A.Y. 2019-20]

(1) Eligible assessee: Assessee being Producer company u/s 581A(I) of the Companies Act, 1956.

(2) Conditions:-

- (a) The total turnover of the producer company is less than Rs.100 crore in any previous year.
- (b) The gross total income of the producer company includes any profits and gains derived from “eligible business”.

(3) Amount of deduction :

100% of the profit and gain attributable to “eligible business” is deductible for the assessment years 2019-20 to 2024-25. If the assessee is also entitled to deduction under any other provision or provision of Chapter VI-A (i.e, sections 80C to 80U), the deduction under section 80PA shall be allowed from the gross total income as reduced by the deductions under such other provisions.

(4) Other points to be kept in mind:

(1) Eligible business means

- (a) the marketing of agricultural produce grown by the members; or
- (b) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to the members; or
- (c) the processing of the agricultural produce of the members;

(2) "member" shall have the meaning assigned to it in clause (d) of section 581A of the Companies Act, 1956 (1 of 1956);

10.7 DEDUCTION IN RESPECT OF INTEREST ON DEPOSITS IN SAVINGS ACCOUNT

Section:- 80TTA – Effective from A.Y. 2019-20

(1) Eligible assessee: Individual or Hindu Undivided Family

(2) Amount of deduction : Upto Rs. 10,000 in aggregate in respect of any income by way of interest on deposits (not being time deposits) in a savings account with —

- (a) a banking company;
- (b) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or
- (c) a post office.

(3) Other points to be kept in mind:

- (a) The deduction under this section is not available in respect of interest on time deposits
- (b) Under section 10(15) (i), post office savings bank interest is exempt up to Rs. 3,500 (in an individual account) and Rs. 7,000 (in a joint account).
- (c) **A senior citizen (who can avail of deduction u/s 80TTB) shall not eligible for the deduction under section 80TTA. [Inserted by Finance Act, 2018 w.e.f. A.Y.2019-20]**

10.8 DEDUCTION IN RESPECT OF INTEREST ON DEPOSITS IN CASE OF SENIOR CITIZENS

Section:- 80TTB – Effective from A.Y.2019-20

[Inserted by Finance Act, 2018 w.e.f. A.Y.2019-20]

(1) Eligible assessee: Assessee being a senior citizen

(2) Amount of deduction : Upto Rs. 50,000 in aggregate in respect of any income by way of interest on deposits with —

- (a) a banking company;
- (b) a co-operative bank; or
- (c) a post office (it may be interest on fixed deposits, interest on savings account or any other interest).

(3) Other points to be kept in mind:

Where the aforesaid income is derived from any deposits in an account held by, or on behalf of a firm, an association of persons, or a body of Individuals, no deduction shall be allowed in respect of such income in computing the total income of any partner of the firm or any member of the association or body.

Practical 6

Taxpayer provides following information about interest income earned by him during the previous year:

- (i) Interest on saving account with State Bank of India : Rs. 8,000
- (ii) Interest on saving account with Post Office: Rs. 4,000
- (iii) Interest on saving account with Co-operative Land Mortgage Bank: Rs. 500
- (iv) Interest on fixed deposits with State Bank of India: Rs. 49,000

Find out deduction under relevant section under following alternatives:

- (a) Taxpayer is a resident individual aged 44 years
- (b) Taxpayer is a resident individual aged 66 years

11 – COMPUTATION OF TOTAL INCOME AND TAX LIABILITY

11.1 RATES OF INCOME TAX

(1) Individual/ HUF/ AOP / BOI and every artificial juridical person

Level of Total Income	Rate of income-tax
Where the total income	
- Does not exceed Rs. 2,50,000	Nil
- Exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000	5% of the amount by which the total income exceeds Rs. 2,50,000
- Exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 12,500 plus 20% of the amount by which the total income exceeds Rs. 5,00,000
- Exceeds Rs. 10,00,000	Rs. 1,12,500 plus 30% of the amount by which the total income exceeds Rs. 10,00,000

(2) For resident individuals of the age of 60 years or more but less than 80 years at any time during the previous year.

Level of total income	Rate of income-tax
Where the total income	
- Does not exceed Rs. 3,00,000	Nil
- Exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	5% of the amount by which the total income exceeds Rs. 3,00,000
- Exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 10,000 plus 20% of the amount by which the total income exceeds Rs. 5,00,000
- Exceeds Rs. 10,00,000	Rs. 1,10,000 plus 30% of the amount by which the total income exceeds Rs. 10,00,000

(3) For resident individuals of the age of 80 years or more at any time during the previous year

Level of total income	Rate of income-tax
Where the total income	
- Does not exceed Rs. 5,00,000	Nil
- Exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	20% of the amount by which the total income exceeds Rs. 5,00,000
- Exceeds Rs. 10,00,000	Rs. 1,00,000 plus 30% of the amount by which the total income exceeds Rs. 10,00,000

(4) Circular No. 28/2016, dated 27-07-2016

Clarification regarding attaining prescribed age of 60 years/80 years on 31st March itself, in case of senior/very senior citizens whose date of birth falls on 1st April

- The Supreme Court in the case of **Prabhu Dayal Sesma vs. State of Rajasthan & another** 1986, AIR, 1948 observed that while counting the age of the person, whole of the day should be reckoned and it starts from 12 o'clock in the midnight and he attains the specified age on the day preceding, the anniversary of his birthday.
- The CBDT has, vide this Circular, clarified that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday.
- Therefore, a resident individual whose 60th birthday / 80th birthday falls on 1st April, 2019, would be treated as having attained the age of 60 years in the P.Y.2018-19, and would be eligible for higher basic exemption limit of Rs. 3 lakh/Rs. 5 lakh in computing his tax liability for A.Y.2019-20.

11.2 SURCHARGE AND MARGINAL RELIEF

The rates of surcharge applicable for A.Y. 2019-20 are as follows –

Surcharge (as a percentage of income tax)-	If total income is	If total income is in the range of	If total income is
	Upto Rs.50 lakhs	Rs.50 lakhs to Rs.1 crore	Above Rs.1 crore
Individuals/HUF/AOP/BOI/artificial juridical person	Nil	10%	15%

The above surcharge is subject to a Marginal relief

Why there is a need for marginal relief?

Consider Example (A) and (B)

Example : (A) Taxpayer : Mr. Active, 54 years having total income of Rs.50,00,000.

Particulars	Rs.
Tax on Rs.50,00,000	13,12,500
Add: Surcharge	Nil
Sub-total	13,12,500

Example : (B) Taxpayer: Mr. Passive, 55 years having total income of Rs.50,50,000.

Particulars	Rs.
Tax on Rs.50,50,000	13,27,500
Add: Surcharge (10%)	1,32,750
Sub-total	14,60,250

Now, as compared to Example (A), in Example (B), income is increased by **Rs. 50,000**, while tax is increased by Rs.**1,47,750**, therefore, there is a need for marginal relief.

Under marginal relief, **tax liability of Rs. 50,50,000 is restricted as under:-**

$$\begin{aligned}
 \text{Tax on 50,50,000} &= \text{Tax on 50,00,000} + (\text{Total Income} - \text{Rs.50,00,000}) \\
 &= \text{Tax on 50,00,000} + (50,50,000 - \text{Rs.50,00,000}) \\
 &= 13,12,500 + 50,000 \\
 &= 13,62,500
 \end{aligned}$$

The above tax is increased by health and education cess

☺ EASY STEPS to compute Final tax liability when total income of Individual ranges between Rs.50,00,001 to Rs. 1,00,00,000.

Step 1: Find out regular tax liability + Surcharge (Ignore education cess)

Step 2: Find out tax on 50,00,000 + (Total Income-50,00,000)

Step 3: Step 1 or Step 2 whichever is lower

Step 4: Add Health and Education Cess

Practical 1

Find out tax payable of Mr. Jayesh, 51 years, having total income of Rs. 51,00,000.

11.3 HEALTH AND EDUCATION CESS (HEC)

“Health and Education cess (HEC)” is to be calculated at the rate of 4% of income-tax and surcharge.

HEC is applicable to all assessees i.e., individuals, HUFs, AOP/BOIs, co-operative societies, firms, LLPs, local authorities and companies. The format of computation of HEC is as under:-

(a) Income Tax	XXXXXX
(b) Add: Surcharge on Income Tax (if any)	XXXXXX
(c) Sub-Total (a+b)	XXXXXX
(d) Health and Education cess @ 4% on (c)	XXXXXX
(e) Total Tax payable (c+d)	XXXXXX

No marginal relief would be available in respect of such cess.

11.4 TAX ON LONG TERM CAPITAL GAIN

Section:- 112

Long Term Capital Gain shall be taxed at 20% under section 112.

(1) However, if other incomes are less than exemption limit, then to that extent long term capital gain shall be shifted to other incomes and remaining long term capital gain shall be taxed at 20%. **[This is called Shifting Benefit].**

(2) Shifting benefit is not available to non-resident.

(3) **In following cases option is available to tax long term capital gain at 10% instead of 20%**

(a) Listed shares

(b) Listed securities

(c) Zero coupon bond (whether listed or not)

Option I- Compute capital gain as per general rules and tax the same @20%

Option II- Compute capital gain without indexation and tax the same @10%

11.5 | TAX ON LONG-TERM CAPITAL GAINS IN CERTAIN CASES**Section:- 112A – Effective from A.Y. 2019-20****[Inserted by Finance Act, 2018 w.e.f A.Y.2019-20]****(1) Sub-section 112A(1) :- Overriding Effect and Conditions for applicability of this section**

This section has an overriding effect over the provisions of section 112.

Cumulative conditions for applicability of Section 112 A

- (i) the total income of an assessee includes any income chargeable under the head "Capital gains";
- (ii) the capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust;
- (iii) securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 has,—
 - (a) in a case where the long-term capital asset is in the nature of an equity share in a company, been paid on acquisition and transfer of such capital asset; or
 - (b) in a case where the long-term capital asset is in the nature of a unit of an equity oriented fund or a unit of a business trust, been paid on transfer of such capital asset.

Remarks:

1. The condition specified in clause (iii) shall not apply to a transfer undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transfer is received or receivable in foreign currency. **[Section 112A(3)]**
2. The Central Government may, by notification in the Official Gazette, specify the nature of acquisition in respect of which the Condition no. (iii) (a) shall not apply. **[Section 112A(4)]:-** Refer Notification No.60/2018 given below.

(2) Sub-section 112A(2):-Tax Rate applicable on such long-term capital gain

Section 112A(2) prescribes that the tax shall be calculated on such long-term capital gains exceeding Rs. one lakh rupees at the rate of 10%.

It also provides that shifting benefit is available to an individual or Hindu Undivided Family, being a resident, in the event of other income falls short of the maximum amount not chargeable to tax.

(3) Section 112 A(5):- Non-availability of deductions under Chapter VI-A

Where the gross total income of an assessee includes any long-term capital gains chargeable to tax under section 112 A, the deduction under Chapter VI-A shall not be allowed from such long-term capital gains.

(4) Section 112 A(6):- Non-availability of rebate under section 87 A

Where the total income of an assessee includes any long-term capital gains chargeable to tax under section 112 A, the rebate under section 87A shall not be allowed from the income-tax on such long-term capital gains.

Explanation.—For the purposes of this section,—

- (a)** "equity oriented fund" means a fund set up under a scheme of a mutual fund specified under clause (23D) of section 10 and,—

- (i) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange,—
- (A) a minimum of ninety per cent of the total proceeds of such fund is invested in the units of such other fund; and
- (B) such other fund also invests a minimum of ninety per cent of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and
- (ii) in any other case, a minimum of sixty-five per cent of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange:

Provided that the percentage of equity shareholding or unit held in respect of the fund, as the case may be, shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

- (b) "International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);
- (c) "recognised stock exchange" shall have the meaning assigned to it in clause (ii) of Explanation 1 to clause (5) of section 43.

‡ **Notification No. 60/2018, dated 01-10-2018** ‡

As on 01/10/2018 Government issued a notification no. 60/2018. In preamble of said notification, the Government notifies all transactions (with few specific exclusion and few specific inclusion) of acquisition of equity share entered into on or after the 1st day of October, 2004 which are not chargeable to STT EXCEPT the **Column 1** transactions but including the **column 2** transactions;

Column 1	Column 2
Specific exclusion – STT on acquisition not paid, not eligible for concessional tax rate under section 112A	Specific Inclusion – STT on acquisition not paid, still eligible for concessional tax rate under section 112A
Acquisition of existing listed equity share in a company whose equity shares are not frequently traded in a recognised stock exchange of India is made through a preferential issue	Acquisition of listed equity shares in a company which has been approved by the Supreme Court, High Court, National Company Law Tribunal, Securities and Exchange Board of India or Reserve Bank of India in this behalf
	Acquisition of listed equity shares in a company by any non-resident in accordance with foreign direct investment guidelines issued by the Government of India
	Acquisition of listed equity shares in a company by an investment fund referred to in clause (a) of Explanation 1 to section 115UB of the Act or a venture capital fund referred to in clause (23FB) of section 10 of the Act or a Qualified Institutional Buyer
	Acquisition of listed equity shares in a company through preferential issue to which the provisions of chapter VII of

	the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 does not apply
Where transaction for acquisition of existing listed equity share in a company is not entered through a recognised stock exchange of India	<p>Following acquisition of listed equity shares in a company made in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956</p> <ul style="list-style-type: none"> - acquisition through an issue of share by a company other than the issue referred to in clause (a) i.e. preferential allotment. - acquisition by scheduled banks, reconstruction or securitisation companies or public financial institutions during their ordinary course of business - acquisition which has been approved by the Supreme Court, High Courts, National Company Law Tribunal, Securities and Exchange Board of India or Reserve Bank of India in this behalf - acquisition under employee stock option scheme or employee stock purchase scheme framed under the Securities and Exchange Board of India (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999 - acquisition by any non-resident in accordance with foreign direct investment guidelines of the Government of India - where acquisition of shares of company is made under Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011 - acquisition from the Government - acquisition by an investment fund referred to in clause (a) to Explanation 1 to section 115UB of the Income-tax Act or a venture capital fund referred to in clause (23FB) of section 10 of the income-tax Act or a Qualified Institutional Buyer - acquisition by mode of transfer referred to in sections 47 or 50B of the Income-tax Act, if the previous owner of such shares has not acquired them by any mode referred to in clause (a) or clause (b) or clause (c) [other than the transactions referred to in the proviso to clause (a) or clause (b)].
Acquisition of equity share of a company during the period beginning	-

<p>from the date on which the company is delisted from a recognised stock exchange and ending on the date immediately preceding the date on which the company is again listed on a recognised stock exchange in accordance with the Securities Contracts (Regulation) Act, 1956 read with Securities and Exchange Board of India Act, 1992 (15 of 1992) and the rules made thereunder</p>	
<p>Explanation,—For the purposes of this notification,—</p> <p>(a) “frequently traded shares” means shares of a company, in which the traded turnover on a recognised stock exchange during the twelve calendar months preceding the calendar month in which the acquisition and transfer is made, is at least ten per cent. of the total number of shares of such class of the company: Provided that where the share capital of a particular class of shares of the company is not identical throughout such period, the weighted average number of total shares of such class of the company shall represent the total number of shares.</p> <p>(b) “listed” means listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder</p> <p>(c) “preferential issue” and “Qualified Institutional Buyer” shall have the meanings respectively assigned to them in sub-regulation (1) of regulation (2) of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009.</p> <p>(d) “public financial institution” and “scheduled bank” shall have the meanings respectively assigned to them in Explanation to clause(viia) of sub-section (1) of section 36 of Income-tax Act.</p> <p>(e) “recognised stock exchange” shall have the same meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956</p> <p>(f) “reconstruction company” and “securitisation company” shall have the meanings respectively assigned to them in sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.</p>	

11.6 MODE OF COMPUTATION OF CAPITAL GAIN FOR AN ASSET REFERRED TO IN SECTION 112A (1)

Section:- 48 – Effective from A.Y. 2019-20

Third proviso to Section 48 has been inserted to provide that while determining capital gain for an asset referred to in section 112A(1),

- (a)** Benefit of Indexation (second proviso to section 48) shall not be available
- (b)** In case of non-resident, benefit of conversion rule (first proviso to section 48) shall not be available.

11.7 MANNER OF DETERMINATION OF COST OF ACQUISITION FOR COMPUTING CAPITAL GAIN FOR AN ASSET REFERRED TO IN SECTION 112A (1)

Section:- 55(2)(ac) – Effective from A.Y. 2019-20

[Inserted by Finance Act, 2018 w.e.f. A.Y.2019-20]

The cost of acquisition for the purposes of computing capital gains referred to in section 112A(1) in respect of the long-term capital asset acquired by the assessee before the 1st day of February, 2018, shall be deemed to be the higher of—

- (i) the actual cost of acquisition of such asset;
- (ii) the lower of—
 - a. the fair market value of such asset;
 - b. the full value of consideration received or accruing as a result of the transfer of the capital asset.

Meaning of "fair market value"

- (i) in a case where the capital asset is listed on any recognised stock exchange as on the 31st day of January, 2018, the highest price of the capital asset quoted on such exchange on the said date:
Provided that where there is no trading in such asset on such exchange on the 31st day of January, 2018, the highest price of such asset on such exchange on a date immediately preceding the 31st day of January, 2018 when such asset was traded on such exchange shall be the fair market value;
- (ii) in a case where the capital asset is a unit which is not listed on a recognised stock exchange as on the 31st day of January, 2018, the net asset value of such unit as on the said date;
- (iii) in a case where the capital asset is an equity share in a company which is—
 - (A) not listed on a recognised stock exchange as on the 31st day of January, 2018 but listed on such exchange on the date of transfer;
 - (B) listed on a recognised stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st day of January, 2018 by way of transaction not regarded as transfer under section 47, an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the financial year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the first day of April, 2001, whichever is later.

Practical 2

From the following information, compute capital gain for the purpose of section 112A

Particulars	Rs. in lakhs
Actual cost of acquisition	100
Fair market value as on 31-01-2018	200
Sale Consideration	250

Practical 3

From the following information, compute capital gain for the purpose of section 112A

Particulars	Rs. in lakhs
Actual cost of acquisition	100
Fair market value as on 31-01-2018	200
Sale Consideration	150

Practical 4

From the following information, compute capital gain for the purpose of section 112A

Particulars	Rs. in lakhs
Actual cost of acquisition	100
Fair market value as on 31-01-2018	50
Sale Consideration	150

Practical 5

From the following information, compute capital gain for the purpose of section 112A

Particulars	Rs. in lakhs
Actual cost of acquisition	100
Fair market value as on 31-01-2018	200
Sale Consideration	50

Practical 6

Mr. Mohan (35 years), resident provides the following information. Calculate his tax liability

Particulars	Rs.
Income under the head house property	3,00,000
Business Income	7,50,000
Long term capital gain u/s 112A	2,00,000
Contribution to Public Provident Fund	1,50,000

Practical 7

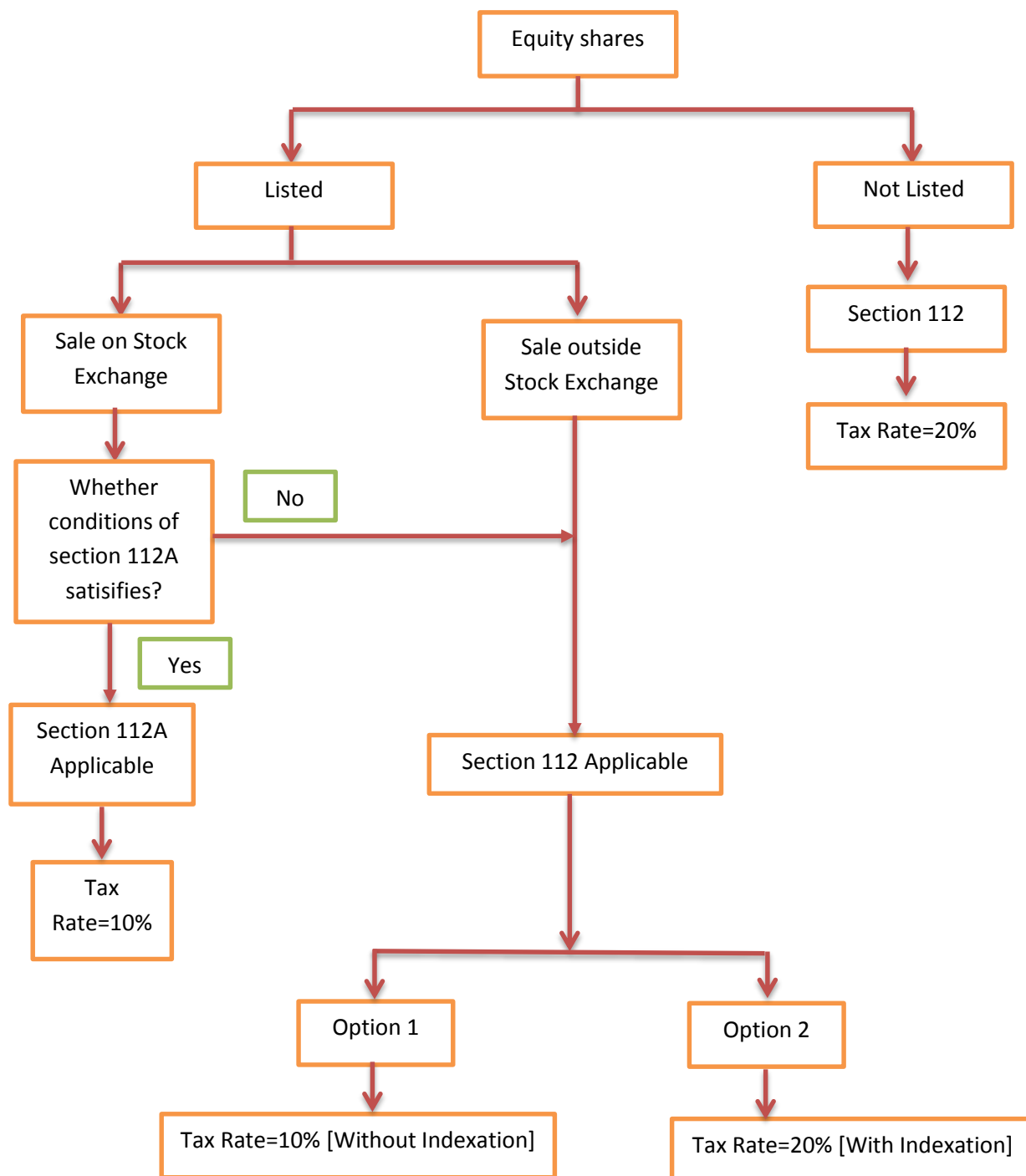
Mr. Mohan (25 years), resident provides the following information. Calculate his tax liability

Particulars	Rs.
Income under the head house property	3,60,000
Long term capital gain u/s 112A	20,000
Contribution to Public Provident Fund	30,000

Practical 8

Mr. Mohan (55 years), resident provides the following information. Calculate his tax liability.

Particulars	Rs.
Business Income	1,30,000
Long term capital gain u/s 112A	5,00,000
Contribution to Public Provident Fund	30,000

Taxability of Long Term Capital Gain on Sale of Equity Shares at a Glance

11.8 TAX ON INCOME REFERRED TO IN SECTION 68 OR SECTION 69 OR SECTION 69A OR SECTION 69B OR SECTION 69C OR SECTION 69D.

Section:- 115BBE Modified by FA 2018 -Effective from A.Y. 2017-18 (Retrospective)

(1) Where the total income of an assessee,—

- (a) includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D and reflected in the return of income furnished under section 139; or
- (b) determined by the Assessing Officer includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, if such income is not covered under clause (a),

the income-tax payable shall be the aggregate of—

- (i) the amount of income-tax calculated on the income referred to in clause (a) and clause (b), at the rate of sixty per cent; and
 - (ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (i).
- (2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing his income referred to in clause (a) **[and clause (b)]** of sub-section (1).

Practical 9

Mr. X filed return for the **A.Y. 2019-20** declaring non-speculative business loss of Rs.55,50,000. However, the assessing officer made an addition of Rs. 6,00,000 on account of unexplained cash credit under section 68 of the Act. Mr. X denies tax liability on the ground that he is entitled for set-off of loss against the addition made by assessing officer. Whether claim made by Mr. X is correct? Also find out tax payable by Mr. X, if any.

11.9 RATES OF DISTRIBUTION TAX AND MEANING OF 'EQUITY ORIENTED FUND' MODIFIED

Sections:- 115 R and 115 T Modified by Finance Act, 2018-Effective from 1st April, 2018

Section	Particulars	Rate of Tax
115R	Tax on distributed income of UTI/Mutual Funds	
	— Distribution to a unit-holder of equity-oriented funds	10%
	— Distribution by Money Market Mutual Fund or a Liquid Fund or any Other Fund to Unit Holder being individuals/ HUFs	25%
	— Distribution by Money Market Mutual Fund or a Liquid Fund or any Other Fund to Unit Holder being any other person	30%
	— Distribution by infrastructure debt funds to non-residents/foreign companies	5%

Surcharge@12% would be leviable on distribution tax levied under sections 115-O, 115-QA and 115R **irrespective of amount distributed**. Further, Health & Education cess@4% leviable on (the distribution tax plus surcharge).

Explanation (b) to Section 115T defined "Equity oriented fund" as under:

"Equity oriented fund" means a fund set up under a scheme of a mutual fund specified under clause (23D) of section 10 and,—

- (i) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange,—
 - (A) a minimum of ninety per cent of the total proceeds of such fund is invested in the units of such other fund; and

- (B) such other fund also invests a minimum of ninety per cent of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and
- (ii) in any other case, a minimum of sixty-five per cent of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange:

Provided that the percentage of equity shareholding or unit held in respect of the fund, as the case may be, shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

12 – ASSESSMENT OF FIRMS

No Amendment

13 – ASSESSMENT OF AOP OR BOI

No Amendment

14 – ASSESSMENT OF CO-OPERATIVE SOCIETIES

No Amendment

15 – ASSESSMENT OF COMPANIES

15.1 TAX ON INCOME OF CERTAIN DOMESTIC COMPANIES.

Section:- 115BA—Amendment made by Finance Act, 2018 w.e.f. A.Y. 17-18 (Retrospective)

Under this section, a domestic company, subject to following conditions, may opt for tax rate of 25 per cent. *[However, special rates of tax under ~~section 111A and 112 (Chapter XII)~~ shall continue to apply to the company opted for section 115BA – Modified by Finance Act, 2018 w.r.e.f. 01-04-2017] –*

- (1) The company has been set-up and registered on or after March 1, 2016
- (2) The company is not 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.
- (3) Total income of the company has been computed
 - without claiming additional depreciation and deductions under section 10AA, section 32AC, section 32AD, section 33AB, section 33ABA, 35(1) (ii), Section 35(1) (iia), Section 35(1) (iii), Section 35 (2AA), Section 35 (2AB), section 35AC, section 35AD, section 35CCC, section 35CCD and sections 80C to 80U [Except section 80JJAA]
 - without adjusting brought forward loss from any earlier year (if such loss pertains to any deduction under the aforesaid sections). Moreover, such loss will not be carried forward.
 - after claiming depreciation under section 32 [By notification no. 103/2016, depreciation claim has been restricted to 40% in case of block of assets where the prescribed rate of depreciation is more than 40%]
- (4) This option shall be exercised on or before the due date for furnishing the first of the returns of income, which the company is required to furnish under the Act.
- (5) Once the Company has exercised the option for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Note: Chapter XII starts from section 111A and ends on section 115BBG

Practical 1

Radha-Raman cotton mills private Limited has opted for applicability of section 115BA. It seeks your advice on the tax rate applicable in respect of following incomes (a) Before the amendment made by Finance Act, 2018 (b) After the amendment made by Finance Act, 2018

- (a) Short-term capital gain on sale of securities which has suffered STT
- (b) Long-term capital gain
- (c) Winnings from lotteries, cross word puzzles
- (d) Income from undisclosed sources (Section 68/69/69A/B/C/D)
- (e) Income from patent meeting requirements of section 115BBF
- (f) Income from transfer of carbon credit
- (g) Dividend income from specified foreign companies

15.2 | APPLICABILITY OF MAT PROVISIONS TO FOREIGN COMPANIES

Section:- Explanation 4A to Section 115JB (2) w.e.f. A.Y. 2001-02 (*Retrospective*)

Practical 2

Whether the provisions of MAT are applicable to foreign companies or not?

Practical 3

Singapore Airlines Inc (SAI), a foreign company derives its income solely from the operations of aircrafts in India. It seeks your advice on applicability of MAT.

Does your answer differ, if SAI also provides technical services to Indian Airlines for maintenance of aircrafts in addition to the above activity?

15.3A | BOOK PROFIT – HOW TO DETERMINE?

Section:- 115JB(2) – Modified by Finance Act, 2018 w.e.f. from A.Y.2018-19 (*Retrospective*)

Profit as shown in statement of profit and loss (after few adjustments) is book profit.

(A) Meaning of “Profit as shown in statement of profit and loss”

Profit in case of –

- (a) any insurance or banking company or any company engaged in the generation or supply of electricity (or any other class of company for which a different form of statement of profit and loss has been specified in or under the Act governing such class of company), shall be calculated on the basis of statement of profit and loss prepared in accordance with the provisions of their regulatory Acts, or
- (b) any other company, shall be calculated on the basis of statement of profit and loss prepared in accordance with Schedule III to the Companies Act, 2013.

(B) Few adjustments to Profit as shown in statement of profit and loss to convert it into Book Profit
[Explanation to section 115JB (2)]

Positive Adjustments –

Profit as shown in statement of profit and loss is to be increased by the following amounts if debited to the statement of profit and loss:

- (1)** the amount of income-tax paid or payable, and the provisions therefore; or
Explanation: *Amount of income tax shall include,*
 - (i)** any tax on distributed profits under section 115-O or on distributed income u/s 115-R
 - (ii)** any interest charged under this Act
 - (iii)** Surcharge, if any has levied by the central Acts from time to time.
 - (iv)** Education cess on income tax, if any has levied by the Central Acts from time to time
 Secondary and higher education cess on Income Tax, if any levied by the Central Acts from time to time.
- (2)** the amounts carried to any reserves, by whatever name called; or
- (3)** the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities; or
- (4)** the amount by way of provision for losses of subsidiary companies; or
- (5)** the amount or amounts of dividends paid or proposed; or
- (6)** the amount or amounts of expenditure relatable to any income to which section 10 [not being provisions *contained under section 10(38)*] or 11 or 12 apply.
- (7)** the amount or amounts of expenditure relatable to, income, being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86; or
- (8)** the amount or amounts of expenditure relatable to income accruing or arising to an assessee, being a foreign company, from,—
 - (A)** the capital gains arising on transactions in securities; or
 - (B)** the interest, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,
 if the income-tax payable thereon in accordance with the provisions of this Act (other than the provisions governing MAT) is less than 18.5%; or
- (9)** the amount representing,
 - a. notional loss on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by the trust referred to in clause (xvii) of section 47 or
 - b. the amount representing notional loss resulting from any change in carrying amount of said units or
 - c. the amount of loss on transfer of units referred to in clause (xvii) of section 47
- (10)** the amount or amounts of expenditure relatable to income by way of royalty in respect of patent chargeable to tax under section 115BBF

- (11) the amount of depreciation
- (12) The amount of deferred tax and the provisions therefore
- (13) The amount or amounts set aside as provision for diminution in the value of any asset;
- (14) Amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset if it is not credited to the statement of profit and loss;
- (15) the amount of gain on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit or loss account, as the case may be.

Negative Adjustments–

Profit as shown in the statement of profit and loss is to be reduced by the following amounts:

- (1) the amount withdrawn from reserves or provisions, if any such amount is credited to the statement of profit and loss; or (Provided book profits was increased in the year of creation of reserve or reserve was created by way of debit to statement of profit and loss)
- (2) the amount of income to which any of the provisions of section 10 [not being provisions contained u/s 10(38)] or 11 or 12 apply, if any such amount is credited to the statement of profit and loss; or
- (3) the amount of depreciation debited to the statement of profit and loss (excluding the depreciation on account of revaluation of assets); or
- (4) the amount withdrawn from revaluation reserve and credited to the statement of profit and loss, to the extent it does not exceed the amount of depreciation on account of revaluation of assets referred to in clause (3) above; or
- (5) the amount of income, being the share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86, if any, such amount is credited to the statement of profit and loss; or
- (6) the amount of income accruing or arising to assessee, being a foreign company, from,—
 - a. the capital gains arising on transactions in securities; or
 - b. the interest, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,
 if the income-tax payable thereon in accordance with the provisions of this Act (other than the provisions governing MAT) is less than 18.5%; or
- (7) the amount representing,—
 - (A) notional gain on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in clause (xvii) of section 47; or
 - (B) notional gain resulting from any change in carrying amount of said units; or
 - (C) gain on transfer of units referred to in clause (xvii) of section 47,
 if any, credited to the statement of profit and loss; or

- (8) the amount of loss on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit or loss account, as the case may be; or
- (9) the amount of income by way of royalty in respect of patent chargeable to tax u/s 115BBF; or
- (10) **The aggregate amount of unabsorbed depreciation and loss brought forward in case of a company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016.**

Explanation.—For the purposes of this clause, the expression "Adjudicating Authority" shall have the meaning assigned to it in section 5(1) of the Insolvency and Bankruptcy Code, 2016 and the loss shall not include depreciation; or]

[Inserted by Finance Act, 2018 w.r.e.f. A.Y. 2018-19]

- (11) the amount of loss brought forward or unabsorbed depreciation, whichever is less, as per books of account

Explanation.—For the purposes of this clause,—

- (a) the loss shall not include depreciation;
- (b) the provisions of this clause shall not apply if the amount of loss brought forward or unabsorbed depreciation is nil ;or
- (12) the amount of profits of sick industrial company for the assessment year commencing from the assessment year relevant to the previous year in which the said company has become a sick industrial company u/s 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 and ending with the assessment year during which the entire net worth (i.e., paid-up capital plus free reserves) of such company becomes equal to or exceeds the accumulated losses;
- (13) Amount of deferred tax, if any such amount is credited to statement of profit and loss.

Practical 4

From the following information, find out the amount of negative adjustment to be done during previous year **2018-19** while computing book profit under section 115JB.

Previous Year	Brought forward loss as per books (Rs.in lacs)	Unabsorbed Depreciation as per books(Rs.in lacs)
2015-16	2	5
2016-17	-	3
2017-18	10	2

Does your answer differ, if application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016 against the company?

15.3 TAX ON DISTRIBUTED PROFITS OF DOMESTIC COMPANIES POPULARLY KNOWN AS CORPORATE DIVIDEND TAX (CDT) MADE APPLICABLE TO DEEMED DIVIDEND U/S. 2(22)(e) ALSO

Section:- 115-O Effective from 1st April 2018

(A) Levy

Any amount declared, distributed or paid by a domestic company by way of dividend (whether interim or otherwise) out of current or accumulated profits shall be charged to additional income-tax (to be called dividend distribution tax/corporate dividend tax).

This levy is in addition to income tax chargeable on the total income of domestic company.

(B) Rate of dividend distribution tax for all types of dividend except dividend u/s 2(22)(e)

The rate of dividend distribution tax is 15% increased by surcharge (irrespective of amount of dividend) and H.E.C.

(C) Amount on which CDT is payable [For all types of dividend except dividend u/s 2(22)(e)]

Computation of “amount on which CDT is payable” shall be done as under:-

Particulars	Amount (Rs.)
Amount declared, distributed or paid by a domestic company (say holding company) by way of dividend	XXX
Less: (1) The amount of dividend, if any, received during the financial year from domestic subsidiary, where subsidiary has paid the tax u/s 115-O	(XXX)
(2) The amount of dividend, if any, received during the financial year from foreign subsidiary, where tax is payable by holding company on such dividend under section 115BBD	(XXX)
(3) The amount of dividend, if any, paid to New Pension System Trust referred to in section 10 (44).	(XXX)
Net distributed profits	XXX
Add: Increase for the purpose of Grossing up of dividend $\left(\text{Net Distributed Profits} \times \frac{15}{100-15} \right)$	XXX
Amount on which Corporate Dividend ax is Payable	XXX

(D) Meaning of subsidiary company for the purpose of this section

A company shall be a subsidiary of another company, if such other company, holds more than half in nominal value of the equity share capital of the company.

(E) Rate of dividend distribution tax for deemed dividend under section 2(22)(e)

The rate of dividend distribution tax is 30% increased by surcharge (irrespective of amount of dividend) and H.E.C. in respect of deemed dividend under section 2(22)(e) i.e. loan or advance given by a closely held company. (Proviso to section 115-O(1) - inserted by Finance Act, 2018 w.e.f. 01-04-2018). Rule of grossing up shall not apply to the dividend under section 2(22)(e). (Proviso to section 115-O(1B) - inserted by Finance Act, 2018 w.e.f. 01-04-2018).

Practical 5

Mr. Chettiar, managing director of Cubic Private Limited, holds 70 percent of its paid up capital. The balance as at March 31, 2018 in general reserve is Rs.6 lakh. The company, during the previous year, has given an interest-free loan Rs.5 lakh to its supervisor having salary of Rs.4,000 per month, who in turn advances the said amount of loan so taken from the company to Mr. Chettiar. Discuss the tax consequences of the above transaction in the hands of Cubic Private Limited and Mr. Chettiar.

(F) Dividend distribution tax cannot be avoided

The domestic company is liable to pay dividend distribution tax under this section even if no income-tax is payable on its total income computed under the provisions of the Act.

(G) Who is liable to pay dividend distribution tax and when?

- The principal officer of the domestic company and the company shall be liable to pay dividend distribution tax.
- Such tax shall be paid within 14 days from the date of
 - a. declaration of any dividend ; or
 - b. distribution of any dividend ; or
 - c. payment of any dividend,
 whichever is the earliest.

(H) Dividend tax is the final levy and no further credit for such tax paid

- Tax on dividend paid by a domestic company shall be taken as the final tax payment in respect of the amount declared, distributed or paid as dividend.
- In respect of tax so paid, no credit is available to the company paying tax, or the recipient of dividend or to any other person.

(I) Dividend tax is not deductible

Neither domestic company nor the shareholders can claim deduction under any other provision of this Act in respect of dividend tax levied under this section.

(J) Companies not required to pay dividend distribution tax

(1) Dividend distribution tax is not applicable in respect of any amount declared, distributed or paid by the specified domestic company by way of dividends (whether interim or otherwise) to a business trust out of its current income on or after the specified date:

Above relaxation shall not apply in respect of any amount declared, distributed or paid, at any time, by the specified domestic company by way of dividends (whether interim or otherwise) out of its accumulated profits and current profits up to the specified date.

Meaning of certain terms:-

- (a) "specified domestic company" means a domestic company in which a business trust has become the holder of whole (100%) of the nominal value of equity share capital of the company (excluding the equity share capital required to be held mandatorily by any other person in accordance with any law for the time being in force or any directions of Government or any regulatory authority, or equity share capital held by any Government or Government body);
- (b) "specified date" means the date of acquisition by the business trust of such holding as is referred to in clause (a).

- (2) No tax on distributed profits shall be chargeable in respect of the total income of a company, being a unit of an International Financial Services Centre, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2017, out of its current income, either in the hands of the company or the person receiving such dividend.

Meaning of certain terms:-

- (a) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005;
- (b) "unit" means a unit established in an International Financial Services Centre, on or after the 1st day of April, 2016.

(K) Interest for non-payment of tax [Sec. 115P]

If the company and the principal officer fails to pay the whole or any part of dividend distribution tax within the specified time limit discussed above, then he or it shall be liable to pay interest at the rate of 1% p.m. or a part of month

Period for which interest is payable

Interest is chargeable for the period commencing from the next date after the last date of payment and ending on the date of actual payment.

Amount on which interest is payable:

Particulars	Rs.
Dividend distribution tax payable	Xxx
Less: dividend distribution tax paid within the time limit of 14 days	<u>(xxx)</u>
Unpaid dividend distribution tax	<u>Xxxx</u>

(L) When company is deemed to be in default? [Sec. 115Q]

If principal officer of a domestic company and domestic company does not pay dividend distribution tax in accordance with the provisions of section 115-O, then he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it. Consequently, all provisions of the Act regarding collection and recovery of tax shall apply.

15.4 CARRY FORWARD AND SET OFF OF LOSSES IN THE CASES OF CERTAIN COMPANIES

Section:- 79 – Effective from A.Y. 2019-20

In the case of companies in which the public are not substantially interested (other than start-up company referred to in section 80-IAC), loss will not be carried forward and set off unless the shares of the company carrying not less than 51 per cent of the voting power were beneficially held by the same person(s) both on the last day of the previous year in which loss occurred and on the last day of the previous year in which brought forward loss is sought to be set off.

In the case of a company, not being a company in which the public are substantially interested but being an eligible start-up as referred to in section 80-IAC, the loss incurred in any year prior to the

previous year shall be carried forward and set off against the income of the previous year, if, all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred,—

- (i) continue to hold those shares on the last day of such previous year; and
- (ii) such loss has been incurred during the period of seven years beginning from the year in which such company is incorporated.

Exceptions - The aforesaid restriction contained in section 79 shall not be applicable if change in voting power takes place in following two cases:

1. Where a change in voting power takes place in a previous year consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making the gift.
2. Where any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company.
3. **Where a change in the shareholding takes place in a previous year pursuant to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner. [Inserted by Finance Act, 2018, w.e.f A.Y.2019-20]**

Practical 6

Seven Nine Ltd., a closely held company provides the following information.

(1) Brought forward business losses

Previous Year	Amount Rs.
2015-16	(2,00,000)
2016-17	(3,00,000)
2017-18	(1,00,000)

(2) Shareholders and its holding (in percentage) as on the last day of respective previous year.

Previous Years	(%) Shareholding					
	X	Y	Z	A	B	C
2015-16	33	33	34	-	-	-
2016-17	33	33	34	-	-	-
2017-18	33	20	34	-	13	-
2018-19	33	-	-	34*	13	20*

* A change in the shareholding took place in a previous year pursuant to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

You are required to calculate total income for the previous year 2018-19 assuming that income under the head “PGBP” before set off is Rs. 9,00,000.

16 – ALTERNATE MINIMUM TAX

16.1	SPECIAL PROVISIONS FOR PAYMENT OF TAX BY CERTAIN PERSONS OTHER THAN A COMPANY. – CONCESSIONAL TAX RATE PROVIDED FOR UNIT IN IFSC
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Section:- 115JC, CHAPTER- XII BA – Effective from A.Y.2019-20

(A) Sub-Section (1)

Where the regular income-tax payable for a previous year by a person, other than a company, is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of that person for such previous year and he shall be liable to pay income-tax on such total income at the rate of eighteen and one-half percent.

(B) Sub-Section (2)

Adjusted total income shall be the total income before giving effect to this Chapter as increased by—

- (i) *deductions claimed, if any, under any section (other than section 80P) included in Chapter VI-A under the heading "C.—Deductions in respect of certain incomes"; and*
- (ii) *deduction claimed, if any, under section 10AA; and*
- (iii) *deduction claimed, if any, under section 35AD as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction under section 35AD was allowed in respect of the assets on which the deduction under that section is claimed.*

(C) Sub-Section (3)

Every person to whom this section applies shall obtain a report, in prescribed form, from an accountant, certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of this Chapter and furnish such report on or before the due date of furnishing of return of income under section 139(1).

(D) Sub-Section (4)

Notwithstanding anything contained in sub-section (1), where the person referred to therein, is a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, the provisions of sub-section (1) shall have effect as if for the words "eighteen and one-half per cent", the words "nine per cent" had been substituted. [Inserted by Finance Act, 2018 w.e.f A.Y. 2019-20].

16.2 | INTERPRETATION IN THIS CHAPTER**Section:- 115JF – Effective from A.Y.2019-20**

In this Chapter—

- (a) "accountant" shall have the same meaning as in the Explanation below sub-section (2) of section 288;
- (b) "alternate minimum tax" means the amount of tax computed on adjusted total income,—
- (i) in case of an assessee being a unit referred to in sub-section (4) of section 115JC, at a rate of nine per cent;
 - (ii) **in any other case, at a rate of eighteen and one-half per cent; [Amended made by Finance Act, 2018, w.e.f. A.Y. 2019-20]**
- (c) **"convertible foreign exchange" means a foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purpose of the Foreign Exchange Management Act, 1999 (42 of 1999) and the rules made thereunder; [Inserted by Finance Act, 2018, w.e.f. A.Y. 2019-20]**
- (d) **"International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005); [Inserted by Finance Act, 2018, w.e.f. A.Y. 2019-20].**
- (e) "regular income-tax" means the income-tax payable for a previous year by a person on his total income in accordance with the provisions of this Act other than the provisions of this Chapter
- (f) **"unit" means a unit established in an International Financial Services Centre. [Inserted by Finance Act, 2018, w.e.f. A.Y. 2019-20]**

Practical 1

Ding Dong LLP is a unit located in International Financial Service and derives its income solely in convertible foreign exchange. For the relevant previous year, it earned following incomes:

Sr. No.	Particulars	Rs.
(1)	Income under the head PGBP (Eligible for deduction u/s 10AA- ET/TT 90%)	22,20,000
(2)	Income from other sources	1,30,000
(3)	Contribution to Prime Minister National Relief Fund by cheque	10,000

You are required to compute tax liability.

17 – ASSESSMENT OF HINDU UNDIVIDED FAMILY (HUF) - No Amendment**18 – TAXATION OF BUSINESS TRUST - No Amendment****19 – TAXATION OF TRUST/INSTITUTIONS AND POLITICAL PARTIES****19.1 | DISALLOWANCE PROVISIONS UNDER SECTION 40(a)(ia), 40A(3) & DEEMED INCOME UNDER SECTION 40A(3A) MADE APPLICABLE TO CHARITABLE ENTITIES****Section :- 3 to section 11(1) – Effective from A.Y.2019-20**

- Section 11(1) provides that if income of charitable or religious trust has been applied for the objects in India, then amount set apart or accumulated upto 15% of income shall not be included in total income of the trust. (The outcome of the exemption is that trust shall apply remaining 85% of its income for the objects of trust.)
- Thus, exemption under section 11 is 15 per cent of income derived from property held under charitable purpose without being spent—*CIT v. Programme for Community Organisation [2001] 116 Taxman 608 (SC)*.
- **Critical Provisions / Judicial pronouncements / Circulars relevant for computation of income of the charitable trust or institution.**
 - (a) Voluntary contributions (donations) received by a trust are treated as income - **Explanation to section 11 (1)**
 - (b) Corpus donations received by a trust are not treated as income. For this purpose, corpus donations means the donations received with a specific direction from the donor that they shall form part of corpus of the trust.- **Section 12**
 - (c) It would be incorrect to assign to the word “income” used in section 11(1) (a), the same meaning as has been specifically assigned to the expression “total income” vide section 2(45).– **Circular no. 5-P(LXX-6) of 1968, dated 19-6-1968.**
 - (d) Considering the language of section 11(1)(a), concept of classifying the incomes of trust under different heads of income have no relevance. Not only that trust is not entitled for statutory deductions under section 80 C to 80 U.- **Director of Income Tax Vs. Girdharilal Shewanarain Tania Trust (1993) 199 ITR 215 (Cal).**
 - (e) Income has to be understood in the popular or general sense. Therefore, while measuring the income of the trust for the purpose of section 11, deduction in respect of expenditure incurred for earning income and depreciation debited to profit and loss account has to be given- **CIT v. Seth Manilal Ranchhoddas Vishram Bhavan Trust [1992] 105 CTR (Guj.) 303**
 - (f) The trust is entitled to set off the amount of excess application of the last year against the deficiency of the current year —*CIT v. Matriseva Trust [2000] 242 ITR 20 (Mad.)*.

- (g) In case of **S. RM. M. CT. M. Tiruppani Trust vs. CIT [1998] 96 Taxman 635 (SC)**, trust has applied Rs. 8,00,000 for charitable purposes in India by purchasing a building which is to be utilized as a hospital. This was allowed as application of income for the purpose of section 11(1). That means, application of income under section 11(1) can be either towards revenue expenditure or capital expenditure provided the same shall be for the objects of the trust.
- (h) Donation of income to another charitable trust is also treated as application of income for the purpose of s. 11(1) - **CIT v. Sarladevi Sarabhai Trust (No. 2) [1988] 172 ITR 698 (Guj.)**
However, with effect from Assessment Year 2018-19, any donation (contribution) given to a trust or institution with a specific direction that they shall form part of the corpus of recipient trust or institution, then it shall not be treated as application of income for the donor trust or institution. - Vide explanation 2 to section 11(1). [Amendment by Finance Act, 2017]
- (i) Repayment of loans originally taken to fulfill one of the objects of trust is treated as an application of income for charitable purposes.-Vide circular No. 100, 24-01-1973 and **CIT v. Janmabhoomi Press Trust [2000] 242 ITR 703 (Kar.)**.
- (j) **In case of CIT v. Trustees of H.E.H The Nizam's Charitable Trust [1981] 131 ITR 497 (AP)**, the high court observed the facts of the case and held as under:
 "From the facts it is clear that the donees concerned make a request for a grant from the trust and the trustees after considering the request, sanction certain amounts in deserving cases. As soon as the resolution is passed, the secretary informs the institution that such and such amounts have been sanctioned by the trustees at a meeting held on a particular date and also intimates the purposes for which they are sanctioned. In cases where the amounts are not disbursed during the accounting year, the amounts are debited to the income and expenditure account and credited to the outstanding payment account, which contains the amount due to the various donees as per the resolutions passed by the board. When the payment is made, this amount is debited. The amounts debited to the income and expenditure account but which are not actually disbursed are shown as liabilities in the balance-sheet. These facts and circumstances would constitute application of the funds for charitable purposes within the meaning of s. 11(1)(a). It is not correct to equate the word "applied" with the word "spent".
- (k) **For the purposes of determining the amount of application under section 11(1)(a)/(b), the provisions of section 40(a)(ia) and sections 40(3)/(3A), shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession" - Explanation 3 to section 11(1)–[Inserted by Finance Act, 2018 w.e.f. A.Y.2019-20].**

Practical 1

A Charitable Public Trust provides following information:

- (a) It received voluntary contribution of Rs.20,00,000 during the previous year.
 - (b) It also received contribution of Rs.5,00,000 with a specific direction that it shall form part of corpus of the trust.
 - (c) It accumulates Rs.7,00,000 for purchase of five Ambulances and informed the Assessing Officer accordingly.
 - (d) It spent Rs.2,30,000 for the objects of the Trust. The break-up of which is as under:
 - Rs. 22,000 cash payment for purchase of medicines on a single day.
-

- Rs. 1,08,000 paid to visiting doctor by an account payee cheque but failed to deduct tax at source.
 - Rs. 1,00,000 rent, taxes, electricity and other office expenses by an account payee cheque
- (e) It also donated Rs. 40,000 was to PQR charitable trust having similar objects but payment was made by bearer cheque.
- (f) Another Rs. 20,000 was donated to XYZ charitable trust (by an account payee cheque) with a direction that it will form part of corpus of XYZ charitable trust.

Determine total income of the trust.

20 – RETURN, ASSESSMENT, REASSESSMENT AND RECTIFICATION

20.1 SCOPE OF PERMANENT ACCOUNT NUMBER EXPANDED

Section:- 139A – Effective from 1st April 2018

- (1) Every person,—
- (i) if his total income or the total income of any other person in respect of which he is assessable under this Act during any previous year exceeded the exemption limit; or
 - (ii) carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed five lakh rupees in any previous year; or
 - (iii) who is required to furnish a return of income under sub-section (4A) of section 139;
 - (iv) being an employer, who is required to furnish a return of fringe benefit under section 115WD
 - (v) **being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to two lakh fifty thousand rupees or more in a financial year.**
[Amendment made by Finance Act, 2018 w.e.f. 1-4-2018]
 - (vi) **who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in clause (v) or any person competent to act on behalf of the person referred to in clause (v).** *[Amendment made by Finance Act, 2018 w.e.f. 1-4-2018]*
- and who has not been allotted a permanent account number shall, within such time, as may be prescribed, apply to the Assessing Officer for the allotment of a permanent account number.
- (1A) Further, the Central Government may, by notification in the Official Gazette, specify, any class or classes of persons by whom tax is payable under this Act or any tax or duty is payable under any other law for the time being in force including importers and exporters whether any tax is payable by them or not and such persons shall, within such time as mentioned in that notification, apply to the Assessing Officer for the allotment of a permanent account number.
- (1B) Further, the Central Government may, for the purpose of collecting any information which may be useful for or relevant to the purposes of this Act, by notification in the Official Gazette, specify, any class or classes of persons who shall apply to the Assessing Officer for the allotment of the permanent account number and such persons shall, within such time as mentioned in that notification, apply to the Assessing Officer for the allotment of a permanent account number.
- (2) The Assessing Officer, having regard to the nature of the transactions as may be prescribed, may also allot a permanent account number, to any other person (whether any tax is payable by him or not), in the manner and in accordance with the procedure as may be prescribed.
- (3) Any person, not falling under sub-section (1) or sub-section (2), may apply to the Assessing Officer for the allotment of a permanent account number and, thereupon, the Assessing Officer shall allot a permanent account number to such person forthwith.

- (4) For the purpose of allotment of permanent account numbers under the new series, the Board may, by notification in the Official Gazette, specify the date from which the persons referred to in sub-sections (1) and (2) and other persons who have been allotted permanent account numbers and residing in a place to be specified in such notification, shall, within such time as may be specified, apply to the Assessing Officer for the allotment of a permanent account number under the new series and upon allotment of such permanent account number to a person, the permanent account number, if any, allotted to him earlier shall cease to have effect

Provided that the persons to whom permanent account number under the new series has already been allotted shall not apply for such number again.

- (5) Every person shall—
- (a) quote such number in all his returns to, or correspondence with, any income-tax authority;
 - (b) quote such number in all challans for the payment of any sum due under this Act;
 - (c) quote such number in all documents pertaining to such transactions as may be prescribed by the Board in the interests of the revenue, and entered into by him;
 - (d) intimate the Assessing Officer any change in his address or in the name and nature of his business on the basis of which the permanent account number was allotted to him.
- (5A) Every person receiving any sum or income or amount from which tax has been deducted under the provisions of Chapter XVIIIB, shall intimate his permanent account number to the person responsible for deducting such tax under that Chapter.
- (5B) Where any sum or income or amount has been paid after deducting tax under Chapter XVIIIB, every person deducting tax under that Chapter shall quote the permanent account number of the person to whom such sum or income or amount has been paid by him—
- (i) in the statement furnished in accordance with the provisions of section 192(2C);
 - (ii) in all certificates furnished in accordance with the provisions of section 203;
 - (iii) in all returns prepared and delivered or caused to be delivered in accordance with the provisions of section 206 to any income-tax authority;
 - (iv) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 200:

However, provisions contained in sub-sections (5A) and (5B) shall not apply in case of a person whose total income is not chargeable to income-tax or who is not required to obtain permanent account number under any provision of this Act if such person furnishes to the person responsible for deducting tax, a declaration referred to in section 197A in the form and manner prescribed thereunder to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.

- (5C) Every buyer or licensee or lessee referred to in section 206C shall intimate his permanent account number to the person responsible for collecting tax referred to in that section.
- (5D) Every person collecting tax in accordance with the provisions of section 206C shall quote the permanent account number of every buyer or licensee or lessee referred to in that section—

- (i) in all certificates furnished in accordance with the provisions of sub-section (5) of section 206C;
 - (ii) in all returns prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (5A) or sub-section (5B) of section 206C to an income-tax authority;
 - (iii) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 206C.
- (6) Every person receiving any document relating to a transaction prescribed under clause (c) of sub-section (5) shall ensure that the Permanent Account Number or the General Index Register Number has been duly quoted in the document.
- (7) No person who has already been allotted a permanent account number under the new series shall apply, obtain or possess another permanent account number.
- (8) The Board may make rules providing for—
- (a) the form and the manner in which an application may be made for the allotment of a permanent account number and the particulars which such application shall contain;
 - (b) the categories of transactions in relation to which Permanent Account Numbers or the General Index Register Number shall be quoted by every person in the documents pertaining to such transactions;
 - (c) the categories of documents pertaining to business or profession in which such numbers shall be quoted by every person;
 - (d) class or classes of persons to whom the provisions of this section shall not apply;
 - (e) the form and the manner in which the person who has not been allotted a Permanent Account Number or who does not have General Index Register Number shall make his declaration;
 - (f) the manner in which the Permanent Account Number or the General Index Register Number shall be quoted in respect of the categories of transactions referred to in clause (c)*;
 - (g) the time and the manner in which the transactions referred to in clause (c)* shall be intimated to the prescribed authority.

Explanation.—For the purposes of this section,—

- (a) "Assessing Officer" includes an income-tax authority who is assigned the duty of allotting permanent account numbers;
- (b) "permanent account number" means a number which the Assessing Officer may allot to any person for the purpose of identification and includes a permanent account number allotted under the new series;
- (c) "permanent account number under the new series" means a permanent account number having ten alphanumeric characters 77[***];
- (d) "General Index Register Number" means a number given by an Assessing Officer to an assessee in the General Index Register maintained by him and containing the designation and particulars of the ward or circle or range of the Assessing Officer.

20.2 | RETURN UNDER SECTION 139 BY WHOM TO BE VERIFIED**Section:- 140 - Effective from A.Y.2018-19**

ASSESSEE	VERIFICATION TO BE DONE BY
Individual When he is absent from India or mentally incapacitated or for any other reason he is not able to verify	Individual himself His guardian or any other person competent to act on his behalf duly authorized by him
H. U. F Karta is absent from India or he is mentally incapacitated	Karta Any other adult member of the family
Company Managing Director is unable to verify or there is no M.D. Company is not resident in India Company is in Liquidation Company's management is taken over by the government An application has been admitted by the Adjudicating Authority in respect of company under section 7, 9, or 10 of the Insolvency and Bankruptcy Code, 2016.	Managing Director Any other director Holder of a valid Power of Attorney The Liquidator The Principal Officer Insolvency professional appointed by Adjudicating Authority [Inserted by Finance Act, 2018, w.r.e.f. A.Y.2018-19]
Partnership Firm	Managing Partner or any other partner not being a minor
Limited liability partnership firm Where for any unavoidable reason such designated partner is not able to verify Where there is no designated partner	Designated partner Any Partner Any partner
Local authority	Principal Officer
Political Party	Chief executive officer
Association of Persons	Any member or principal officer
Any other person	That person or some other person who is competent to verify on his behalf.

20.3 INTIMATION / POPULARLY KNOWN AS SUMMARY ASSESSMENT

Section:- 143(1) - Effective from A.Y.2018-19

(1) Where a return has been made under section 139, or in response to a notice under section 142(1), such return shall be processed in the following manner, namely:-

- (a) the total income or loss shall be computed after making the following adjustments, namely;
- any arithmetical error in the return or
 - any incorrect claim, if such incorrect claim is apparent from any information in the return;
 - disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;
 - disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return;
 - disallowance of deduction claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if the return is furnished beyond the due date specified under sub-section (1) of section 139; or
 - addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return:

Provided that no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode:

Provided further that the response received from the assessee, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such intimation, such adjustments shall be made.

Provided also that no adjustment shall be made under sub-clause (vi) in relation to a return furnished for the assessment year commencing on or after the 1st day of April, 2018;

[Inserted by Finance Act, 2018, w.r.e.f. A.Y.2018-19]

- (b) the tax, interest and fee shall be computed on the basis of the total income computed under clause (a) above;
- (c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax, interest and fee, if any, computed under clause (b) above by any tax deducted at source, any tax collected at source, any advance tax paid, any relief allowable under an agreement under section 90 or section 90A, or any relief allowable under section 91, any rebate allowable under Part A of Chapter VIII, any tax paid on self-assessment and any amount paid otherwise by way of tax, interest and fee;
- (d) the intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable, or the amount of refund due to, the assessee after aforesaid corrections;
- (e) the amount of refund due to the assessee shall be granted to him.

Provided that intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax, interest or fee is payable by, or no refund is due to him.

Time limit

No intimation shall be sent under this section after the expiry of one year from the end of the financial year in which the return is made. The acknowledgment of return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to the assessee, and where no adjustment has been made.

Meaning of incorrect claim

It means such claim on the basis of an entry, in the return-

- (a) of an item, which is inconsistent with another entry of the same or some other item in such return;
- (b) in respect of which, information required to be furnished to substantiate such entry, has not been furnished;
- (c) in respect of a deduction, where such deduction exceeds specified statutory limits which may have been expressed as monetary amount or percentage or ratio or fraction.

- (1A) For the purpose of processing the returns as mentioned above, the Board may make a scheme for centralized processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee.
- (1B) For the purpose of giving effect to the scheme, the Central Government may, by notification, direct that any of the provisions of the Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification. Further, such notification may be issued at any time but not after 31st March, 2012.
- (1C) Every such notification shall be laid before each house of Parliament.
- (1D) Notwithstanding anything contained in section 143(1), the processing of a return shall not be necessary, where a notice has been issued to the assessee under section 143(2).

Provided that the provisions of this sub-section shall not apply to any return furnished for the assessment year commencing on or after the 1st day of April, 2017.

Practical 1

The assessee submitted the income tax return for A.Y. 2018-19 declaring total income at Rs. 8,02,000. This return was submitted under section 139(4) of the Act. The CPC, Bangalore, while processing the said return found following issues:

Sr. No.	Particulars
(a)	While computing income under head “PGBP”, interest income of Rs. 33,000 was reduced declaring that it shall be offered under the head “IFOS”, however, assessee failed to include such income under the head “IFOS”.
(b)	Depreciation on computers were claimed at 60% instead of 40%. Depreciation claimed on computers was Rs. 30,000.
(c)	Claimed set off of business loss brought forward Rs. 1,02,000 pertaining to A.Y. 2017-18. The income tax return for the said A.Y. was submitted under section 139(4) of the Act.
(d)	His case was subject to audit under section 44AB(a). The auditor, in tax audit report, has made a remark that cash payment of Rs. 34,000 has been made for repairing of machine on a single day to Brahmani Engineering. However, assessee failed to add back while computing income under the head “PGBP”

(e)	Claimed deduction of Rs. 13,05,000 under section 80-IAC of the Act
(f)	Bank interest income of Rs. 88,000 appearing in Form no. 26AS on which tax has been deducted but assessee failed to include the same in the income tax return.

You are required to compute total income to be processed by CPC, Bangalore.

20.4 REASONS ENABLING E-ASSESSMENT

Section:- 143(3A) to 143(3C)

Section 143(3A)

The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of making assessment of total income or loss of the assessee under sub-section (3) so as to impart greater efficiency, transparency and accountability by—

- (a) eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;
- (b) optimising utilisation of the resources through economies of scale and functional specialisation;
- (c) introducing a team-based assessment with dynamic jurisdiction.

Section 143(3B)

The Central Government may, for the purpose of giving effect to the scheme made under sub-section (3A), by notification in the Official Gazette, direct that any of the provisions of this Act relating to assessment of total income or loss shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2020.

Section 143(3C)

Every notification issued under sub-section (3A) and sub-section (3B) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

21 – APPEALS

21.1 APPEALS TO TRIBUNAL

Section:- 253 modified by Finance Act, 2018 w.e.f. 1st April, 2018

- **Appealable Orders**

(A) Appeal by assessee [Section 253(1)]

- (a) An order passed by a Commissioner (Appeals) u/s 154, section 250, section 271, section 271A, **section 271J [Inserted by Finance Act, 2018 w.e.f. 1st April, 2018]** or section 272A or
- (b) An order passed by a Commissioner under section 12AA or u/c (vi) of section 80G(5) or under section 263 [or section 271 (w.e.f. 1-6-2002)] or under sections 272A or an order passed by him under section 154 amending his order under section 263 or an order passed by a Chief Commissioner or a Director General or a Director under section 272A
- (c) An order passed by Assessing Officer under section 115VZC(1)-Expulsion from Tonnage Taxation Scheme.
- (d) An order passed by an Assessing Officer under section 143(3) or section 147 or section 153A or section 153C in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order.
- (e) An order passed by the prescribed authority under Section 10(23C) (iv) or (v) or (vi) or (via).

(B) Appeal by Commissioner[Section 253(2)]

Order passed by Commissioner (Appeals) under section 154 or 250.

- **Time limit for presenting appeal [Section 253(3)]**

Within 60 days of the date on which order sought to be appealed against is communicated to the assessee/ Commissioner.

- **Form of Appeal, Filing Fees, Signing of Form and Documents to be submitted [Section 253(6)]**

- The appeal shall be presented in Form No. 36.
- It shall be signed and verified by the person authorized to sign the return of income under section 140.
- Documents to be submitted:
 - (a) Form No. 36- 2 copies
 - (b) Order appealed against – 2 copies (including one certified copy)
 - (c) Order of Assessing Officer – 2 copies
 - (d) Grounds of appeal before first appellate authority – 2 copies
 - (e) Statement of facts filed before first appellate authority – 2 copies
 - (f) In case of appeal against penalty order -2 copies of relevant assessment order.

- (g) In case of appeal against order under section 143(3), read with section 144A - 2 copies of the directions of the Deputy Commissioner under section 144A.
- (h) In case of appeal against order under section 143(3), read with section 144B - 2 copies of the draft assessment of the Deputy Commissioner under section 144B.
- (i) In case of appeal against order u/s 143(3), read with section 147-2 copies of original assessment order, if any.
- (j) Triplicate copy of challan for payment of fee.
- Above documents shall be accompanied by a prescribed fee as follows:

Particulars	Rs.
(1) Assessed total income of Rs.1 lakh or less	500
(2) Assessed total income is more than Rs. 1 lakh but less than Rs.2 lakh	1,500
(3) Appeals involving total income more than Rs.2 lakh	1% of the assessed income subject to a maximum of Rs.10,000
(4) Miscellaneous applications under 254(2)	50
(5) Stay petitions [Section 253(7)]	500
(6) Any other matter	500

- **Time limit for filing of cross-objections [Section 253(4)]**

On receipt of notice from the Registrar of Tribunal intimating that an appeal against the order of CIT (A) has been preferred under section 253(1) or 253(2) by the other party, the Assessing Officer or the assessee may file a memorandum of cross-objections within 30 days from the date of receipt of such notice.

It shall be in Form No. 36A. No fee is required to be paid for filing such memorandum of cross objection.

Once memorandum of cross-objection is filed within the time limit, it shall be disposed of by the Tribunal as if it were an appeal.

- **Condonation of delay in filing appeal [Section 253(5)]**

The Tribunal may admit an appeal / memorandum of cross-objection after the expiration of the prescribed period, if it is satisfied that there was sufficient cause for not presenting it within that period.

Practical 1

In the course of appellate proceedings before CIT(A), he found that the registered valuer has furnished incorrect information in a valuation report furnished for determination of fair market value of house property as on 01-04-2001. The CIT(A) would like to impose penalty on registered valuer. In this context, answer the following questions:

- (a) What shall be the amount of penalty and under which section, it may be imposed?
- (b) What are the alternative courses of action available to defend this penalty proceedings

22 – REVISION

No Amendment

23 – ASSESSMENT ON REMAND

No Amendment

24 – INCOME TAX AUTHORITIES AND THEIR POWERS

No Amendment

25 – ASSESSMENT IN CASE OF SEARCH OR REQUISITION

No Amendment

26 - COLLECTION AND RECOVERY OF TAX

No Amendment

27 – TAX DEDUCTION AND COLLECTION AT SOURCE

27.1 DEDUCTION OF TAX AT SOURCE FROM INTEREST ON SECURITIES

Section:- 193 – Modified by Finance Act, 2018 Effective from 1st April 2018

- (A) Person liable to deduct tax at source:** - Any person responsible for paying any interest on securities to a resident is required to deduct tax at source.
- (B) Time of deduction:-** Tax shall be deducted under this section, either at the time of credit to the account of the payee or at the time of payment thereof, whichever is earlier.
For this purpose, credit to “Interest payable account” or “Suspense account” or any other name shall be deemed to be a credit of such income to the account of the payee.
For this purpose, “payment” can be in cash or by issue of a cheque or draft or by any other mode.
- (C) Rate of TDS:-** 10%
- (D) Meaning of interest on securities:** Section 2(28B) defines interest on securities. It means:
- (a) interest on any security of Central Government or State Government
 - (b) interest on debentures or
 - (c) interest on other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act.
- (E) No tax is deductible in respect of interest payable on the following:**
- (a) Debentures issued by any institution or authority or any public sector company or co – operative society (including a co – operative land mortgage bank or a co – operative land development bank) notified by the Central Government.
 - (b) Any security of the Central / State Government. However, TDS shall be made in respect of interest exceeding Rs. 10,000 during the year on 8% Savings (Taxable) Bonds, 2003 **or 7.75% Savings (Taxable) Bonds, 2018. [Inserted by the Finance Act, 2018 w.e.f. 01-04-2018]**
 - (c) Any listed security in dematerialized form.
 - (d) Debentures (whether listed or not) issued by a company in which the public are substantially interested subject to following conditions:-
 - (i) such interest is payable to an individual or Hindu Undivided family;
 - (ii) the interest is paid by the company by an account payee cheque; and
 - (iii) the aggregate amount of interest paid or likely to be paid by the company during the financial year **does not exceed Rs.5,000.**
 - (e) Securities beneficially owned by LIC or the GIC or any other insurer.
 - (f) Securities owned by the fund established for the benefit of armed forces. Circular No.735, 30-01-1996.
 - (g) Securities owned by the provident fund whose income is exempt under section 10(25)(ii):- Circular No. 741, 18-04-1996.

Practical 1

Discuss whether tax is liable to be deducted at source in the following circumstances. If so, compute the amount of tax to be deducted.

- (i) Interest of Rs. 4,000 paid by ABC Ltd. to Mr. Mohan and Rs. 4,800 to Mohan's HUF by way of account payee cheque on account of debentures of the company held by them separately. ABC Ltd. is a company in which public are substantially interested. Debentures of ABC Ltd. are listed.
- (ii) Interest of Rs.4,800 paid by BBC Ltd. to Ms. Mohini by way of account payee cheque on account of debentures of the company held by her. BBC Ltd. is a company in which public are substantially interested. However, its debentures are not listed.
- (iii) Interest of Rs. 18,000 paid by State Government on security held by Mr. Kanha.
- (iv) Interest of Rs. 15,000 paid by RBI on 7.75% Savings (Taxable) Bonds, 2018 held by Mr. Vishnu.

27.2 DEDUCTION OF TAX AT SOURCE FROM INTEREST OTHER THAN INTEREST ON SECURITIES

Section:- 194A Modified by Finance Act, 2018 w.e.f. 1st April, 2018

(A) Person liable to deduct tax at source:- Any person, not being an individual or a HUF, who is responsible for paying to a resident any income by way of interest other than income chargeable as interest on securities, is required to deduct tax at source.

However, an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under section 44AB (a)/(b) during the financial year immediately preceding the financial year in which such interest is credited or paid, shall be liable to deduct income-tax under this section.

(B) Time of deduction:- Tax shall be deducted under this section, either at the time of credit to the account of the payee or at the time of payment thereof, whichever is earlier.

For this purpose, credit to "Interest payable account" or "Suspense account" or any other name shall be deemed to be a credit of such income to the account of the payee.

For this purpose, "payment" can be in cash or by issue of a cheque or draft or any other mode.

(C) Rate of TDS:- 10%

(D) By virtue of section 194A(3), tax is not deductible in the following cases:

- (1) where the aggregate amount of interest credited or paid or likely to be credited or paid during the financial year **does not exceed**
 - a. Rs.10,000 where the payer is a banking company;
 - b. Rs.10,000 where the payer is a co-operative society engaged in business of banking;
 - c. Rs. 10,000 where the payer is a post office;
 - d. Rs.5,000 in any other case.
 - e. **Provided also that in case of payee being a senior citizen, the limit of Rs. 10,000 at clause (a), clause (b) and clause (c) shall be substituted for Rs. 50,000 [Amendment by Finance Act, 2018 w.e.f. 01.04.2018]**

The aforesaid limit of Rs.10,000 shall be computed with reference to the income credited or paid by a branch of the banking company or the co – operative society, as the case may be.

The benefit of branch wise limit of Rs. 10,000 shall not be available w.e.f. 01-06-2015 where such banking company or the co-operative society, as the case may be has adopted core banking solutions.

(2) where interest is credited or paid to

- a. any banking company,
- b. any co – operative society engaged in business of banking,
- c. any financial corporation established by or under Central, State or Provincial Act,
- d. the Life Insurance Corporation of India,
- e. the Unit Trust of India,
- f. any company or a co – operative society carrying on the business of insurance, or
- g. such other institution, association or body which Central Government may notify.

(3) where interest is credited or paid by the firm to its partner;

(4) where interest is credited or paid by a co – operative society (Other than Co-operative Bank) to its members;

(5) where interest is credited or paid by co-operative society to any other co – operative society;

(6) where interest is credited or paid in respect of deposits under the schemes of Post Office. However, Senior Citizen Savings Scheme, 2004 is subject to tax deduction at source;

(7) where interest is credited or paid in respect of deposits with a banking company or with a co – operative society engaged in carrying on the business of banking. However, interest paid on time deposits is subject to tax deduction at source;

The expression “time deposits” has been defined to mean deposits, including recurring deposits, repayable on the expiry of fixed period.

(8) where interest is credited or paid in respect of deposits with a primary agricultural credit society or primary credit society or co – operative land mortgage bank or co – operative land development bank; and

(9) where interest is credited or paid by the Central Government under any provision of the Direct Taxes.

(10) Where the interest is paid on compensation awarded by the Motor Accidents Claims Tribunal if the amount or the aggregate amount of such income paid during financial year **does not exceed Rs. 50,000;**

(11) Income paid or payable by an infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank in relation to zero coupon bonds issued by them.

(E) The person responsible for paying interest may, at the time of deducting tax at source, increase or decrease the amount to be deducted for the purpose of adjusting any previous deficiency or excess deduction.

Practical 2

Mr. Ramesh, a resident senior citizen, opened recurring deposit account with State Bank of India. Manager, SBI wants to deduct tax at source under section 194A on interest component Rs. 42,000. Mr. Ramesh objected tax deduction on the ground that recurring deposit is not covered within the meaning of “Time deposit” for the purpose of section 194A. Discuss the validity of objection raised by Mr. Ramesh.

Is there any other objection Mr. Ramesh can raise?

28 – ADVANCE TAX

No Amendment

29 – INTEREST U/S 234A, 234B, 234C & 234D

No Amendment

30 – SETTLEMENT OF CASES

No Amendment

31 – ADVANCE RULINGS

31.1 APPLICATION FOR ADVANCE RULING

Section:- 245Q – Effective from 1st April 2018

- (1) An applicant desirous of obtaining an advance ruling under this Chapter ~~for under Chapter V of the Customs Act, 1962~~ **[Amendment made by Finance Act, 2018 – w.e.f. 1st April 2018]** or under Chapter IIIA of the Central Excise Act, 1944 or under Chapter VA of the Finance Act, 1994 may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.
- (2) The application shall be made in quadruplicate and be accompanied by a fee of ten thousand rupees or such fee as may be prescribed in this behalf, whichever is higher.
- (3) An applicant may withdraw an application within thirty days from the date of the application.

31.2 CONSTITUTION OF AUTHORITY OF ADVANCE RULING

Section:- 245-O - Effective from 1st April 2018

Section 245-O has been amended with effect from October 1, 2014. The amended provisions are given below

1. The Central Government shall constitute an Authority for giving advance rulings, to be known as "Authority for Advance Rulings".
Provided that the Authority shall cease to act as an Authority for Advance Rulings for the purposes of Chapter V of the Customs Act, 1962 on and from the date of appointment of the Customs Authority for Advance Rulings under section 28EA of that Act.
Provided that the Authority shall not admit any appeal against any ruling or order passed earlier by it in the capacity of the Authority for Advance Rulings in relation to any matter under Chapter V of the Customs Act, 1962 after the date of such appointment of the Customs Authority for Advance Rulings.
2. The Authority shall consist of a Chairman and such number of Vice-chairmen, Revenue Members and Law Members as the Central Government may by notifications appoint.
3. A person shall be qualified for appointment as –

Chairman	Who has been a Judge of the Supreme Court or the Chief Justice of a High Court or at least seven years a Judge of a High Court
Vice-Chairman	Who has been Judge of a High Court
Revenue Member	(i) From the Indian Revenue Service, who is, or is qualified to be, a Member of the Board, (ii) From the Indian Customs and Central Excise Service, who is, or is qualified to be, a Member of Central Board of Excise and Customs, on the date of occurrence of a vacancy.

Law Member	From the Indian Legal Service, who is, <i>or is qualified to be</i> , an Additional Secretary to the Government of India on the date of occurrence of a vacancy.
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4. The terms and conditions of service and the salaries and allowances payable to the Members shall be such as may be prescribed.
5. The Central Government shall provide to the Authority with such officers and employees, as may be necessary, for the efficient discharge of the functions of the Authority under the Act.
6. The powers and functions of the Authority may be discharged by its Benches as may be constituted by the Chairman from amongst the Members thereof.
7. In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the senior-most Vice-chairman shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.
8. In case the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Vice-Chairman shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.]
9. A Bench shall consist of the Chairman or the Vice-chairman and one revenue Member and one law Member.

Provided that where the Authority is dealing with an application seeking advance ruling in any matter relating to this Act, the revenue Member of the Bench shall be from the Indian Revenue Service, who is, or is qualified to be, a Member of the Board.

10. The Authority shall be located in the National Capital Territory of Delhi and its Benches shall be located at such places as the Central Government may, by notification specify.

32 – REQUIREMENT AS TO MODE OF ACCEPTANCE PAYMENT OR REPAYMENT IN CERTAIN CASES TO COUNTERACT EVASION OF TAX

No Amendment

33 – PENALTIES

33.1 Failure to furnish an annual information return as required under section 285BA(1)

Section:- 271FA – Effective from 1st April, 2018

Nature of default	Penalty leviable	Period
Failure to furnish a statement of Financial Transactions (SFT) as required under section 285BA(1)	Rs. 100 500 per day of default [Amended by Finance Act, 2018 w.e.f. 1st April, 2018]	1st June immediately following the financial year in which the transaction is registered or recorded till the date of furnishing the SFT or the date of expiry of the time specified in the notice u/s 285BA(5), whichever is earlier.
Failure to furnish a statement of Financial Transactions (SFT) within the period specified in notice u/s 285BA(5)	Rs. 500 1000 per day of default. [Amended by Finance Act, 2018 w.e.f. 1st April, 2018]	The day immediately following the day on which the time specified in notice u/s 285BA(5) for furnishing the SFT expires till the date of furnishing of AIR.

Practical 1

A private bank has not filed its statement of financial transaction (SFT) in relation to the specified financial transactions for the financial year 2018-19. A notice was issued by the prescribed income-tax authority under section 285BA(5) on 1st July, 2019 requiring the bank to furnish the return by 31st July, 2019. The bank, however, furnished the SFT only on 2nd September, 2019. What would be the penalty leviable u/s 271FA?

34 – PROSECUTIONS

34.1 OFFENCES AND PROSECUTIONS

Section:- 276CC – Effective from 1st April 2018

Section	Nature of default	Punishment (rigorous imprisonment)
276CC	Willful failure to furnish return of income under section 139(1) or in response to notice under section 142(1)(i) or section 148 or section 153A (non-cognizable offence under section 279A)— (a) where tax sought to be evaded exceeds Rs.25 lakh (b) in other cases	6 months to 7 years 3 months to 2 years

Proviso to section 276CC

The person shall not be proceeded against under section 276CC in a case where the return of income is not filed within the due date under section 139(1), if

- (a) The return is furnished by him before the expiry of the assessment year; or
- (b) the tax payable by the assessee on the total income determined on regular assessment, as reduced by the advance tax, if any, paid and any tax deducted at source, does not exceed Rs.3,000.

This proviso will not be applicable in case of company [Amended by Finance Act, 2018 w.e.f. 1st April 2018]

Practical 1

The Assessing Officer lodged a complaint against M/s. KLM, a firm, under section 276CC of the Income-tax Act, 1961 for failure to furnish its return of income for the A.Y.2014-15 within the due date under section 139(1). The tax payable on the assessed income, as reduced by the advance tax paid and tax deducted at source, was Rs. 60,000. The appeal filed by the firm against the order of assessment was allowed by the Commissioner (Appeals). The Assessing Officer passed an order giving effect to the order of the Commissioner (Appeals). The tax payable by the firm as per the said order of the Assessing Officer was Rs. 1,000. The Assessing Officer has accepted the order of the Commissioner (Appeals) and has not preferred an appeal against it to the Income Tax Appellate Tribunal. The firm desires to know of the maintainability of the prosecution proceedings in the facts and circumstances of the case.

Does your answer differ, if assessee would have been M/s. KLM Private Limited instead of partnership firm?

35 – CONVERSION OF FIRM INTO COMPANY

No Amendment

36 – CONVERSION OF SOLE PROPRIETARY BUSINESS INTO COMPANY

No Amendment

37 – AMALGAMATION

No Amendment

38 – SET-OFF OF LOSSES OF A BANKING COMPANY AGAINST THE PROFIT OF A BANKING INSTITUTION UNDER A SCHEME OF AMALGAMATION

No Amendment

39 – DEMERGER

No Amendment

40 – AMALGAMATION OR DEMERGER OF CO-OPERATIVE BANK

No Amendment

41 – CORPORATISATION AND DEMUTUALISATION OF STOCK EXCHANGE

No Amendment

42 – CONVERSION OF UNLISTED COMPANY INTO LIMITED LIABILITY PARTNERSHIP

No Amendment

43 – TRANSFER OF ASSETS BETWEEN HOLDING AND SUBSIDIARY COMPANY

No Amendment

44 – SLUMP SALE

No Amendment

45 – DEPRECIATION

45.1 | MEANING OF ACTUAL COST

Section:- 43(1) – *Amendment made by Finance Act, 2018 w.e.f A.Y. 2019-20*

EXPLANATION 1A TO SECTION 43(1)

Situation	Notional cost under-section 43(1)
Where the inventory is converted into capital asset and is used for the purposes of business or profession.	Then, the actual cost of such asset to the assessee shall be the fair market value which has been taken into account for the purposes of the conversion.

Practical 1

ABC Ltd. is engaged in manufacturing “8 Color C.I. Flexo Printing Machines” since 10 years. The company set up “Printing Service Division” and decided to provide printing services on polyethylene films and therefore shifted five machines to “Printing Service Division”. The book value of each such machine was Rs. 1 Cr. though fair market value was Rs. 1.40 Cr. Find out the

- (a) business gain arising from this transaction
- (b) actual cost of each machine for the purpose of computing depreciation under section 32 of the Act.

46 – TAX PLANNING

No Amendment

47 – TONNAGE TAXATION SCHEME

No Amendment

48 – INCOME COMPUTATION AND DISCLOSURE SCHEME (ICDS)

48.1 | METHOD OF ACCOUNTING IN CERTAIN CASES

Section:- 145A – Substituted by FA, 2018 Effective from A.Y.2017-18 (Retrospective)

[Inserted by Finance Act, 2018 w.r.e.f. A.Y.2017-18]

For the purpose of determining the income chargeable under the head "Profits and gains of business or profession", the following valuation rules will apply—

1. The valuation of inventory shall be made at lower of actual cost or net realisable value computed in the manner provided in ICDS.
2. The valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation.
3. The inventory (being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange) shall be valued at cost actual cost initially recognized in the manner provided in ICDS.
4. Inventory (being securities held by a scheduled bank or financial institution) shall be valued in accordance with ICDS after taking into account extant guidelines issued by RBI.
5. The inventory (being listed securities), shall be valued at lower of actual cost or net realisable value in the manner provided in ICDS and for this purpose the comparison of actual cost and net realizable value shall be done category-wise.
6. Any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence to such payment for the purpose of the said section.

48.2 | TAXABILITY OF CERTAIN INCOME

Section:- 145B – Inserted by FA, 2018 Effective from A.Y.2017-18 (Retrospective)

[Inserted by Finance Act, 2018 w.r.e.f. A.Y.2017-18]

Section 145B provides mode of taxation of the following incomes-

- (1) Interest received by an assessee on any compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the previous year in which it is received.
- (2) The claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved.
- (3) Assistance in the form of subsidy (or grant or cash incentive or duty drawback or waiver or concession or reimbursement) as referred to in section 2(24)(xviii) shall be deemed to be the income of the previous year in which it is received, if not charged to income-tax in any earlier previous year.

49 – LIABILITY IN SPEICAL CASES

No Amendment

50 – REFUND

No Amendment

51 – TAXATION OF MUTUAL CONCERNS

No Amendment

52 – TAXATION OF SUBSIDIES/GRANT

No Amendment

53 – MISCELLENEOUS

No Amendment

54 – TAXATION OF NON-RESIDENT

54.1 MEANING OF BUSINESS CONNECTION

Section:- Explanation 2 to section 9(1) (i) modified while Explanation 2A inserted w.e.f. A.Y. 2019-20.

Business connection as defined by Supreme Court in case of CIT vs. R.D. Aggarwal & Co. [1965] 56 ITR 20
The expression "business connection" undoubtedly means something more than "business". A business connection involves a relation between a business carried on by a non-resident which yields profits or gains and some activity in the taxable territories which contributes directly or indirectly to the earning of those profits or gains.

Business connection as defined in Explanation 2 to section 9(1)(i)

As per Explanation 2 to section 9(1) (i), "business connection" shall include any business activity carried out through a person who, acting on behalf of the non-resident,—

~~(a) who has and who habitually exercises in India, an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise for the non-resident; or~~

Following clause (a) shall be substituted for the existing clause (a) of Explanation 2 to clause (i) of sub-section (1) of section 9 by the Finance Act, 2018, w.e.f. A.Y. 2019-20:

(a) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident or habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that non-resident and the contracts are—

(i) in the name of the non-resident; or

(ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or

(iii) for the provision of services by the non-resident; or

[This amendment in the definition of "business connection" is for the purpose of alignment with the provisions of the Double Taxation Avoidance Agreement (DTAA) as modified by Multilateral Instrument (MLI) so as to make the provisions in the treaty effective.]

(b) who has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(c) habitually secures orders in India, mainly or wholly for the non-resident.

Further, there may be situations when the person acting on behalf of the non-resident secure order for other non-residents. In such situation, business connection for other non-residents is established if,

(i) such other non-resident controls the non-resident or

(ii) such other non-resident is controlled by the non-resident or

(iii) such other non-resident is subject to same control as that of non-resident

In all the three situations, business connection is established, where a person habitually secures orders in India, mainly or wholly for such non-residents.

Provided that such business connection shall not include any business activity carried out through a broker, general commission agent or any other agent having an independent status, if such broker, general commission agent or any other agent having an independent status is acting in the ordinary course of his business:

Provided further that where such broker, general commission agent or any other agent works mainly or wholly on behalf of a non-resident (referred to as the principal non-resident) or on behalf of such non-resident and other non-residents which are controlled by the principal non-resident or have a controlling interest in the principal non-resident or are subject to the same common control as the principal non-resident, he shall not be deemed to be a broker, general commission agent or an agent of an independent status.

Explanation 3

Where a business is carried on in India through a person referred to in clause (a) or clause (b) or clause (c) of *Explanation 2*, only so much of income as is attributable to the operations carried out in India shall be deemed to accrue or arise in India.

Practical 1

Examine in the context of provisions contained under the Income-tax Act, 1961 whether there exists business connection in India so as to bring the income earned, if any to tax net in India:-

- (i) Mr. Rajesh, a resident in India and based at Delhi is appointed as an agent by PQR Inc. a company incorporated in UK for tracking the Indian markets. He was canvassing the orders and then communicating to PQR Inc. in UK. He had no authority to accept the orders. All the orders were directly received, accepted and after receipt of the price/value, the delivery of goods was given by PQR Inc. outside India. No purchase of raw material or manufacturing of finished goods took place in India. The agent is entitled to receive the commission on the sales so concluded by PQR Inc.
 - (ii) What would have been your answer in sr. no. (i) above, if Mr. Rajesh habitually plays principle role leading to conclusion of contract entered into by PQR Inc.?
-

Following Explanation 2A shall be inserted after Explanation 2 to clause (i) of sub-section (1) of section 9 by the Finance Act, 2018, w.e.f. A.Y. 2019-20:

Explanation 2A.—For the removal of doubts, it is hereby clarified that the significant economic presence of a non-resident in India shall constitute "business connection" in India and "significant economic presence" for this purpose, shall mean—

- (a) transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed; or**
- (b) systematic and continuous soliciting of business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means:**

Provided that the transactions or activities shall constitute significant economic presence in India, whether or not,—

- (i) the agreement for such transactions or activities is entered in India; or**
- (ii) the non-resident has a residence or place of business in India; or**
- (iii) the non-resident renders services in India:**

Provided further that only so much of income as is attributable to the transactions or activities referred to in clause (a) or clause (b) shall be deemed to accrue or arise in India.

[This explanation has been inserted to take care of new business models such as digitized businesses, which do not require physical presence of itself or any agent in India. Such businesses can now be covered within the scope of section 9(1)(i).]

Practical 2

MEGA Mart Inc., a non-resident, regularly sells goods to its Indian Customers. It does not have any PE/Agent in India. Nor does it have any other physical presence in India. It would like to know the impact of the amendment carried out by Finance Act, 2018 more particularly when the goods dealt by it are not in a digitized form / software.

Explanation 1 to section 9(1)(i) provides that for the purpose of this clause-

- (a)** in the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export ;
- (b)** in the case of a non-resident, being a person engaged in the business of running a news agency or of publishing newspapers, magazines or journals, no income shall be deemed to accrue or arise in India to him through or from activities which are confined to the collection of news and views in India for transmission out of India ;
- (c)** in the case of a non-resident, being—
 - (1) an individual who is not a citizen of India ; or
 - (2) a firm which does not have any partner who is a citizen of India or who is resident in India ; or
 - (3) a company which does not have any shareholder who is a citizen of India or who is resident in India,
 no income shall be deemed to accrue or arise in India to such individual, firm or company through or from operations which are confined to the shooting of any cinematograph film in India
- (d)** in the case of a business of which all the operations are not carried out in India, the income of the business deemed under this clause to accrue or arise in India shall be only such part of the income as is reasonably attributable to the operations carried out in India
- (e)** in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to the display of uncut and unassorted diamond in any special zone notified by the Central Government in the Official Gazette in this behalf.

54.2 CERTAIN TRANSACTIONS NOT TREATED AS TRANSFER**Section:- 47 – Modified by Finance Act, 2018 Effective from A.Y.2019-20****(1) Section 47(viia)**

Any transfer of a capital asset, being bonds or Global Depository Receipts referred to in section 115AC(1), made by a non-resident to another non-resident is not treated as transfer provided that transfer is made outside India.

(2) Section 47(viiaa)

Any transfer of a capital asset, being rupee denominated bond of an Indian company issued outside India, made by a non-resident to another non-resident is not treated as transfer provided that transfer is made outside India.

(3) Section 47(viiab) [Inserted by Finance Act, 2018 w.e.f. A.Y. 2019-20]

Any transfer of a capital asset, being—

- (a) bond or Global Depository Receipt referred to in sub-section (1) of section 115AC; or**
- (b) rupee denominated bond of an Indian company; or**
- (c) derivative,**

made by a non-resident on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency, is not treated as transfer.

(4) Section 47(viib)

Any transfer of a capital asset, being a Government Security carrying a periodic payment of interest, made outside India by a non-resident to another non-resident is not treated as transfer if made through an intermediary dealing in settlement of securities.

Practical 3

Mr. Raghu, a non-resident provides the following information:

- **Information in respect of GDRs held in Indian companies:**

Name of company	Nature of Capital Asset	Sale Consideration (Rs.)	Purchase Consideration (Rs.)	Remark:
A Ltd.	Long Term	8,30,000	7,25,000	Sold to another non-resident outside India.
B Ltd.	Long Term	12,50,000	10,00,000	--
C Ltd.	Long Term	\$82,000	\$77,500	Sold on a recognized stock exchange located in IFSC

Compute tax payable by Mr. Raghu.

54.3 CERTAIN TRANSACTIONS NOT TREATED AS TRANSFER**Section:- 115AD Modified by Finance Act, 2018 effective from A.Y. 2019-20****(a) Eligible Assessee:** Foreign Institutional Investors (FIIs)**(b) Nature of Income and Tax Rate:**

Sr. No.	NATURE OF INCOME	TAX RATE
1.	Long term capital gains on transfer of securities (other than units covered by section 115AB)	10%
2.	Income in respect of securities (except covered by 115A)	20%
3.	Any short-term capital gain on transfer of securities (except covered by section 111A)	30%
4.	Long term capital gains on transfer of capital asset referred to in section 112A of the Act exceeding Rs. 1 Lakh	10%

**SECTION 115AB**

- Section 115 AB provides that the long-term capital gain on transfer of units purchased in foreign currency shall be taxed at 10%

**SECTION 115A**

- Section 115A provides that interest accruing or arising to FII or QFI
 - (a) on rupee denominated bond issued by the Indian company subject to provisions of section 194LD
 - (b) on Government Security shall be taxed at 5%.

Practical 4

SOL INC., a notified Foreign Institutional Investor (FII) derived the following incomes from various sources for financial year 2018-19:-

- (1) Income in respect of securities : Rs. 28,50,000
 Expenses incurred in respect thereof: Rs. 50,000
 (The above income includes an interest of Rs.16,00,000 received from an Indian Company on the investment of rupee denomination bonds and dividend income of Rs.3,50,000 from a domestic company referred to in section 115-O).
- (2) Capital Gains:
 - (i) Long Term:
 - Sale proceeds on sale of securities on 15.01.2019: Rs.52,00,000
 - Purchase cost of securities on 25.05.2015: Rs.28,00,000
 - Cost Inflation Index:
 - 2015-16: 254
 - 2018-19: 280

(ii) Short Term:

Sale proceeds of equity shares of Company A (Jan., 19); [STT paid on Company A shares]	Rs.13,50,000
Cost of acquisition (Aug., 2018):	Rs.5,50,000
Sale proceeds of equity shares of Company B (Dec., 18)	Rs.9,25,000
Cost of acquisition (April 2018):	Rs.4,85,000
[STT not paid on Company B shares]	

Compute the taxable income of SOL Inc and tax liability for the assessment year 2019-20. Ignore MAT.

55 - DOUBLE TAXATION RELIEF

No Amendment

56 - ADVANCE RULINGS

Refer Chapter 31

57 - TRANSFER PRICING AND OTHER ANTI-AVOIDANCE MEASURES

57.1 | FURNISHING OF REPORT IN RESPECT OF INTERNATIONAL GROUP IN INDIA

Section:- 286 – Modified by FA, 2018 Effective from A.Y.2017-18 (Retrospective)

- (1) Every constituent entity resident in India, shall, if it is constituent of an international group, the parent entity of which is not resident in India, notify the prescribed income-tax authority (herein referred to as prescribed authority) in the form and manner, on or before such date, as may be prescribed,—
 - (a) whether it is the alternate reporting entity of the international group; or
 - (b) the details of the parent entity or the alternate reporting entity, if any, of the international group, and the country or territory of which the said entities are resident.
- (2) Every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed authority **[within a period of twelve months from the end of the said reporting accounting year]**, in the form and manner as may be prescribed.
- (3) For the purposes of sub-section (2) *[and sub-section (4)]*, the report in respect of an international group shall include,—
 - (a) the aggregate information in respect of the amount of revenue, profit or loss before income-tax, amount of income-tax paid, amount of income-tax accrued, stated capital, accumulated earnings, number of employees and tangible assets not being cash or cash equivalents, with regard to each country or territory in which the group operates;
 - (b) the details of each constituent entity of the group including the country or territory in which such constituent entity is incorporated or organised or established and the country or territory where it is resident;
 - (c) the nature and details of the main business activity or activities of each constituent entity; and
 - (d) any other information as may be prescribed.
- (4) A constituent entity of an international group, resident in India, other than the entity referred to in sub-section (2), shall furnish the report referred to in the said sub-section, in respect of the international group for a reporting accounting year **[within the period as may be prescribed]**, if the parent entity is resident of a country or territory,—

[(a) where the parent entity is not obligated to file the report of the nature referred to in sub-section (2);]

[(aa)] with which India does not have an agreement providing for exchange of the report of the nature referred to in sub-section (2); or

(b) there has been a systemic failure of the country or territory and the said failure has been intimated by the prescribed authority to such constituent entity:

Provided that where there are more than one such constituent entities of the group, resident in India, the report shall be furnished by any one constituent entity, if,—

(a) the international group has designated such entity to furnish the report in accordance with the provisions of sub-section (2) on behalf of all the constituent entities resident in India; and

(b) the information has been conveyed in writing on behalf of the group to the prescribed authority.

(5) Nothing contained in sub-section (4) shall apply, if, an alternate reporting entity of the international group has furnished a report of the nature referred to in sub-section (2), with the tax authority of the country or territory in which such entity is resident, on or before the date specified **[by that country or territory]** and the following conditions are satisfied, namely:—

(a) the report is required to be furnished under the law for the time being in force in the said country or territory;

(b) the said country or territory has entered into an agreement with India providing for exchange of the said report;

(c) the prescribed authority has not conveyed any systemic failure in respect of the said country or territory to any constituent entity of the group that is resident in India;

(d) the said country or territory has been informed in writing by the constituent entity that it is the alternate reporting entity on behalf of the international group; and

(e) the prescribed authority has been informed by the **[entity]** referred to in sub-section (4) in accordance with sub-section (1).

(6) The prescribed authority may, for the purposes of determining the accuracy of the report furnished by any reporting entity, by issue of a notice in writing, require the entity to produce such information and document as may be specified in the notice within thirty days of the date of receipt of the notice:

Provided that the prescribed authority may, on an application made by such entity, extend the period of thirty days by a further period not exceeding thirty days.

(7) The provisions of this section shall not apply in respect of an international group for an accounting year, if the total consolidated group revenue, as reflected in the consolidated financial statement for the accounting year preceding such accounting year does not exceed the amount, as may be prescribed.

(8) The provisions of this section shall be applied in accordance with such guidelines and subject to such conditions, as may be prescribed.

(9) For the purposes of this section,—

(a) "accounting year" means,—

(i) a previous year, in a case where the parent entity or alternate reporting entity is resident in India; or

- (ii) an annual accounting period, with respect to which the parent entity of the international group prepares its financial statements under any law for the time being in force or the applicable accounting standards of the country or territory of which such entity is resident, in any other case;
- (b) ["agreement" means a combination of all of the following agreements, namely:—**
 - (i) an agreement entered into under sub-section (1) of section 90 or sub-section (1) of section 90A; and**
 - (ii) an agreement for exchange of the report referred to in sub-section (2) and notified by the Central Government;]**
- (c) "alternate reporting entity" means any constituent entity of the international group that has been designated by such group, in the place of the parent entity, to furnish the report of the nature referred to in sub-section (2) in the country or territory in which the said constituent entity is resident on behalf of such group;**
- (d) "constituent entity" means,—**
 - (i) any separate entity of an international group that is included in the consolidated financial statement of the said group for financial reporting purposes, or may be so included for the said purpose, if the equity share of any entity of the international group were to be listed on a stock exchange;
 - (ii) any such entity that is excluded from the consolidated financial statement of the international group solely on the basis of size or materiality; or
 - (iii) any permanent establishment of any separate business entity of the international group included in **[sub-clause (i) or sub-clause (ii)]**, if such business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;
- (e) "group" includes a parent entity and all the entities in respect of which, for the reason of ownership or control, a consolidated financial statement for financial reporting purposes,—**
 - (i) is required to be prepared under any law for the time being in force or the accounting standards of the country or territory of which the parent entity is resident; or
 - (ii) would have been required to be prepared had the equity shares of any of the enterprises were listed on a stock exchange in the country or territory of which the parent entity is resident;
- (f) "consolidated financial statement" means the financial statement of an international group in which the assets, liabilities, income, expenses and cash flows of the parent entity and the constituent entities are presented as those of a single economic entity;**
- (g) "international group" means any group that includes,—**
 - (i) two or more enterprises which are resident of different countries or territories; or
 - (ii) an enterprise, being a resident of one country or territory, which carries on any business through a permanent establishment in other countries or territories;
- (h) "parent entity" means a constituent entity, of an international group holding, directly or indirectly, an interest in one or more of the other constituent entities of the international group, such that,—**

- (i) it is required to prepare a consolidated financial statement under any law for the time being in force or the accounting standards of the country or territory of which the entity is resident; or
- (ii) it would have been required to prepare a consolidated financial statement had the equity shares of any of the enterprises were listed on a stock exchange, and, there is no other constituent entity of such group which, due to ownership of any interest, directly or indirectly, in the first mentioned constituent entity, is required to prepare a consolidated financial statement, under the circumstances referred to in **[sub-clause (i) or sub-clause (ii)]**, that includes the separate financial statement of the first mentioned constituent entity;
- (i) "permanent establishment" shall have the meaning assigned to it in clause (iia) of section 92F;
- (j) "reporting accounting year" means the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in 89[sub-sections (2) and (4)];
- (k) "reporting entity" means the constituent entity including the parent entity or the alternate reporting entity, that is required to furnish a report of the nature referred to in sub-section (2);
- (l) "systemic failure" with respect to a country or territory means that the country or territory has an agreement with India providing for exchange of report of the nature referred to in sub-section (2), but—
 - (i) in violation of the said agreement, it has suspended automatic exchange; or
 - (ii) has persistently failed to automatically provide to India the report in its possession in respect of any international group having a constituent entity resident in India

58 - TAXATION OF EQUALISATION LEVY

No Amendment

PART - II

MULTIPLE CHOICE QUESTION (MCQ)

FROM

AMENDMENTS MADE BY FINANCE

ACT, 2018