

RECENT AMENDMENT FOR MAY 2020 EXAM

INDEX

SECTION A: INCOME TAX

Chapter	Page No.
1 Amendments at a Glance	1.2
2 Amendments in Details	2.1
3 Revisionary Test Paper (based on recent amendments)	3.1
4 Integrated Case Scenarios Based MCQs	4.1
5 Judicial updates	5.1

NOTES:

- For May 2020 exam, amendments made by the Finance Act, 2019 (NO. 1 & 2), The Taxation Laws (Amendment) Act, 2019 and notification & circulars issued till 31.10.2019 is relevant. In this note we have covered relevant amendments of the Finance Act, 2019 (NO. 1 & 2), The Taxation Laws (Amendment) Act, 2019 and notification & circulars issued between 01.05.2019 to 31.10.2019. For amendment made by notifications/circulars issued prior to 31.10.2019 students shall refer last term study mat along with last term amendments notes or current term study mat
- Further, if required any last moment update or revisionary test paper may be uploaded in our website www.vseipl.com before exam. Accordingly, students are requested to keep watch on it and we also try to inform you through bulk sms regarding any such update.
- In addition to this, students must refer ICAI practice manual and revisionary test papers relevant for May 2020.
- Reasonable efforts have been made in this book to avoid errors and omissions. In spite of this errors/omission may creep in.
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SECTION A: INCOME TAX

Amendment in this section includes amendments made by:-

1. The Finance Act, 2019
2. The Finance (No.2) Act, 2019
3. The Taxation Laws(Amendment) Act, 2019
4. Relevant Notifications and Circulars issued between 1.5.2019 to 31.10.2019

Note- Relevant year for May 2020 Exam is P.Y 2019-20 and A.Y 2020-21.

Chapter 1

AMENDMENTS AT A GLANCE

Chapters	Old Provisions	Amended provisions
1. Income from Salaries		
○ Standard Deduction allowed u/s. 16(ia)	₹ 40,000	₹ 50,000
2. Income from House Property		
○ In case of more than one self-occupied property.	Any One house is treated as self-occupied u/s. 23(4) and all other house shall be treated as deemed to be let out.	Any Two house is treated as self-occupied u/s. 23(4) and all other house shall be treated as deemed to be let out.
○ Property held as stock in trade u/s. [Sec. 23(5)]	If not let out, then annual value shall be taken as Nil, for one year from the end of the Financial year in which certificate of completion of construction of the property is obtained.	If not let out, then annual value shall be taken as Nil, for two years from the end of the Financial year in which certificate of completion of construction of the property is obtained.
○ Maximum deduction allowed on interest on loan for self-occupied property u/s. 24(b)	For Repair & Renewal- 30,000 For Construction or Acquisition - ₹ 2,00,000/30,000.	Same provision. But the aggregate limit should not exceeds ₹ 2,00,000 under all category.
3. Profit and gains from business or professions		
(i) Section 40(a)(ia) : 100% disallowances if TDS not deducted on payment to non-resident.	-Benefit not allowed	where resident payer fails to deduct tax but the payer furnish a certificate of Chartered Accountant that the payee has furnished his return by including such income and has paid tax on income declared in return, then it shall be deemed that the assessee has deducted and paid the tax on the date of furnishing of return of income by the payee.
(ii) Section 43B – Certain Exp. are allowed on payment basis	One of such payment is – Interest on loan or advance taken from a scheduled bank, Public Financial Institution, co-operative bank (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank).	Such restriction is also applicable on interest on NBFC – Interest on loan or advance taken from a scheduled bank, Public Financial Institution, co-operative bank (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank) and NBFC (whether deposit taking NBFC or systemically

		<p>important non-deposit taking NBFC) .</p> <p><i>Systemically important non-deposit taking NBFC means NBFC not accepting or holding public deposits and having total assets of not less than ₹500 crore as per last audited balance sheet and is registered with RBI.</i></p> <p>Further, if in any earlier year deduction was allowed on accrual basis, then no deduction is allowed in the year of payment.</p>
	Further, conversion of above interest into a loan shall not be deemed have been actually paid.	Such restriction is also applicable to Interest payable to NBFC.
<p>(iii) RECEIPT/PAYMENT OTHER THAN CASH UNDER INCOME TAX u/s. 35AD, 40A(3), 43(1), 43CA, 44AD, 50C, 56(2)(x), 80JJAA- Mode of payment by – A/C payee Cheque/draft or ECS though Bank account/ through such other e-mode a may be prescribed. [Refer details notes]</p>		
<p>(iv) Revised Rate of Depreciation for Motor Vehicle</p>	<p>Depreciation on WDV -</p> <p>@ 30%, for Motor cars, other than those used in a business of running them on hire, acquired and put to use between 23.8.2019 to 31.3.2020. [For other case 15%]</p> <p>@ 45%, for Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired and put to use between 23.8.2019 to 31.3.2020. [For other case 30%]</p>	
<p>(v) Employer's Contribution to NPS u/s. 80CCD</p>	<p>Allowable business expenses shall be –</p> <p>(a) amount contributed or (b)10%/14%* of the salary, whichever is lower. [14% if contribution is made by Central Govt.]</p> <p>"Salary" = Basic +DA forming part of salary but excludes all other allowances and perquisites.</p> <p>Example: Suppose Employer contributes 15% of employees salary to pension fund. Employees salary amounted to ₹ 10,00,000. In this case the deduction will be equal to ₹ 1,00,000. However, if the contribution is made by Central Govt, then deduction shall be ₹1,40,000.</p>	
<p>(vi) Section 43D</p>	<p>For Public financial institutions/scheduled banks/co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank or a State financial corporation or a State industrial investment corporation or a deposit taking non-banking financial company or a systemically important non-deposit taking non-banking financial company→ Interest on bad and doubtful debts, NPA is recognized on cash basis or when credited in books, whichever is earlier. [Section 43D]</p>	
<p>4. CAPITAL GAINS</p>		
<p>○ Cost Inflation Index(CII) for F. Y 2019-20</p>	-	289
<p>○ Section 50CA</p>	<p>W.R.T. Unquoted share, Full Value of consideration shall be actual sale value or Fair Market Value whichever is higher.</p>	<p>Following proviso added-</p> <p>However, the provisions of Section 50CA shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions as may be prescribed.</p>

○ Section 54 Exemption allowed for-	Purchase or construct of one residential house in India	where the amount of capital gains does not exceeds ₹2 crores: Exemption shall be allowed w.r.t purchase or construct of two residential houses in India, Benefit of second house is available once in lifetime. For other case – one residential house in India.
○ Demerger [Section 47 read with section 2(19AA)]	One of the condition for claiming exemption is that - The asset and liability of the demerged company shall be transferred at book value and accordingly, the resulting company shall record this value in its books .	This Condition is not applicable to an Ind AS compliant resulting company. Therefore, an Ind AS compliant resulting company can book the value different from the book value of the demerged company.
○ Section 54GB	Exemption allowed till 31.3.2019	Extended to 31.3.2021
○	Plant and machinery cannot be sold for 5 years from the date of acquisitions	For computer and computer software, the time limit is 3 years and for others it is 5 years.
	The consideration is used to acquisition of more than 50% of equity shares of newly formed manufacturing SME.	Reduced to 25%

5. INCOME FROM OTHER SOURCES

○ Section 56(2)(viib) [Share issued at premium]	Where a closely held company receives from any person being a resident, any consideration for issue of shares at premium the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be taxable in the hands of such company.	However, in the following case nothing shall be taxable where consideration for issue of share is received by – (i) by a venture capital undertaking from a venture capital company or a venture capital fund or a specified fund (Category I or II Alternative Investment Fund) . (ii) an eligible start-up company from a resident for issue of shares. However, if such company fails to satisfy prescribed conditions, then income not taxable earlier shall be deemed to be taxable in the year of failure and such company is also liable to penalty @ 200% as misreporting of income.
○ Section 56(2)(x) – Gift/purchase for lower consideration	Provision not applicable for items covered under exempted cases like gift received from relative, on marriage etc.	Exempted Case- (xi) Section 56(2)(x) not applicable for any sum of money or any property received from such class of persons and subject to conditions, as may be prescribed.

6. Income Exempted

○ Interest paid to non -resident on rupee denominated bond by Indian company/business Trust.	Exempted u/s. 10(4C), if such bond is issued from 17.9.2018 to 31.3.2019.
○ Interest payable to non-resident by a unit located in an International Financial Services Centre (IFSC).	Exempted u/s. 10(15)(ix), in respect of monies borrowed on or after 1.9.2019.
○ Income received by a Category III Alternative Investment Fund by way of transfer of specified securities held by a non-resident in IFSC .	Exempted u/s. 10(4D), if the consideration for such transaction is paid or payable in convertible foreign exchange.
○ Specified securities are –	

(i) bond or Global depository receipt; or (ii) rupee denomination bond of an Indian company; (iii) derivative or such other securities as may be notified by the Central Government in this behalf,		
○ Buyback of shares	For Shares of unlisted/private company - The company will pay distribution tax u/s. 115QA @ 23.296% and capital gain shall be exempted in the hands of shareholders u/s. 10(34A).	Same treatment for buyback of shares of listed company also, if public announcement for buyback is made after 5.7.2019.
● Sums received out of pension fund U/s. 80CCD (Tier I NPS A/c)	(I) On closure of A/c- 40% 60% of total amount received by an assessee from NPS (Tier -I A/c) is exempted u/s. 10(12A). Amount received by nominee on account of the death of assessee not taxable. <u>Regular Pension is taxable.</u> (II) On partial withdrawal: To the extent it does not exceed 25% of the amount of contributions made by him; exempt [10(12B)] Note: Amount received from NPS Tier II A.c and pension Fund of insurance company U/s. 80CCC is taxable.	
7. Chapter VIA		
○ Section 80C	Contribution to Tier II NPS A/c (Additional account as specified u/s. 20(3) of the PFRDA Act, 2013) by employee of Central Govt. also eligible for deduction u/s. 80C, provided that amount deposited and invested for a fixed period of 3 years or more. [Note- Tier 1 NPS A.c (pension plan) is covered u/s. 80CCD]	
○ Section 80CCD(2)	Limit of employer's contribution increased to 14% from 10% for Central Govt. [Note- no change for other employer i.e 10%]	
○ Section 80EEA	Allowed to Individual who is not eligible to claim deduction u/s. 80EE. Maximum deduction ₹ 1,50,000 on interest on loan for acquiring house property. [Refer details notes]	
○ Section 80EEB	Allowed to Individual on interest payable on loan taken for purchase of e-vehicle Maximum deduction ₹ 1,50,000[[Refer details notes]	
8. Rebate u/s. 87A		
○ Monetary Limit	Total Income ≤ ₹ 3.5 lakhs	Total Income ≤ ₹5 lakhs
	Rebate = 100% of tax payable or ₹2500, lower	Rebate = 100% of tax payable or ₹ 12500, lower
9. Residential Status		
○ Scope of Total Income for non-resident	Taxability of gift received by a non-resident in outside India from a resident of India. [debatable – as gift is not an income, hence not taxable u/s. 56(2)(x)]	Section 9 amended so as to specify such gift as "income deemed to be accrue or arise in India", if made on or after 5.7.2019. Hence, it is taxable u/s. 56(2)(x).
10. Advance Tax & Interest		
Computation of tax due for the purpose of payment advance tax, self-assessment tax and Sec. 234A,234B and 234C.	Relief u/s. 89 shall also be deducted in computing tax due in addition to TDS/TCS, AMT/MAT Credit w.r.e.f 1.4.2007	
11. Provisions of TDS & TCS		
(i) Section 194A	Old	New
Threshold limit for deduction of TDS		
○ Interest paid by bank/post office	₹10,000 ₹50,000 (for snr citizen)	₹40,000 ₹50,000 (for snr citizen)
○ Interest paid by others	₹ 5,000	₹5,000
○ Further, Such banking co./co-operative society/public co. shall also require to furnish prescribed statement in respect of payment of interest (not exceeding ₹ 40,000/₹5000) to residents without deduction of tax.[Sec. 206A]		

(ii) Section 194I		
○ Threshold limit for deduction of TDS on rent	₹1,80,000	₹2,40,000
(iii) Section 194DA	Upto 31.8.2019	w.e.f 1.9.2019
Rate of TDS on payment to a resident in respect to life insurance policy not exempted u/s 10(10D) and aggregate payment exceed ₹ 1 lakh.	1% on gross payment	5% on the amount of income comprised therein. i.e Total sum received – premium paid.
(iv) Section 194IA		w.e.f 1.9.2019
TDS @ 1% on payment made in relation to transfer immovable property (other than agricultural land and compulsory acquisition), if consideration exceeds ₹ 50 lakhs .		<i>Explanation- Consideration shall include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of immovable property.</i>
(v) TDS u/s. 194M @5% for payment exceeding ₹ 50 lakhs of nature covered u/s. 194C, 194H and 194J but TDS not attracted u/s. 194C,194H and 194J. [w.e.f 1.9.2019]		
(vi) TDS @ 2% on 194N cash withdrawal from bank more than 1 crores [Newly inserted w.e.f 1.9.2019] - Refer Details notes		
(vi) Deemed deduction of TDS & Assessee in Default [Sec. 201 & 201A]		
○ The benefit of deemed deduction of TDS is allowed to both payment made to resident and non-resident payee. [earlier only resident case was covered]		
○ Further, order for assessee in default u/s. 201(1) cannot be made after expiry of 7 years from the end of the financial year in which payment is made or credit is given, or 2 years from the end of the F.Y in which correction statement is delivered, whichever is later.		
12. Filing of Return		
1. Filing of return is mandatory even though GTI does not exceed maximum exemption limit, if during the previous year such person - (i) has deposited an amount or aggregate of the amounts exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or (ii) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or (iii) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹1 lakh towards consumption of electricity; or (iv) fulfils such other conditions as may be prescribed,		
2. Person notified u/s. 139(1C) who are not required to file return from AY 2019-20 onwards		
(i) a non-resident, who have any income chargeable under the said Act during a previous-year from any investment in an investment fund set up in an International Financial Services Centre (IFSC) located in India and TDS deducted u/s. 194LBB, and no other income. [Notification No. 55/2019, dated 26.7.2019]		
3. Inter-changeability of PAN & Aadhaar [Sec. 139A(5E)] - Allotment of PAN on the basis of Aadhaar and no other document required.		
13. Set off of business loss in case of closely held company- Section 79 has been substituted so as to exclude change in shareholding pattern due to Board of Director suspended by Central Govt. of a company u/s. 242 of the companies Act;		
(14) For amendments in – Section 80IBA, 80LA, 115JB, 115UB, 285A, charitable trust u/s. 12AA/10(23C), e-assessment, Incentives to IFSC, Misc. and on International Taxation: Refer details amendments notes.		

AMENDMENTS IN DETAILS**RATES OF TAX FOR A.Y. 2020-21****INDIVIDUALS****(1) BELOW 60 YEARS:**

UP TO ₹ 2,50,000	NIL
₹ 2,50,001 to 5,00,000	5%
₹ 5,00,001 to 10,00,000	20%
Above ₹ 10,00,000	30%

(2) 60 YEARS OR MORE BUT BELOW 80 YEARS (RESIDENT SENIOR CITIZEN)

UP TO ₹ 3,00,000	NIL
₹ 3,00,001 to 5,00,000	5%
₹ 5,00,001 to 10,00,000	20%
Above ₹10,00,000	30%

(3) 80 YEARS OR MORE (RESIDENT SUPER SENIOR CITIZEN)

UP TO ₹ 5,00,000	NIL
₹ 5,00,001-10,00,000	20%
Above ₹10,00,000	30%

Surcharge:

SITUATION	RATE OF SURCHARGE
(a) Where Total income (including income u/s. 111A/112A) is more than ₹ 50 lakhs but does not exceeds ₹ 1 crore.	10%
(b) Where Total income (including income u/s. 111A/112A) is more than ₹ 1 crores but does not exceeds ₹ 2 crore.	15%
(c) Where Total income (excluding income u/s. 111A/112A) is more than ₹ 2 crores but does not exceeds ₹ 5 crore.	25% for other income. 15% for income u/.s 111A/112.*
(d) Where Total income (excluding income u/s. 111A/112A) is more than ₹ 5 crore.	37% for other income. 15% for income u/.s 111A/112.*
(e) Where Total income (including income u/s. 111A/112A) is more than ₹ 2 crores but not covered under clauses (c) and (d) above .	15%.

* Where the total income includes any income chargeable under section 111A and section 112A of the Income-tax Act, the rate of surcharge on the amount of Income-tax computed in respect of that part of **income shall not exceed 15%**.

Health & Education Cess: 4% in all cases.

REBATE [SECTION 87A]

- (1) Allowed to resident Individual only
- (2) Whose total income does not exceed ₹ 5,00,000.
- (3) Amount of Rebate: (i) 100% of income tax payable or ₹ 12,500; lower

Section 288A: Total Income shall be rounded off to nearest multiples of ₹ 10

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

MARGINAL RELIEF

Marginal Relief w.r.t surcharge is there to all assessee where Income exceeds ₹ 50lakhs/1crores/2 crore/5 crore.

Quantum of Marginal relief = Additional Income tax payable along with surcharge on excess income over 50lakhs/1 Crores (-) Amount of income exceeding ₹ 50lakhs/1 crore/2 crore/5 crore

EXAMPLE ON APPLICABILITY OF SURCHARGE

SITUATION	APPLICABLE SURCHARGE
(a) Other Income ₹ 10 lakhs LTCG u/s. 112A ₹ 30 lakhs STCG u/s. 111 ₹ 20 lakhs	10% on tax computed on total income of ₹ 60 lakhs.
(b) Other Income ₹ 30 lakhs LTCG u/s. 112A ₹ 40 lakhs STCG u/s. 111 ₹ 70 lakhs	15% on tax computed on total income of ₹ 1.4 crores
(c) Other Income ₹ 4 Crores LTCG u/s. 112A ₹ 40 lakhs STCG u/s. 111 ₹ 20 lakhs	25% on tax computed on other income of ₹ 4 cr 15% on tax computed on income u/s 111A and 112.
(d) Other Income ₹ 7 Crores LTCG u/s. 112A ₹ 40 lakhs STCG u/s. 111 ₹ 20 lakhs	37% on tax computed on other income of ₹ 7 cr. 15% on tax on income computed u/s 111A/112.
(e) Other Income ₹ 1 Crores LTCG u/s. 112A ₹ 70 lakhs STCG u/s. 111 ₹ 40 lakhs	15% on tax computed on total income of ₹ 2.1 crores

TAX RATES PARTICULARLY SPECIFIED ON CERTAIN INCOMES

SECTION	INCOME	INCOME TAX RATE A.Y. 2020-21
111A	Short Term Capital gains on sale of Equity shares and units of Equity oriented Fund on which STT has been paid	15% subject to basic exemption limit for resident assessee.
112	Long Term Capital Gains	20% subject to maximum exemption limit for resident assessee. [For listed shares and zero coupon bond there is an option of 10% tax without indexation benefit]
112A	Long term capital gain on listed equity shares or equity oriented fund or unit of business trust in excess of ₹1,00,000 subjected to STT(refer chapter of Capital Gains for more details)	10% subject to exemption limit for resident individual and HUF
115BB	Winnings from lotteries, crossword puzzles, or races including horse races or card games and other games of any sort or from gambling or betting of any from or nature whatsoever	30% without basic exemption limit
115BBDA	Aggregate dividend in excess of ₹ 10 lakhs received by Individual, HUF, AOP, BOI & Firm.	10% of amount exceeding Rs10 lakhs. Without basic exemption limit & chapter VIA.

TAX RATE OTHER THAN INDIVIDUALS			
ASSESSEE	RATE OF TAX	SURCHARGE	HEALTH & EDUCATION CESS
PARTNERSHIP FIRM	30% ON WHOLE OF TOTAL INCOME	12%, if total income > ₹ 1crores.	4%
LOCAL AUTHORITY	30% ON WHOLE OF TOTAL INCOME	12%, if total income > ₹ 1crores.	4%
CO-OPERATIVE SOCIETY	Upto ₹ 10,000 @ 10% 10,001 to 20,000 @20% If exceeds ₹ 20,000 @ 30%	12%, if total income > ₹ 1crores.	4%
DOMESTIC COMPANY	Refer Separate Heading		
FOREIGN COMPANY	50% ON SPECIFIED ROYALTIES AND TECHNICAL SERVICES (Note 1) AND 40% ON THE BALANCE	2%, if Total Income > ₹ 1 crores but ≤ ₹ 10 crores. 5%, if Total Income > ₹ 10 crores.	4%
HUF, AOP, BOI, ARTIFICIAL JURIDICAL PERSON	Upto ₹ 250000: NIL 250001 to 500000 @ 5% 500001 to 10,00,000 @ 20% Above 10,00,000 @ 30%	10% if total income > Rs.50 lakhs up to Rs.1cr. 15%, if total income > ₹ 1cr upto ₹ 2 crore 25%, if total income > 2cr upto ₹ 5 crores 37%, if total income > ₹ 5 crores	4%

Note 1: Royalty received from Government or an Indian concern in pursuance of an agreement made with the Indian concern after March 31, 1961, but before April 1, 1976, or fees for rendering technical services in pursuance of an agreement made after February 29, 1964 but before April 1, 1976 and where such agreement has, in either case, been approved by the Central Government.

Some other Special Tax Rate

115BBF	Royalty received from patents by a resident of India (first inventor) from a patent developed and registered in India.	10% of the gross amount of royalty. Without basic exemption limit & Chapter VIA.
115BBG	Income by way of transfer of carbon credit. “carbon credit” in respect of one unit shall mean reduction of one ton of carbon dioxide emissions or emissions of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price.’	10% on gross income. NO deduction in respect of any expenditure or allowances. No Basic Exemption Limit.

Carbon Credit (concept in brief): Carbon credits is an incentive given to an industrial undertaking for reduction of the emission of GHGs (Green House gases), including carbon dioxide which is done through several ways such as by switching over to wind and solar energy, forest regeneration, installation of energy-efficient machinery, landfill methane capture, etc. The Kyoto Protocol commits certain developed countries to reduce their GHG emissions and for this, they will be given carbon credits. A reduction in emissions entitles the entity to a credit in the form of a Certified Emission Reduction (CER) certificate. The CER is tradable and its holder can transfer it to an entity which needs Carbon Credits to overcome an unfavorable position on carbon credits.

RATE OF TAX FOR DOMESTIC COMPANY

TOTAL INCOME	WHERE TURNOVER/GROSS RECEIPTS IN P.Y 2017-18 DOES NOT EXCEEDS ₹400 CRORES	COMPANY OPTING SECTION 115BA	COMPANY OPTING SECTION 115BAA	COMPANY OPTING SECTION 115BAB	ANY OTHER COMPANY
Up to ₹ 1 crores	25% + Cess 4% = 26%	25% + Cess 4% = 26%	22% + SC 10%+ Cess 4% = 25.168%	15% + SC 10%+ Cess 4% = 17.16%	30% + Cees 4% = 31.20%
Above ₹1 cr but upto ₹ 10 cr	25% + SC 7%+ Cess 4% = 27.82%	25% + SC 7%+ Cess 4% = 27.82%	22% + SC 10%+ Cess 4% = 25.168%	15% + SC 10%+ Cess 4% = 17.16%	30% + SC @ 7%+ Cees 4% = 33.384%
Above ₹10 cr	25% + SC 12%+ Cess 4% = 29.12%	25% + SC 12%+ Cess 4% = 29.12%	22% + SC 10%+ Cess 4% = 25.168%	15% + SC 10%+ Cess 4% = 17.16%	30% + SC @ 12%+ Cees 4% = 34.944%

Note 1: Deduction not allowed for availing concessional rate of tax u/s. 115BA, 115BAA, 115BAB

Section No.	Provisions
10AA	Exemption to Unit in SEZ
32(1)(ia)	Additional Depreciation (20%/35%)
32AC	Investment allowances -15% extra deduction if investment in new plant & machinery exceeds ₹ 25 crores [not relevant now]
32AD	15% extra deduction on actual cost of new p&m acquired and installed in the notified areas of Andhra Pradesh, Telangana, Bihar and West Bengal
33AB	40% deduction on profit from business of growing and manufacturing TEA, Coffee, Rubber in India or the amount deposited in NABARD Fund , lower
33ABA	20% deduction on profit from business of prospecting/ extraction/production of petroleum/natural gas or amount deposited in Site Restoration A.c with SBI, lower.
35(1)/(ii)/(ia)/(iii)	Deduction on payment to research association, University, Indian Company for Scientific/social/statistical research
35(2AA)	150% deduction on payment to National Laboratory/University/IIT/approved person for scientific research
35(2AB)	150% deduction for inhouse scientific research by an Indian company.
35AD	100% deduction of capital expenditure (except land and goodwill) for specified business
35CCC	150% deduction on exp. incurred on notified agricultural extension project
35CCD	150% deduction on exp. incurred by a company on notified skill development project
80 IA to 80RRB	<i>Deductions in respect of certain incomes" other than the provisions of section 80JJAA</i>

1. Income from Salaries

1. Standard Deduction [Section 16(ia)]

The employee shall be allowed a deduction of ₹ 50,000 or the amount of Gross Salary, whichever is lower.

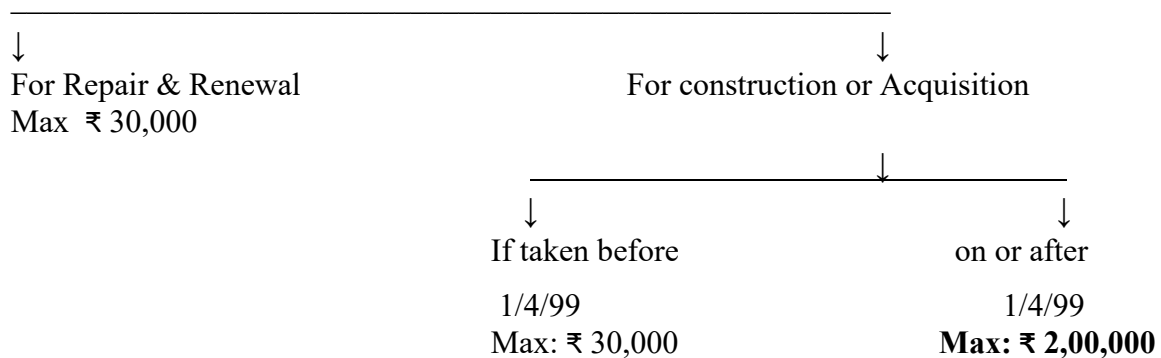
2. Income From House Property:-

(I) Self Occupied or Non Occupied due to employment elsewhere

- (1) The Annual Value of Self Occupied Property or Property non occupied due to employment elsewhere is taken at **NIL**.
- (2) No deduction is allowed for Municipal Taxes. No Standard Deduction is allowed.
- (3) Interest on loan is however allowed as deduction. This is subject to monetary limits as explained hereunder:

✎ Benefit of Self occupied property can be availed by only Individual and HUF. [**Hariprasad Bhojnagarwala (2012) (Guj.)**]

Interest on Loan if Loan taken



The aggregate of the amount of deduction under all the above categories shall not exceed ₹ 2 lakh.

Points to be Noted:

- 1) The above Limit is for Self-occupied property. In case of let out properties there is no Limit for interest.
- 2) The above Limit is for current year interest + 1/5th of preconstruction interest.
- 3) The interest of max ₹ 2,00,000 is subject to the condition that the construction must be completed **within 5 years** from the end of financial year in which loan is taken. Otherwise, restricted to ₹ 30000.

Example: Suppose Mr. Raja starts construction of a house on 10/12/2019. Now he must complete construction within 5 years from 31/3/2020 i.e. by 31/3/2025. If he completes construction by 31/3/2025 then interest is maximum allowable at ₹ 2,00,000. But if he completes construction after 31/3/2025 then maximum interest allowable shall be ₹30,000.

(II) MORE THAN TWO SELF OCCUPIED HOUSES

1. In such cases **two house** is treated as self-occupied and all the other house as deemed to be let out.

Question 1: Pritam occupied three flats for his residential purpose, particulars of which are as follows:

	Flat 1	Flat 2	Flat 3
Municipal Valuation	90,000	45,000	1,20,000
Fair Rent	1,20,000	40,000	1,40,000
Fair rent under Rent Control Act	80,000	N.A.	1,00,000
Fire Insurance	1,000	600	2,000
Municipal Taxes paid	10%	10%	10%
Interest payable on Capital borrowed For purchase of flat	40,000	NIL	40,000

Compute his income from house property.

(III) Treatment of Property held as Stock in Trade [Section 23(5)]

Where the property consisting of any building or land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to **two years** from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be *nil*.”.

Example: M/s Kunj Niwas Developers completes construction of 6 flats on 25/3/2019, obtains certificate of completion from competent authority and the flats remain unsold, then tax treatment would be as under:

F.Y 2018-19	F.Y.2019-20	F.Y.2020-21	F.Y.2021-22
No tax on notional income.	No tax on notional income.	No tax on notional income.	Tax on Expected rent.

3. Profit and Gains from Business or Professions

(i)	
40(a)(i)	Where any amount is payable/paid to Non-resident, tax must be deducted at source in accordance with the provisions of The Income Tax Act and the same must be deposited within return filing date, failing which 100% of the amount so paid (which is chargeable to Income Tax Act) shall be disallowed. [Refer Note 1] However, if TDS is deposited in subsequent financial year then the same shall be allowed as deduction in next financial year.
40(a)(ia)	Where any amount is payable/paid to Resident, tax must be deducted at source in accordance with the provisions of The Income Tax Act and the same must be deposited within return filing date, failing which 30% of the amount so paid/payable (which is chargeable to Income Tax Act) shall be disallowed. [Refer Note 1] However, if TDS is deposited in subsequent financial year then the same (i.e. 30% of the expenditure) shall be allowed as deduction in next financial year. Note 1.: where resident payer fails to deduct tax but the payer furnish a certificate of Chartered Accountant that the payee has furnished his return by including such income and has paid tax on income declared in return, then it shall be deemed that the assessee has deducted and paid the tax on the date of furnishing of return of income by the payee. [Refer chapter TDS section 201]

(ii)	
43B	<p>CERTAIN DEDUCTIONS TO BE ALLOWED ON PAYMENT BASIS ONLY</p> <p>Following expenses allowed as deduction on payment basis –</p> <ol style="list-style-type: none"> 1. Tax, duty, cess or fee payable to Govt. e.g, Goods and Services Tax. 2. Bonus or Commission to employees [if not paid as profit/dividend] 3. Leave Salary to employees 4. Employers contribution to Provident fund or other fund for welfare of employees. 5. Interest on loan or advance taken from a scheduled bank, Public Financial Institution, co-operative bank (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank) and NBFC (whether deposit taking NBFC or systemically important non-deposit taking NBFC) . <i>Systemically important non-deposit taking NBFC means NBFC not accepting or holding public deposits and having total assets of not less than ₹500 crore as per last audited balance sheet and is registered with RBI.</i> 6. any sum payable to the Indian Railways for the use of railway assets <p>Note:</p> <ol style="list-style-type: none"> 1. The payment for above items should be made within the same previous year or within return filing date. If payment is made thereafter then it will be allowed as deduction in the year in which payment is made. 2. It is to be noted that deduction in respect of interest to Scheduled Banks (including co-operative Banks) or Financial Institutions and NBFC (whether deposit taking NBFC or systemically important non-deposit taking NBFC), shall be allowed only if such interest has been actually paid and any interest which has been converted into loan or advance shall not be deemed to have been actually paid. 3. Further, if in any earlier year deduction was allowed on accrual basis, then no deduction is allowed in the year of payment.

(III) RECEIPT/PAYMENT OTHER THAN CASH UNDER INCOME TAX -

Amendment in section -	Mode of payment by – A/C payee Cheque/draft or ECS though Bank account/ through such other e-mode a may be prescribed.
○ 35AD -Deduction allowed to specified business.	For Payment exceeding ₹10,000
○ 43(1)- Cost of asset added to WDV.	For payment exceeding ₹10,000.
○ 40A(3)- Expenses in cash not allowed.	For payment exceeding ₹10,000 (₹35,000 for freight)
○ 43CA – Special provisions for sale of land or building held as stock in trade	Stamp value on the date of agreement to be considered, if advance made in above specified mode.
○ 44AD – Presumptive taxation scheme	Rate of PTS- 6%, if payment received in above specified mode
○ 50C- Special provisions for sale of land or building held as capital assets	Stamp value on the date of agreement to be considered, if advance made in above specified mode.
○ 56(2)(x) – Taxability of Gift.	Stamp value on the date of agreement to be considered, if advance made in above specified mode.
○ 13A – Income of political party	Donation exceeding ₹2,000.
○ 80JJAA	Salary paid to employee for claiming 30% additional deduction.
○ 269SS/269T	Accepting/repaying loan/deposit of ₹20,000 or more
○ 269ST	Receipt of ₹ ₹2,00,000 or more

(iv) Revised Rate of Depreciation for Motor Vehicle	<p>Depreciation on WDV -</p> <p>@ 30%, for Motor cars, other than those used in a business of running them on hire, acquired and put to use between 23.8.2019 to 31.3.2020. [For other case 15%]</p> <p>@ 45%, for Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired and put to use between 23.8.2019 to 31.3.2020. [For other case 30%]</p>
(v) Employer's Contribution to NPS u/s. 80CCD	<p>Allowable business expenses shall be –</p> <p>(a) amount contributed or (b)10%/14%* of the salary, whichever is lower. [14% if contribution is made by Central Govt.]</p> <p>"Salary" = Basic +DA forming part of salary but excludes all other allowances and perquisites.</p> <p><i>Example: Suppose Employer contributes 15% of employees salary to pension fund. Employees salary amounted to ₹ 10,00,000. In this case the deduction will be equal to ₹ 1,00,000. However, if the contribution is made by Central Govt, then deduction shall be ₹1,40,000.</i></p>

4. CAPITAL GAINS

(i)

Cost Inflation Index(CII) for F. Y 2019-20	289
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(ii) FULL VALUE OF CONSIDERATION IN CASE OF UNQUOTED SHARES [SECTION 50CA]

W.R.T. Unquoted share, section 50CA provides that Full Value of consideration shall be actual sale value or Fair Market Value whichever is higher.

Provided that the provisions of this section shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions as may be prescribed. [Exemption similar to section 56(2)(x) expected to be notified]

(iii)

SEC	EXEMPTION FOR	TIME LIMIT	WITHDRAWAL
54 Individual /HUF	<p>Transfer of Long term capital assets being Residential House and purchase of one residential house or constructs one residential house in India.</p> <p>The exemption = Cost of New Residential House/Amount deposited in CGDS before return filing date.</p> <p>[if the capital gains does not exceed ₹ 2 crores, the assessee can take exemption on acquisition/construction of two residential houses in India instead of one house, this option can be exercised once in a life time]</p>	<p>Purchase 1yr before or 2yrs from transfer date or construct in 3yrs from transfer date.</p>	<p>1.If new assets sold within 3 years, then cost of new asset is reduced by amount exempted earlier.</p> <p>2. Any amount remaining unutilized in capital gain deposit account shall be taxed as Long Term Capital Gains after 3 years from the date of transfer of original asset.</p>

	<p><u>Capital Gain Deposit Scheme (CGDS):</u> In order to avail exemption the assessee should purchase or construct the house within return filing date. Alternatively, the assessee can claim exemption by depositing the amount in capital gain deposit account within return filing date.</p>		
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(iv) Amalgamation/Demerger

1. Any transfer, in scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the latter company is an Indian company [Section 47(vi)]
2. Any transfer by a shareholder, in a scheme of amalgamation of share(s) held by him in amalgamating company, if the transfer is made in the consideration of the allotment to him of any share(s) in the amalgamated company [**except where the shareholder itself is the amalgamated company**] and the amalgamated company is an Indian Company
3. Any transfer in a demerger of a capital asset by the demerged company to resulting company provided that resulting company is an Indian company .[Section 47(vib)]
4. Any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking.[Section 47(vid)]

Note: The condition that the shareholder will get shares of amalgamated company is not possible in a case where the amalgamated company itself is the shareholders of amalgamating company. Because a company cannot issue share to itself. Therefore the amendment has been made to exclude it from such conditions. However, the amalgamated company shall require to issue shares to other shareholders.

For example: (1) A Ltd. a 100% subsidiary of B Ltd. get amalgamated in to B Ltd. → In this case B Ltd. is the only shareholders of A Ltd. therefore not possible to issue shares to itself.

(2) A Ltd. get amalgamated in to B Ltd. B Ltd. holds 20% shares in A Ltd. → In this case B Ltd. required to issue only 80% shares to other shareholders.

Note: Similar provisions is also applicable for demerger also.

Other Relevant conditions for tax-neutral demergers [Section 2(19AA):

- (i) all the property of the undertaking and liabilities, being transferred by the demerged company, immediately before the demerger, becomes the property and liabilities of the resulting company by virtue of the demerger.
- (ii) the property and the liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger. **However, an Ind AS compliant resulting company can book the value different from the book value of the demerged company.**
- (iii) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis except where the resulting company itself is a shareholder of the demerged company;
- (iv) the shareholders holding not less than 3/4th in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become shareholders of the resulting company.
- (v) the transfer of the undertaking is on a going concern basis;

(v) Global Depository receipts, Rupee denomination bond etc. [Section 47(viiab)]

Any transfer of a capital asset, being-

- (a) bond or Global depository receipt; or
- (b) rupee denomination bond of an Indian company; or
- (c) derivative



- (d) **such other securities as may be notified by the Central Government in this behalf,**

made by a Non-resident on a recognized stock exchange located in any International Financial Service Centre (IFSC) and where the consideration for such transaction is paid or payable in foreign currency shall be treated as exempted transfer.

Note – **Income received by a Category III Alternative Investment Fund by way of transfer of above securities held by a non-resident in IFSC and where the consideration for such transaction is paid or payable in convertible foreign exchange, shall be exempt u/s. 10(4D).**

5. Income from other sources**(I) Issue of Shares at a price higher than FMV [Section 56(2)(viib) [ANGEL TAX]**

Where a closely held company receives from any person being a resident, any consideration for issue of shares at premium the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be taxable in the hands of such company. However, in the following case nothing shall be taxable where consideration for issue of share is received by –

- (i) by a venture capital undertaking from a venture capital company or a venture capital fund or **a specified fund (Category I or II Alternative Investment Fund).**
- (ii) an eligible start-up company from a resident for issue of shares. **However, if such company fails to satisfy prescribed conditions, then income not taxable earlier shall be deemed to be taxable in the year of failure and such company is also liable to penalty @ 200% as misreporting of income.**

Question 2: X Pvt. Ltd. issued shares as under. Discuss the taxability in the hands of X Pvt. Ltd u/s. - 56(2)(viib)

	I	II	III
Face value of shares	₹ 10 per share	₹ 10 per share	₹ 10 per share
Shares issued for	₹ 40 per share	₹ 9 per share	₹ 11 per share
Fair market value	₹ 20 per share	₹ 8 per share	₹ 12 per share
No. of subscription	1000	1000	1000

Question 3: In case 1 above, what is the consequence if –

- (i) the shareholder are non-resident
- (ii) the shareholder is a venture capital company
- (iii) X Pvt. Ltd. is an eligible start-up company.

Ans: In all of the three cases, nothing shall be taxable u/s. 56(2)(viib)

(II) EXEMPTED CASES U/S. 56(2)(X): TAXABILITY OF GIFT/PURCHASE AT LOWER CONSIDERATION

Exemptions

Provided that this clause shall not apply to any sum of money or any property received—

(I) from any relative; or

(II) on the occasion of the marriage of the individual; or

(III) under a will or by way of inheritance; or

(IV) in contemplation of death of the payer or donor, as the case may be; or

(V) from any local authority; or

(VI) from any educational institution/hospitals u/s 10(23C) or Charitable Trust U/s 12AA.

(IX) by way of transaction which is an exempted transfer U/s 47 (i) (iv) (v) (vi) (via) (viaa) (vib) (vic)(vica) (vicb) (vid) (vii) ; or

(X) from an individual by a trust created or established solely for the benefit of relative of the individual.

(XI) from such class of persons and subject to such conditions, as may be prescribed.

6. Income Exempted

(1) Interest payable on rupee denominated bond issued from 17.9.2018 to 31.3.2019, by Indian Company or business trust to non-resident shall be exempt u/s. 10(4C)

(2) Interest payable to non-resident by a unit located in an International Financial Services Centre (IFSC) in respect of monies borrowed by it on or after 1.9.2019 shall be exempt u/s. 10(15)(ix)

(3) Buy back of shares

(a) **Shares of listed company^{w.e.f.5.7.2019} or unlisted company/Private Company:** The company will pay distribution tax @ 23.296% and capital gain shall be exempted in the hands of shareholders u/s. 10(34A).

Question 4: X Ltd. issued shares on 1.3.2019 @ ₹ 75 per share to various investors in a private placement. One of the shareholders, Mr. X purchased 10,000 shares in the company. On 1.1.2020 X Ltd made a buyback of these shares @ 200 per share. Compute Total Income of Mr. X and the liability in the hands of the Company :

(a) X Ltd. is a listed company and other income of Mr. X is ₹ 6,00,000.

(b) X Ltd is unlisted company.

Solution: In both the cases: Capital Gains shall be exempted in the hands of shareholder. However, the company shall be liable to pay tax @ 23.296% of 10000 shares x ₹ (200 – 75) i.e. ₹ 2,91,200

7. Chapter VIA

(I) Section 80C: New entry

Contribution to Tier II NPS A/c (Additional account as specified u/s. 20(3) of the PFRDA Act, 2013) by **employee of Central Govt.** also eligible for deduction u/s. 80C, provided that amount deposited and invested for a fixed period of 3 years or more. Subject to overall deduction of ₹ 1,50,000 u/s. 80C and 80CCE. [Note- Tier 1 NPS A.c (pension plan) is covered u/s. 80CCD]

(II)

80CCD [Tier I NPS A.c]	Amount invested in new pension trust 1) Self employed [Section 80CCD(1)]	Lower of the following - (a) Amount contributed or (b) 20% of GTI
	2) Employed:- a) <u>Employer contribution [Sec. 80CCD(2)]</u> To Pension fund of new pension trust: First taxable under salary.	Lower of the following - (a) Amount contributed or (b) 10%/14% of Salary [10% for other employer and 14% for Central Govt.) [limit of 1,50,000 not applicable]
	(b) <u>Employee contribution [Sec 80CCD(1)]</u> To Pension fund of new pension trust	Lower of the following - (a) Amount contributed or (b) 10% of salary

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

NPS a/c is of two types:

- Tier I [Retirement/Pension plan]-eligible for deduction u/s. 80CCD
- Tier II (voluntary investment plan) eligible for deduction u/s. 80C for Central Govt. Employee.

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

(III)

Section	Particulars	Amount of deduction	Conditions
80EE [Individual]	Interest payable on loan taken from any Financial Institution (Banking Company or Housing Finance Company) for acquiring a residential house property	Maximum ₹ 50,000 from A.Y 2017-18	(i) The amount of Loan should not exceeds ₹ 35 lakhs and it must be sanctioned between 1.4.2016 and 31.3.2017. (ii) the value of the residential house property does not exceed ₹ 50 lakh; (iii) the assessee does not own any residential house property on the date of sanction of loan.
80EEA [Individual not eligible to claim deduction u/s. 80EE]	Same as above	Maximum ₹ 1,50,000 from A.Y 2020-21	(i) The Loan must be sanctioned between 1.4.2019 and 31.3.2020. (ii) the stamp value of the residential house property does not exceed ₹ 45 lakh; (iii) the assessee does not own any residential house property on the date of sanction of loan.
80EEB [Individual]	Interest payable on loan taken from banks/NBFC for purchase of an electric vehicle	Maximum 1,50,000 from A.Y 2020-21	The Loan must be sanctioned between 1.4.2019 and 31.3.2023. Where a deduction under this section is allowed for any interest, deduction

shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year [same condition applicable for 80EEA]

“electric vehicle” means a vehicle which is powered exclusively by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle and has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy;

Question 5: Mr. X has acquired a property for his residential use and for which he takes a loan from SBI on 1.4.2019. **Other information are as under-**

- i) on 1.4.2019 he does not own any other residential property
- ii) the amount of loan ₹ 30 lakhs @ 12% interest p.a
- iii) The stamp value of property ₹ 35 lakhs.
- iv) The loan is unpaid.

Compute Total Income if he is getting salary of ₹ 5,00,000 for the A.Y 2020-21.

Solution: Computation of Total Income of Mr. X for the A.Y 2020-21

PARTICULRS	₹	₹
(A) Income under the head salary	5,00,000	
Less:-deduction u/s 16(ia)	(50,000)	4,50,000
A. Income from House property		
Net Annual Value	NIL	
Less: Interest on loan U/s. 24(b)		
(i) Actual interest	3,60,000	
ii) Maximum limit	<u>2,00,000</u>	<u>(2,00,000)</u>
Gross Total Income		2,50,000
Less: Deduction u/s. 80EEA		
Total Interest (-) interest allowed u/s. 24(b)	160,000	
Maximum limit	<u>150,000</u>	<u>1,50,000</u>
Total Income		1,00,000

7. INCOME DEEMED TO ACCRUE OR ARISE IN INDIA (SECTION 9) (Briefly Put)

1. Capital Gain & Income from house property is accrued at a place where property is located.

[Shares of a foreign company which derives its value substantially from assets located in India shall be deemed to be capital assets located in India]

2. Interest income is accrued at a place where loan is utilised. However, if interest is earned from Govt. then it shall always be accrued in India.

3. Royalty income and fees for technical services is accrued at a place where services are used. However if royalty is earned from Govt. then it shall always be accrued in India.

4. Salary income is accrued at a place where services are rendered. However if an Indian citizen is deputed outside India by Govt, then salary income shall always be accrued in India.

5. Business income is accrued at a place where business is carried on. [However, no income shall deem to accrue or arise in India where the business of non-resident is confined to purchase goods in India only for the purposes of export]
6. Dividend paid by Indian company shall be deemed to be accrued in India even paid outside India. However, dividend declared by foreign company outside India shall not be deemed to be accrued in India
- 7. any sum of money or value of property referred to in section 56(2)(x), paid by a person resident in India to a non-resident in India on or after 5.7.2019, shall be deemed to be accrue or arise in India and taxable in the hands of non-resident as provided in section 56(2)(x).**

8. SELF-ASSESSMENT [SECTION 140A]

- (i) Where any tax is payable by the assessee on the return filed u/s 139/142/148/**153A** after taking into account the tax already paid (including **relief u/s. 89**, tax credit u/s. 115JAA/115JD), he shall be liable to pay tax together with interest u/s 234A, 234B and / or 234C, and fee u/s 234F for delay in filing return or default & delay in payment of tax as the case may be.
- (ii) Where any amount paid by the assessee u/s 140A (i) falls short of the aggregate of tax as aforesaid, it shall be first adjusted towards interest and fee, then the balance shall be adjusted towards tax payable.
- (iii) If any assessee fails to pay the whole of tax & interest or fee he shall be deemed to be an assessee in default in respect of tax & interest & the provision of the Act shall apply accordingly.

9. Computation of Advance tax and Tax due for section 234A,234B AND 234C

- (1) An assessee has to estimate his current income and pay advance tax thereon. He need not submit any estimate or statement of income to the Assessing Officer, except where he has been served with notice by the Assessing Officer.
- (2) The Assessing Officer, if he is of the opinion that assessee is liable to pay advance tax, can serve an order under section 210(3) requiring the assessee to pay advance tax.
- (3) The above order can be served by the Assessing Officer at any time during the financial year but not later than the last date of February.
- (4) If the assessee feels that his own estimate of advance tax payable would be less than the one sent by the Assessing Officer, he can file estimate of his current income and advance tax payable thereon.
- (5) In all cases, the tax calculated shall be reduced by the amount of tax deducted /collected at sources/AMT Credit/ **tax relief u/s.89**.

10. Provisions of TDS and TCS

194A	Interest other than Interest on Securities i.e, Interest on FD/RD	If the payer is a banking company including co-operative banks or in case of deposit under post office - ₹ 40,000 p.a/ ₹ 50,000 (for senior citizen) (The ceiling limit applies with respect to aggregate of payment made by all branches having core banking solutions). In case of Non-CBS, limit applicable for each branch separately) In any other case: ₹5000 p.a.	10%	Tax need not be deducted in the following cases: (a) Interest paid or credited by firm to its partners (b) Interest paid to Banking companies, UTI, notified institution etc. (c) Interest on saving bank account. (d) Interest paid to Housing and Urban Development Corporation Ltd. (HUDCO), New Delhi. Note- Such banking co./co-operative society/public co. shall
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				require to furnish prescribed statement in respect of payment of interest not exceeding the ceiling limit to residents without deduction of tax.[Sec. 206A]
194I	Rent	2,40,000 p.a.	TDS rate For Rent on Plant, Machinery and equipment @ 2% For Rent on Land & Building, furniture and fixture @ 10% for all person	1. Ownership not relevant. 2. The limit of ₹ 2,40,000 shall separately apply to each co-owner 3. Rent includes any non – refundable deposit.

Question 6: X Ltd pays rent for building ₹ 2,00,000 and rent for plant and machinery ₹ 1,00,000 to Y.

Answer: Total rent to Y exceeds ₹ 2,40,000. Hence tax should be deducted at source –

10% on ₹ 2,00,000 for rent of building	20000
2% on ₹ 1,00,000 for rent of plant and machinery	<u>2000</u>
	<u>22000</u>

194DA	Payment to a resident in respect of Life Insurance Policy (including Bonus)	No deduction:- (i) if aggregate payment is less than ₹ 1,00,000 during the financial year. (ii) if payment covered u/s. 10(10D).	1%* (at the time of payment)	* <i>5% on the amount of income comprised therein [i.e Total sum received – Premium paid][w.e.f 1.9.2019]</i>
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Question 7: Determine the amount of tax required to be deducted by LIC on payment of maturity amount to the following different persons who are resident of India for the P.Y 2019-20

Annual premium	Total premium paid	Amount received
12,000	60,000	80000
10,000	2,40,000	3,00,000
50,000	1,30,000	1,80,000

Solution: Write the newly inserted provisions of section 194DA.

(i) NO TDS u/s. 194DA. Since the payment does not exceed ₹ 1,00,000.

(ii) NO TDS u/s 194DA. Since the amount so received is exempted u/s. 10(10D) as the premium does not exceed 10% of sum assured.

(iii) TDS @ 5% u/s. 194DA attracted on ₹ 50,000 [1,80,000 – 1,30,000] . Since the annual premium exceeds 10% of sum assured and therefore not exempt u/s. 10(10D). Further, the aggregate payment also exceeds ₹ 1,00,000.

194-IA	Payment on transfer of certain immovable property [other than agricultural land and compulsory acquisition]	₹50,00,000*	1%	The provisions of section 203A (i.e. obtaining TAN No.) shall not apply to a person required to deduct tax in accordance with the provisions of this section. <i>*Consideration shall include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of immovable property. [w.e.f 1.9.2019]</i>
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Section No.	Nature	Limit	Rate	Remarks
Section 194M Individual/ HUF not liable for tax audit or paying for personal use w.e.f 1.9.2019	Individual not liable to deduct tax u/s. 194C, 194H & 194J for following payment to any resident for – (i) work contract as referred to in sec. 194C (ii) commission or brokerage as referred to in sec. 194H (iii) fees for professional services as referred to in sec. 194J	If aggregate payment exceeds ₹ 50 lakhs in a year	5% At the time of payment or credit, earlier	Deductor is not required to obtain TAN. Deductee Can apply for lower rate of TDS u/s. 197.
Section 194N [TDS on cash payment] w.e.f 1.9.2019	Banking company, co-operative bank, post office,	Cash payment in aggregate during the year exceed ₹ 1 crore to any person from one or more accounts maintained by the recipient.	2% of sum exceeding ₹ 1 crore At the time of payment	<u>NO TDS where payment made to,—</u> (i) the Government; (ii) any banking company or co-operative society or a post office; (iii) any business correspondent of a banking company or co-operative society; (iv) any white label automated teller machine operator of a banking company or co-operative society; (v) such other person or class of persons, which the Central Government may, by notification in the Official Gazette, specify in consultation with the

Reserve Bank of India

Key points:

1. TDS @ 2% on excess amount of cash withdrawal of ₹ 1 crore on or after 1.9.2019. Any cash withdrawal prior to 1.9.2019 will not be subjected to TDS.

2. ₹1 crore limit is applicable aggregate of one or more accounts maintained for the whole year. Hence, if a person already withdrawn ₹ 1 crore or more in cash upto 31.8.2019 from one or more accounts maintained with a banking company/cooperative bank/post office, TDS @ 2% shall apply on all subsequent cash withdrawals [Press release dated 30.8.2019]

3. Deduction is made at the time of payment

4. Credit allowed in the year of deduction to account holder and cannot be c/f to next year

5. Sum so deducted is deemed to be income received u/s. 198.

6. Provisions of TDS u/s. 194N shall not be applicable on payment made to following notified person under point (v) above,-

(1) Cash Replenishment Agencies (CRA's) and franchise agents of White Label Automated Teller Machine Operators (WLATMO's) maintaining a separate bank account from which withdrawal is made only for the purposes of replenishing cash in the Automated Teller Machines (ATM's) operated by such WLATMO's.

Condition - The WLATMO have furnished a certificate every month to the bank certifying that the bank account of the CRA's and the franchise agents of the WLATMO's have been examined and the amounts being withdrawn from their bank accounts has been reconciled with the amount of cash deposited in the ATM's of the WLATMO's. [w.e.f 1.9.2019]

(2) The commission agent or trader, operating under Agriculture Produce Market Committee (APMC), and registered under any Law relating to Agriculture Produce Market of the concerned State, who has intimated to the banking company or co-operative society or post office his account number through which he wishes to withdraw cash in excess of rupees one crore in the previous year along with his Permanent Account Number (PAN) and the details of the previous year.

Condition - Such person has certified to the banking company or co-operative society or post office that the withdrawal of cash from the account in excess of rupees one crore during the previous year is for the purpose of making payments to the farmers on account of purchase of agriculture produce and the banking company or co-operative society or post office has ensured that the PAN quoted is correct and the commission agent or trader is registered with the APMC, and for this purpose necessary evidences have been collected and placed on record. [w.e.f 1.9.2019]

(3) (a) the authorised dealer (under FEMA) and its franchise agent and sub-agent; and

(b) Full-Fledged Money Changer (FFMC) licensed by the Reserve Bank of India and its franchise agent; [w.e.f 1.9.2019]

Condition-

(1) Such person should maintain a separate bank account from which withdrawal is made only for the purposes of,-
(i) purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in cash as per the directions or guidelines issued by Reserve Bank of India; or
(ii) disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS) of the Reserve Bank of India;

(2) and a certificate is furnished by such person to the bank that withdrawal is only for the purposes specified above and the directions or guidelines issued by the Reserve Bank of India have been adhered to. [Notification No. 80/2019, 15.10.2019]

DEEMED DEDUCTION OF TAX AT SOURCE & ASSESSEE IN DEFAULT

→ Where resident payer fails to deduct tax but the payer furnish a certificate of Chartered Accountant that the resident payee has furnished his return by including such income and has paid tax on income declared in return, then it shall be deemed that the assessee has deducted and paid the tax on the date of furnishing of return of income by the payee and shall not be deemed to be assessee in default.

→ Further, Interest u/s. 201A(i) @ 1% shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such payee.

Order for assessee in default u/s. 201(1) cannot be made after expiry of 7 years from the end of the financial year in which payment is made or credit is given, or 2 years from the end of the F.Y in which correction statement is delivered, whichever is later.

Sums received out of pension fund U/s. 80CCD (Tier I NPS A/c)

(I) On closure of A/c- 40% 60% of total amount received by an assessee from NPS (Tier -I A/c) is exempted u/s. 10(12A). Amount received by nominee on account of the death of assessee not taxable. Regular Pension is taxable.

(II) On partial withdrawal: To the extent it does not exceed 25% of the amount of contributions made by him; exempt [10(12B)]

Note: Amount received from NPS Tier II A.c and pension Fund of insurance company U/s. 80CCC is taxable.

Example:

1. Mr. Aman received ₹ 10,00,000 on account of closure of NPS (Tier I) A/c.	The taxable amount shall be ₹ 4,00,000 [60% exempted u/s. 10(12A)]
2. Mr. Anu has contributed till date ₹ 10,00,000 in NPS (Tier I A.C), during the year he partially withdraw ₹ 2,00,000	The amount taxable income shall be Nil [Exempted u/s. 10(12B), since does not exceed 25% of total contribution]
3. Mr. Manu received monthly pension of ₹20,000 for 12 months from NPS Tier-I A.c	₹2,40,000 is fully taxable under the head other sources.
4. Mrs. Gupta being the nominee of the NPS Tier-I A/c. of Mr. Gupta received ₹ 5,00,000 on account of closure of account due to the death of Mr. Gupta.	Nothing taxable [fully exempt u/s. 10(12A)]

11. Submission of return of Income & Due Dates [Section 139(1)]

Section 139(1) provides that following persons shall voluntarily file their return of income for any previous year on or before the due date in the prescribed form and manner

(a) a **company** or a **firm** shall compulsorily file its return of income

(b) (i) individual; (ii) HUF; (iii) Association of Persons (iv) Body of Individuals and (v) artificial juridical person shall file their return of income if their Gross Total Income (**before giving exemption u/s.10AA, section 54/54B/54D/54EC/54F/54G/54GA/54GB**) exceeded the maximum exemption limit for such previous year. **However, filing of return is mandatory even though GTI does not exceed maximum exemption limit, if during the previous year such person -**

(i) has deposited an amount or aggregate of the amounts exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or

(ii) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or

(iii) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 1 lakh towards consumption of electricity; or

(iv) fulfils such other conditions as may be prescribed,

(c) any other person if their total income exceeded the maximum exemption limit for such previous year.

Due Dates of Filing of Returns

<u>Particulars</u>	<u>Due Date (of AY)</u>
(1) Company Assessee	<i>30th</i>
(2) Where the accounts of the assessee are required under this Act or any other law to be audited	<i>September</i>
(3) Where the assessee is a working Partner in a firm whose accounts are required to be audited under this Act or under any other law for the time being in force	
(4) in case of any other assessee	<i>31st July</i>
(5) Any assessee who engaged in International transaction or Specified domestic transaction and required to submit report u/s. 92E	<i>30th November</i>

As per circular (No. 639 dated 13/11/1992) issued by CBDT if the IT department is closed on the last day for filing of return due to holiday the assessee can furnish the return on the next day on which the department is opened.

EXEMPTION FROM FILING RETURN OF INCOME [SECTION 139(1C)]

For reducing the compliance burden of small taxpayers, the Central Government has been empowered to notify any class or classes of persons who will be exempted from the requirement of furnishing a return of income.

Person not required to file return from AY 2019-20 and onwards

(i) a non-resident, who have any income chargeable under the said Act during a previous-year from any investment in an investment fund set up in an International Financial Services Centre (IFSC) located in India and TDS deducted u/s. 194LBB, and no other income. [Notification No. 55/2019, dated 26.7.2019]

INTER-CHANGEABILITY OF PAN & AADHAAR [SEC. 139A(5E)]

Notwithstanding anything contained in this Act, every person who is required to furnish or intimate or quote his PAN under this Act, and who,—

(a) has not been allotted a PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of the PAN, and such person shall be allotted a permanent account number in such manner as may be prescribed;

(b) has been allotted a PAN, and who has intimated his Aadhaar number in accordance with provisions of sub-section (2) of section 139AA, may furnish or intimate or quote his Aadhaar number in lieu of the PAN. [w.e.f 1.9.2019]

Rule 114(1A): Allotment of PAN on the basis of Aadhar and no other document required.

Further, Section 139AA provides that, in case of failure to intimate the Aadhaar number, the PAN allotted to the person shall be *made inoperative after the date so notified in such manner as may be prescribed.*

Note- Last Date for intimation of Aadhaar number is extended to 31.3.2020.

Duties of person entering into notified transaction u/s. 139A

(6) Every person receiving any document relating to notified transaction shall ensure that the PAN/ *Aadhaar number* has been duly quoted in the document.

(6A) *Every person entering into such transaction, as may be prescribed, shall quote his permanent account number or Aadhaar number, as the case may be, in the documents pertaining to such transactions and also authenticate such permanent account number or Aadhaar number, in such manner as may be prescribed.*

(6B) *Every person receiving any document relating to the transactions referred to in sub-section (6A), shall ensure that permanent account number or Aadhaar number, as the case may be, has been duly quoted in such document and also ensure that such permanent account number or Aadhaar number is so authenticated.*

(12) LOSSES OF CLOSELY-HELD COMPANIES WHERE CHANGE IN SHAREHOLDING HAS TAKEN PLACE [SEC. 79]

[New section substituted]

(1) Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place during the previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent. of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent. of the voting power on the last day of the year or years in which the loss was incurred:

Provided that even if the said condition is not satisfied in case of an eligible start up as referred to in section 80-IAC, the loss incurred in any year prior to the previous year shall be allowed to 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, continue to hold those shares on the last day of such previous year and such loss has been incurred during the period of seven years beginning from the year in which such company is incorporated.

(2) Nothing contained in sub-section (1) shall apply,—

(a) to a case where a change in the said voting power and shareholding 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 such gift;

(b) to 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 amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company;

(c) to a company 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;

(d) to a company, and its subsidiary and the subsidiary of such subsidiary, where,—

(i) the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013, has suspended the Board of Directors of such company and has appointed new directors nominated by the Central Government, under section 242 of the said Act; and

(ii) a change in shareholding of such company, and its subsidiary and the subsidiary of such subsidiary, has taken place in a previous year pursuant to a resolution plan approved by the Tribunal under section 242 of the Companies Act, 2013 after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

Explanation.—For the purposes of this section,—

(i) 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;

(ii) “Tribunal” shall have the meaning assigned to it in clause (90) of section 2 of the Companies Act, 2013.

Judicial Pronouncements

(1) Section 79 would not apply if shares carrying 51% of the voting powers continue to be held by the same group which held shares carrying 51% of the voting power in the year in which the loss was incurred, although within the group itself there may be any amount of change of shareholding.

(2) Section 79 applies to all losses, including loss under the head capital gains. However, overriding provisions of section 79 do not effect the set off of unabsorbed depreciation which is governed by section 32(2). [*Concord Industries Ltd. vs CIT (1979) 119 ITR 458 (Mad.)*]

Discussions & Explanations

(1) Shareholding pattern of M/s. X Pvt. Ltd. not being an eligible start up [25% of shares held by each shareholder]

31-3-2019	A	B	C	D
31-3-2020	A	B	C	X
31-3-2021	A	B	Y	X

State whether losses of P.Y 2018-19 and P.Y. 2019-20 can be C/F. PY 2020-21?

Brought forward losses of 2018-19:

As on 31-3-2019 and 31-3-2021 only, shares to the extent of 50% are beneficially held by same persons A & B. Hence, House Property loss, Capital Loss, OMRH, Business loss of 20XX-X1 cannot be set off in 2020-21.

Brought forward losses of 2019-20:

As on 31-3-2020 and 31-3-2021 only, shares to the extent of 75% are beneficially held by same persons A, B&X. Accordingly all losses of 2019-20 can be set off in 2020-21.

(2) Refer case study (1). What would be your answer if Mr. B dies on 1-5-2020 and shares are transferred by inheritance to Z.

Same answer as case study (1)

(3) Refer case study 1

As on 31-3-2019 shares are held by A, B, C, X equally.

As on 31-3-2020 shares are held by A, B, C, and Y → 40%; 20%; 15% & 25% respectively.

Common shareholders → A, B & C

Total shareholding → 75% on 31-3-2019 & 31-3-2020

So, carry forward the loss.

Question 1: A private limited company has share capital in the form of equity share capital. The shares were held until 31st March, 20XX by four members A, B, C and D equally. The company made losses/ profits for the past three assessment years as follows:

Previous Year	Business Loss (₹)	Unabsorbed dep. (₹)	Total (₹)
20XX-X1	Nil	15, 00,000	15, 00, 000
20X1-X2	Nil	12, 00,000	12, 00, 000
20X2-X3	9, 00,000	9,00, 000	18, 00, 000

The above figures have been accepted by the tax department.

During the previous year 20X3-X4, A sold his shares to Y and during the previous year 20X4-X5", B sold his shares to Z. The profits for the past two previous years are as follows:

20X3-X4 ₹ 18, 00,000 (before charging depreciation ₹9,00,000)

20X4-X5 ₹ 45, 00,000 (before charging depreciation ₹ 7,50,000)

Compute taxable income for 20X4- X5. Workings must form part of your answer.

(13) ASSESSMENT OF BANKING BUSINESS

Section 43D	For Public financial institutions/scheduled banks/co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank or a State financial corporation or a State industrial investment corporation or a deposit taking non-banking financial company or a systemically important non-deposit taking non-banking financial company → Interest on bad and doubtful debts, NPA is recognized on cash basis or when credited in books, whichever is earlier. [Section 43D]
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(14) CAPITAL GAINS EXEMPTIONS TO ELIGIBLE STARTS UPS
SECTION 54GB

Asset in respect of which capital Gain is exempted	Who can Claim Exemption	Which asset should be acquired	Amount of exemption	When can the exemption be withdrawn
<p><u>Section 54GB</u> Provides exemptions in respect of LTCG arising on transfer of residential property (house or plot of land).</p> <p>Exemption shall be available upto 31.3.2017.</p> <p>For investment in eligible starts up exemption shall be allowed till 31.03.2021</p>	Individual or HUF	<p>The consideration is used for acquisition of more than 25% equity shares of newly formed manufacturing SME company/eligible start-up within the return filing date u/s. 139(1); and</p> <p>the company must utilize this amount for purchase of new factory plant & machinery within 1 year from the date of subscription of equity shares or the company deposit the amount in CGDS before return filing date.</p>	<p>Exemption =</p> <p>Amount invested in new factory plant & <u>machinery/CGDS</u></p> <p>Net consideration</p> <p>× LTCG</p> <p>1. Net consideration = FVC – transfer expense.</p> <p>2. Plant & machinery does not include-</p> <p>(a) Second hand P&M (b) Office appliances including computer or computer software (c) any vehicle (d) P&M installed in office or residential premises (e) P& M on which 100% deduction is claimed under Business/Profession</p> <p>However, new asset also includes compute or computer software for eligible start-up, being a technology driven start-up so certified by the Inter-Ministerial Board of Certification notified by the Central Government in the Official Gazette.</p>	<p>1. If the equity shares are sold or otherwise transferred by the assessee or the new plant & machinery has been sold by the company within *5 years from the date of its acquisitions, then the earlier exemption shall be taxable in the year of sold or transfer as LTCG in the hands of assessee [Individual or HUF]</p> <p>* 3 years for computer or computer software, acquired by an eligible start-up</p> <p>2. Any amount unutilized by the company in CGDS shall be taxable as LTCG in the hands of assessee [Individual or HUF] on the expiry of 1 year from the date of subscription of equity shares.</p> <p><u>Unutilised amount in CGDS</u></p> <p>Net consideration</p> <p>× LTCG</p>

Meaning of eligible start -up: Same as section 80IAC

(15) Tax Holiday			
80IBA	Assessee engaged in the business of developing and building residential housing projects approved by competent authority between 1.6.2016 to 31.3.2020.		100% of the profit of such project.
Other conditions:			
(a)			
Location of Project	Minimum size of plot of land of the project.	Maximum size of residential unit	Minimum utilization of land for project
If the project is <i>within the metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region)</i>	1000 sq.mt	30 60 sq.mt w.e.f 1.9.2019	90% of permissible limit.
Any other cities	2000 sq.mt	60 90 sq.mt	80% of permissible limit.
<p>(b) the project is the only housing project on such plot of land.</p> <p>(c) the stamp duty value of a residential unit in the housing project does not exceed ₹ 45 lakh</p> <p>(d) the project must be completed within 5 years from the date of approval. Otherwise, earlier deduction is taxable under PGBP after the expiry of 5 years.</p> <p>(e) the size of the shops and other commercial establishments included in the housing project does not exceed 3% of the aggregate carpet area;</p> <p>(f) maximum one residential unit can be allotted to an individual/ spouse or minor children of such individual;</p> <p>(g) No deduction shall be allowed to any assessee who executes the housing project as a works-contract awarded by any person (including the Central Government or the State Government).</p> <p>(h) separate books of accounts for the housing project to be maintained.</p> <p>(i) If deduction claimed under this section, no deduction shall be allowed for such amount under any other provisions of the Act.</p>			

80LA	Income of – - Schedules bank or any bank incorporated outside India and having an off-shore banking unit in a SEZ	Amount of deduction: 100% of income is deductible for 5 first years and 50% for next 5 years.	
	- Unit of an International Financial Service Centre (IFSC) for which it has been approved for setting up in such a centre in a SEZ	Amount of deduction: 100% of Income for any 10 consecutive assessment years out of 15 years.	
<p>Deduction is allowed from the relevant year in which the permission/registration was obtained –</p> <p>(i) u/s. 23(1)(a) of the Banking Regulation Act, 1949;</p> <p>(ii) under SEBI Law;</p> <p>(iii) any other relevant law was</p> <p>Note- Certificate of CA required and copy of permission obtained shall be attached in the return.</p>			

(16) Charitable Trust

1. Procedure for Registration [Section 12AA]

(1) The Commissioner, on receipt of an application u/s 12A, shall within the expiry of six months from the end of the month in which the application was received for registration shall—

(a) call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about,—

(i) the genuineness of activities of the trust or institution; and

(ii) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects,

and may also make such inquiries as he may deem necessary in this behalf; and

(b) After satisfying himself about the objects of the trust or institution and the genuineness of its activities as required under sub-clause(i) of clause (a) and compliance of the requirement under sub-clause(ii) of the said clause, he—

(i) Shall pass an order in writing registering the trust or institution;

(ii) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution, after giving the applicant reasonable opportunity of being heard and a copy of such order shall be sent to the applicant :

[Note similar amendment also in section 10(23C)]

2. Cancellation of registration:

(1) If after granting registration subsequently the Commissioner is satisfied that –

(i) the activities of such trust or institution are not genuine or are not being carried out in accordance with its objects;

(ii) the activities of the trust or the institution are being carried out in a manner that the provisions of [sections 11](#) and [12](#) do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of [section 13](#);

(iii) the trust or institution has not complied with the requirement of any other law, as referred to in sub-clause (ii) of clause (a) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality,

he shall pass an order in writing canceling the registration of such trust or institution after giving such trust or institution a reasonable opportunity of being heard. [Section 12AA (3)/(4)]

[Note similar amendment also in section 10(23C)]

(17)CHANGES UNDER THE PROVISIONS OF MAT U/S. 115JB

[Vide the Finance Act (No.2), 2019 and the Taxation Laws (Amendment) Act, 2019]

1. Rate reduced to 15% from 18.5%.

2. MAT not applicable –

(i) on income accruing or arising to a company from life insurance business

(ii) to a person who has exercised option u/s. 115BAA/115BAB

3. Aggregate amount of unabsorbed depreciation and b/f loss shall be allowed as deduction in computing book profit in the following cases-

(A) company, and its subsidiary and the subsidiary of such subsidiary, where, the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new directors who are nominated by the Central Government under section 242 of the said Act;

(B) 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.

4. MAT Credit : B/f MAT Credit CANNOT BE SET OFF AGAINST INCOME U/S. 115BBA

(18) INCENTIVES TO INTERNATIONAL FINANCIAL SERVICE CENTRES (IFSCS)

[Benefit further extended vide the Finance Act (No.2), 2019 and the Taxation Laws (Amendment) Act, 2019]

An IFSC accommodates foreign customers. This enables flows of finance, financial products and services across borders. It can be established in SEZ.

(1) From 1.6.2016 STT & CTT shall not be levied on transaction undertaken in stock exchange located in IFSC. However, the benefit of section 111A and 112A shall be allowed.

(2) Concessional rate of MAT @ 9% instead of 18.5%.

(3) NO CDT by virtue of exemption u/s. 115O (8)

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 *or income accumulated as a unit of International Financial Services Centre after the 1st day of April, 2017*, either in the hands of the company or the person receiving such dividend.

(4) No distribution tax u/s. 115R is payable by mutual fund specified u/s. 10(23D) located in any IFSC of which all the units are held by non-residents in respect to any amount of income distributed on or after 1.9.2019 out of income derived from transaction made on a recognized stock exchange located in any IFSC and where the consideration for such transaction is paid or payable in convertible foreign exchange. [Proviso to section 115R]

(5) Deduction u/s. 80LA for IFSC Unit is allowed. **Further, even if opted concessional taxation regime u/s. 115BAA or special tax rate u/s. 115A.**

(6) Any transfer of a capital asset, being-

- (a) bond or Global depository receipt; or
- (b) rupee denomination bond of an Indian company; or
- (c) derivative

(d) such other securities as may be notified by the Central Government in this behalf, made by a Non-resident on a recognized stock exchange located in any International Financial Service Centre and where the consideration for such transaction is paid or payable in foreign currency shall be treated as exempted transfer U/S. 47(viiab)

Note – *Income received by a Category III Alternative Investment Fund by way of transfer of above securities held by a non-resident in IFSC and where the consideration for such transaction is paid or payable in convertible foreign exchange, shall be exempt u/s. 10(4D).*

(7) Interest payable to non-resident by a unit located in an International Financial Services Centre (IFSC) in respect of monies borrowed by it on or after 1.9.2019 shall be exempt u/s. 10(15)(ix)

(8) not required to file return from AY 2019-20 onwards by virtue of section 139(1C)

Notified person- a non-resident, who have any income chargeable under the said Act during a previous-year from any investment in an investment fund set up in an International Financial Services Centre (IFSC) located in India and TDS deducted u/s. 194LBB, and no other income.

(19) AMENDNED PROVISIONS OF SECTION 115QA

[Amendment is already discussed but entire provisions is reproduced for your benefit]

(1) SECTION 115QA: TAX ON DISTRIBUTED INCOME TO SHAREHOLDERS

(a) Notwithstanding anything contained in any other provision of this Act, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount of distributed income by the company on buy-back of shares from a shareholder shall be charged to tax and such company shall be liable to pay additional income-tax at the rate of 23.296% (20%+SC@12%+HEC@4%) on the distributed income.

Provided that the provisions of this sub-section shall not apply to such buy-back of shares (being the shares listed on a recognized stock exchange), in respect of which public announcement has been made before 5th July 2019 in accordance with the provisions of SEBI.

Explanation.—For the purposes of this section,—

(i) “buy-back” means purchase by a company of its own shares in accordance with the provisions of *any law for the time being in force relating to companies*

(ii) “distributed income” means the consideration paid by the company on buy-back of shares as reduced by *the amount, which was received by the company for issue of such shares, determined in the manner as may be prescribed.*

(b) Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on the distributed income under sub-section (1) shall be payable by such company.

(c) The principal officer of the domestic company and the company shall be liable to pay the tax to the credit of the Central Government within 14 days from the date of payment of any consideration to the shareholder on buy-back of shares referred to in sub-section (1). Otherwise, the company shall be liable to pay interest @ 1% p.m. or part of the month U/s 115QB. Further the company shall also be regarded as assessee in default and all the provisions of the Act regarding collection and recovery shall apply.

(d) The tax on the distributed income by the company shall be treated as the final payment of tax in respect of the said income and no further credit therefor shall be claimed by the company or by any other person in respect of the amount of tax so paid.

(e) No deduction under any other provision of this Act shall be allowed to the company or a shareholder in respect of the income which has been charged to tax under sub-section (1) or the tax thereon.

(2) Section 10(34A): Any income arising to an assessee, being a shareholder, on account of buy back of shares by the company as referred to in section 115QA; shall be exempted U/s 10(34A).

(20) TAXATION OF INVESTMENT FUND

[There is changes in the provisions of set off of losses, the entire provisions is given for your benefit]

“investment fund” means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992;

“trust” means a trust established under the Indian Trusts Act, 1882 or under any other law for the time being in force;

“unit” means beneficial interest of an investor in the investment fund or a scheme of the investment fund and shall include shares or partnership interests.

(A) Treatment of Income earned by investment fund [Sec. 115UB]

(i) Business Income: taxable in the hands of Investment Fund and Exempt in the hands of unit holder(s).

(ii) Other income: Exempt in the hands of Investment fund and taxable in the hands of unit holders as if the unit holder directly made the investment. Further, the nature of income for the unit holder is deemed to be the nature of income of the Investment fund.

(iii) Rate of Tax for investment Fund:

(a) if the investment fund is a company or firm then, 30% + SC (if applicable) + Cess

(b) If the investment is any other person, then 42.744% (maximum marginal rate)

(iv) The provisions of CDT shall not be applicable to Investment Fund.

(v) Income of investment Fund if actually not paid or credited to the unit holders, then it is deemed that such income have been credited on the last day of the previous year. Further, it is not included in the year of actual payment.

(vi) Investment Fund shall be required to furnish prescribed statement to the Unit Holders and also to the Income tax authorities giving details to nature of income paid or credited to the unit holders during the previous year.

(vii) Other related amendments for Investment Fund

(i) Investment Fund shall compulsorily require to furnish its return of income or loss as per section 139(4F)

(ii) TDS provisions shall not be attracted w.r.t Business income received by Investment Fund [Notification u/s. 197A (1F)].

(iii) Investment Fund shall be required to deduct tax @ 10% u/s. 194LBB on income (other than business Income) payable to unit holders [i.e., income taxable in the hands of unit holders].

(iv) Provisions of section 115U shall not be applicable for investors of VCC/VCF.

(v) An Investment trust shall be required to furnish a statement of income paid or credited to its unit holder:-

(i) by 30th day of June of the following financial year to the unit holder and

(ii) within 30th November of the following financial year to the principal commissioner/CIT.

(B) Treatment of losses incurred by investment fund**A. Current Year Loss****For business loss:**

(1) Provisions of Set off & Carry forward of losses shall be applicable in the hands of the Investment Fund for loss arising in *computation under the head "Profits and gains of business or profession"*. Such loss cannot be transfer to Unit Holders.

Other loss: Cannot be transferred to Unit Holders, if such loss has arisen in respect of a unit which has not been held by the unit holder for a period of at least twelve months [Note - if it is held for 12 months or more period, then can be transferred to Unit holders for set off]

B. Accumulated Loss as on 31.3.2019**Other than Business loss:**

The loss other than the loss under the head “Profit and gains of business or profession”, if any, accumulated at the level of investment fund as on the 31st day of March, 2019, shall be,—

(i) deemed to be the loss of a unit holder as on 31.3.2019 and allowed to be carried forward by such unit holder for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and shall be set off by him in accordance with the provisions of Set off & c/f of losses.

Further, Such loss shall not be available to the investment fund on or after the 1st day of April, 2019.

Circular 14/2019, dated 3.7.2019: Any income in the hands of the non-resident investor from off-shore investments routed through the Category I or Category II AIF, being a deemed direct investment outside India by the non-resident investor is not taxable in India under section 5(2) of the Act.

It is further clarified that loss arising from the off-shore investment relating to non-resident investor, being an exempt 1055, shall not be allowed to be set-off or carried-forward and set off against the income of the Category I or Category II AIF

Question 1: Wealth Builder Ltd. a registered Investment Fund under SEBI, incurred the following information for the P.Y 20XX -X1:-

- (a) Business Income ₹ 15,00,000
- (b) Capital Gains (₹10,00,000)
- (c) Interest income ₹ 20,00,000
- (d) Income from House property ₹ 4,00,000

During the year, the Company has distributed House property Income to its unit holders and asked you to suggest whether it is liable to pay CDT or not? Also suggest the company whether it is liable to deduct tax at sources on distribution of such Income or not? Total number of unit holder is 10. You are also required to compute tax the liability of the Investment Fund.

Mr. A one of the unit holders of Wealth builder (P) Ltd. asked you to suggest him about his tax liability. During the year, the Investment Fund has not credited nor paid any other income to its unit holders except income from house property.

Solution: As per Section 115UB (1) income of a unit holder of an investment fund, out of investments made in the investment fund, shall be chargeable to income-tax in the same manner as if it were the income accruing or received by the unit holder as if the investments had been made by him directly. However, as per section 115UB (2), losses shall not be considered in the hands of unit holders. However, as per Section 10(23FBB) business income of the investment fund shall be exempt in the hands of unit holders.

As per section 10(23FBA), any income of an investment fund other than the income chargeable under the head “Profits and gains of business or profession”; shall be exempted.

Section 115UB (3) provides that, the income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the units holders. Further, as per section 115UB(6), Income of investment Fund if actually not paid or credited to the unit holders, then it is deemed that such income have been credited on the last day of the previous year.

Computation of Tax liability of the Investment Fund

	₹	₹
<u>Income from House property</u> (Exempted u/s. 10(23FBA))		NIL
<u>Business Income</u>		15,00,000
<u>Capital Gains</u> (To be carried forward, cannot be set off Against any other Head of Income)	(10,00,000)	NIL
<u>Income from other sources</u> (Exempted u/s. 10(23FBA))		NIL
Total Income		<u>15,00,000</u>
Tax on Total income @ 30%		4,50,000
Add: Cess @4%		<u>18,000</u>
		<u>4,68,000</u>

The company shall not be liable to pay CDT on distribution of its income to its unit holders as per provisions of section 115UB (5). However, the company shall be liable to deduct tax at sources u/s. 194LBB @ 10% on distribution of any income (other than business Income) to unit holders.

Computation of tax liability of Mr. A

	₹
Income from House property [4,00,000/10]	40,000
Income from other sources [20,00,000/10] – Deemed to be credited as on 31.3.20X1	<u>2,00,000</u>
Total Income	2,40,000
Tax payable	Nil
[Assuming, Mr. X does not have income from any other sources]	

Question 2: Finance Builder Pvt. Ltd, a registered Investment Fund under SEBI, incurred the following information for the P.Y 20XX -X1:-

- Business Income ₹ (4,00,000)
- House Property Income ₹ 20,00,000
- Capital Gains (₹ 10,00,000)

Total number of unit holder is 10. Show necessary computations.

Answer : Computation of Tax liability of the Investment Fund

	₹
<u>Income from House property</u> (Exempted u/s. 10(23FBA))	NIL
<u>Business Income</u> (Loss to be set off against income from house property)	Nil
<u>Capital Gains</u> Loss of capital gains cannot be set off against any other heads]	NIL
Taxable Amount	<u>Nil</u>

The company shall not be liable to pay CDT on distribution of its income to its unit holders as per provisions of section 115UB(5). However, the company shall be liable to deduct tax at sources u/s. 194LBB @ 10% on distribution of any income (other than business Income) to unit holders.

Computation of taxable income of Mr. A

₹

Income from House property [20,00,000 - 4,00,000/10]	1,60,000
Taxable Income	1,60,000

Note: Section 115UB(2) provides that, where in any previous year, the net result of computation of total income of the investment fund [without giving effect to the provisions of section 10(23FBA)] is a loss under any head of income and such loss cannot be or is not wholly set-off against income under any other head of income of the said previous year, then such loss shall be allowed to be carried forward and it shall be set-off by the investment fund in accordance with the provisions of Chapter VI; and such loss cannot be passed to the investors.

Accordingly in the given case, the business loss of ₹ 4,00,000 has to be set off against income from other sources and the balance income is taxable in the hands of unit holders.

Further, the loss under capital gains can be transferred to the Unit holder for set off by the Unit holder of if the Unit is held by him for 12 months or more. However, if it is held for less than 12 months then it can neither be c/f by the Unit Holder nor by the Investment Fund.

(21) Amendments in penalty & Prosecutions provisions –

1. ACCEPTANCE OF PAYMENT THROUGH PRESCRIBED ELECTRONIC MODES. [SECTION 269SU READ WITH RULE 119AA]

w.e.f 1.1.2020

Every person, carrying on business, if his total sales, turnover or gross receipts, as the case may be, in business exceeds fifty crore rupees during the immediately preceding previous year shall provide facility for accepting payment through following electronic modes, in addition to the facility for other electronic modes of payment, if any, being provided by such person, namely:—

- (i) Debit Card powered by RuPay;
- (ii) Unified Payments Interface (UPI) (BHIM-UPI); and
- (iii) Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code)

Note- If fails to provide such facilities penalty ₹ 5000 for every day during which such failure continues u/s. 271DB shall be imposed by the Joint commissioner of Income Tax. However, no penalty if such person proves that there were good and sufficient reasons for such failure.

2. Section 270A : Penalty 50% of tax payable on under-reporting of income

Situations	Case of underreporting of income	Amount of underreporting
Return filed and processing done u/s. 143(1)	(a) the income assessed is greater than the income determined in the return processed u/s. 143(1)(a)	(a) Income assessed (-) income determined u/s. 143(1)(a).

	(b) the amount of deemed total income assessed/ reassessed u/s. 115JB/115JC, is greater than the deemed total income determined in the return processed u/s. 143(1)(a);	(a) $(A - B) + (C - D)$
Return not filed, or where return has been furnished for the first time u/s. 148 w.r.e.f 1.4.2017	(c) the income assessed is greater than the maximum amount not chargeable to tax. (d) the amount of deemed total income assessed u/s. 115JB/115JC is greater than the maximum amount not chargeable to tax;	(c) For company, firm or local authority: the amount of income assessed For other assessee: Income assessed (-) Basic exemption limit. (d) $(A - B) + (C - D)$
Reassessment	(e) the income reassessed is greater than the income assessed or reassessed immediately before such reassessment; (f) the amount of deemed total income reassessed u/s. 115JB/115JC is greater than the deemed total income assessed/reassessed immediately before such reassessment;	(e) Income reassessed or recomputed Less: Income assessed/reassessed/ recomputed in the order immediately preceding the order during the course of which penalty u/s. 270A(1) has been initiated. (f) $(A - B) + (C - D)$
Loss return	the income assessed/ reassessed has the effect of reducing the loss or converting such loss into income.	the loss claimed (-) the income/loss assessed or reassessed.

[no other changes]**3. Section 272B: Penalty for failure to comply with the provisions of [section 139A](#).**

272B. (1) If a person fails to comply with the provisions of [section 139A](#), the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees.

(2) If a person who is required to quote his PAN/Aadhaar quotes or intimates a number which is false, and which he either knows or believes to be false or does not believe to be true, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees *for each such default*.

(2A) If a person, who is required to quote his permanent account number or Aadhaar number, as the case may be, in documents referred to in sub-section (6A) of [section 139A](#) or authenticate such number in accordance with the provisions of the said sub-section, fails to do so, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees for each such default.

(2B) If a person, who is required to ensure that the permanent account number or the Aadhaar number, as the case may be, has been,—

(i) duly quoted in the documents relating to transactions referred to in clause (c) of sub-section (5) or in sub-section (6A) of [section 139A](#); or

(ii) duly authenticated in respect of transactions referred to under sub-section (6A) of that section, fails to do so, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees for each such default.]

(3) No order shall be passed unless the person, on whom the penalty is proposed to be imposed, is given an opportunity of being heard in the matter.

(4) FURNISHING OF STATEMENT OF FINANCIAL TRANSACTION OR REPORTABLE ACCOUNT [SECTION 285BA]**Section 285BA (1)** Any person, being—

- (a) an assessee; or
- (b) the prescribed person in the case of an office of Government; or
- (c) a local authority or other public body or association; or (d) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or
- (e) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; or
- (f) the Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898; or
- (g) the Collector referred to in clause (g) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or
- (h) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; or
- (i) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934; or
- (j) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or
- (k) a prescribed reporting financial institution; or

(l) a person, other than those referred to in clauses (a) to (k), as may be prescribed ^{w.e.f 1.9.2019}

who is responsible for registering, or, maintaining books of account or other document containing a record of any specified financial transaction or any reportable account, under any law for the time being in force, shall furnish a statement in respect of such specified financial transaction or such reportable account which is registered or recorded or maintained by him and information relating to which is relevant and required for the purposes of this Act, to the income-tax authority or such other authority or agency as may be prescribed.

Section 285BA(1) read with rule 114E requires the following person to furnish a statement of financial transaction in Form 61A in respect of a financial year.

SL No.	Nature of transaction	Monetary Limit	reporting person
1	(a) aggregate cash payment for purchase of DD/ pay orders/ banker's cheque. (b) aggregate cash Payments for purchase of pre-paid instruments issued by RBI. (c) aggregate cash deposits or cash withdrawals (including through bearer's cheque) in or from one or more current account of a person.	≥ ₹ 10 lakh ≥ ₹ 10 lakh ≥ ₹ 50 lakh (Separate limit for deposit and withdrawal)	Banks (including co-operative banks)
2	Aggregate Cash deposits in one or more accounts (other than a current account and time deposit) of a person.	≥ ₹ 10 lakh	(i) Banks (including co-operative banks); (ii) Post Master General.
3	Aggregate time deposits	≥ ₹ 10 lakh	(i) Banks (including co-operative banks) (ii) Post Master General; (iii) Nidhi Companies ; (iv) Certified

			NBFC
4	Aggregate credit card payment	\geq ₹1 lakh in cash or \geq ₹ 10 lakh in other mode	Banks (including co-operative banks) or any other company or institution issuing credit card.
5	Aggregate amount received from any person for acquiring bonds/ debentures.	\geq ₹ 10 lakh	A company or institution issuing bonds or debentures.
6	Aggregate amount received from any person for acquiring shares.	\geq ₹ 10 lakh	A company issuing shares.
7	Buy back of shares from any person (other than the shares bought in the open market).	\geq ₹ 10 lakh	Listed company.
8	Aggregate amount received from any person for acquiring units of mutual fund.	\geq ₹ 10 lakh	A trustee of a Mutual Fund or authorized person.
9	Receipt from any person for sale of foreign currency (including expense in debit or credit card or through issue of travellers cheque/ draft/ any other instrument) of an amount aggregating.	\geq ₹ 10 lakh	Authorised person under FEMA
10	Purchase or sale by any person of immovable property for actual amount or value of SVA.	\geq ₹30 lakh.	Inspector-General or Registrar or Sub-Registrar.
11	Receipt of cash payment for sale of goods or services by any person (items other than those specified at SL. No. 1 to 0 above)	$>$ 2 lakhs	Any person who is liable for audit under section 44AB of the Act.

Notes:

(1) The reporting person (other than the person at **10 & 11**) shall, while aggregating the amounts for determining the threshold amount –

(a) take into account and aggregate all the accounts of the same nature of that person during the financial year;

(b) attribute the entire value of the transaction or the aggregated value of all the transactions to all the persons, in a case where the account is maintained or transaction is recorded in the name of more than one person;

(2) The statement of financial transactions shall be furnished on or before the 31st May, immediately following the financial year in which the transaction is registered or recorded.

(3) The Board may prescribe different values for different transactions in respect of different persons having regard to the nature of such transaction. ~~However, the value or, as the case may be, the aggregate value of such transactions during a financial year so prescribed shall not be less than ₹ 50,000.~~ ^{w.e.f 1.9.2019}

(4) **In case of defect in the statement the same must be rectified within 30 days** from the date of such intimation or within such further period as may be allowed. In case the defect is rectified then **the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement,** ^{w.e.f 1.9.2019}.

(Consequently penalty of ₹ 50,000 may be leviable u/s. 271FAA)

(5) Where a person who is required to furnish a statement has not furnished the same within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such

statement within a period not exceeding 30 days from the date of service of such notice and he shall furnish the statement within the time specified in the notice.

(6) In case any inaccuracy is noticed in the statement then the same must be revised within 10 days.

SECTION 271FA: PENALTY FOR FAILURE TO FURNISH STATEMENT OF FINANCIAL TRANSACTION OR REPORTABLE ACCOUNT

If a person who is required to furnish a statement of financial transaction or reportable account u/s. 285BA(1), fails to furnish such statement on or before 31st May, the income-tax authority may direct that such person shall pay, by way of penalty, a sum of ₹ 100 for every day during which such failure continues:

Provided that where such person fails to furnish the statement within the period specified in the notice, he shall pay, by way of penalty, a sum of ₹ 500 for every day during which the failure continues, beginning from the day immediately following the day on which the time specified in such notice for furnishing the statement expires.”.

Example: An assessee who is required to file a statement of financial transaction or reportable account u/s. 285BA for the Financial Year 2018-19 has not filed the same within the prescribed due date. On 30.9.2019, a notice has been issued by the prescribed authority seeking for filing of Annual Information Return by 15.10.2019. However, the assessee filed it on 1.11.2019. Determine the amount of penalty levied u/s. 271FA.

Answer: Penalty : From 1.6.2019 to 15.10.2019 = ₹ 100 x 137 days = ₹ 13700
 From 16.10.2019 to 1.11.2019 = ₹ 500 x 17 days = ₹ 8500
 ₹ 22200

SECTION 271FAA: PENALTY FOR FURNISHING INACCURATE STATEMENT OF FINANCIAL TRANSACTION OR REPORTABLE ACCOUNT

If the ~~prescribed reporting financial institution~~ *person referred to in section 285BA(1)^{w.e.f 1.9.2019}*, who is required to furnish a statement provides inaccurate information in the statement, and where —

- the inaccuracy is due to a failure to comply with the due diligence as prescribed or is deliberate on the part of that person; or
- the person knows of the inaccuracy at the time of furnishing the statement of financial transaction or reportable account, but does not inform the prescribed income-tax authority or such other authority or agency; or
- the person discovers the inaccuracy after the statement of financial transaction or reportable account is furnished and fails to inform and furnish correct information within 10 days,

then, the prescribed income-tax authority may direct that such person shall pay penalty of ₹ 50,000.

(5) Prosecutions [no other changes]

Section	Nature of offence	Minimum period of rigorous imprisonment	Maximum period of rigorous imprisonment
276CC	Willful failure to file return of income in time u/s. 139(1), or in response to notice u/s. 142(1), or section 148 or Section 153A.	If tax which would have been evaded if the failure had not been discovered exceeds ₹ 25,00,000: 6 months and fine. In	If tax sought to be evaded exceeds ₹ 25,00,000: 7 years and fine.

	<p>any other case: 3 months and fine.</p> <p>Note: No prosecutions if:</p> <p>(i) the return is filed before the expiry of the assessment year; or</p> <p>(ii) the tax payable by such person (other than company) on regular assessment, as reduced by TDS/TCS, advance tax and <i>self-assessment tax paid before the expiry of the assessment year</i> does not exceed ₹10,000/-</p>	<p>In any other case: 2 years and fine.</p>
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(22) MISCELLANEOUS AMENDMENTS

FACE LESS SCRUTINY [SECTION 143(3A)/(3B)/(3C)]

(1) 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.

Accordingly – E-assessment Scheme, 2019 has been notified vide notification No. 61/2019, dated 12.9.2019 [The assessment under this Scheme shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board.]

(2) 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. However, no direction shall be issued after the 31st day of March, 2020.

Accordingly, Notification NO. 62/2019, dated 12.9.2019 has been issued to provide that the provisions of clause (7A) of section 2, section 92CA, section 120, section 124, section 127, section 129, section 131, section 133, section 133A, section 133C, section 134, section 142, section 142A, section 143, section 144A, section 144BA section 144C and Chapter XXI of the Act shall apply to the assessment made in accordance with the said Scheme **subject to the exceptions, modifications and adaptations provided in that notification.**

(3) Every notification issued under this section shall, as soon as may be after the notification is issued, be laid before each House of Parliament."

Note: Section 2(23C) "hearing" includes communication of data and documents through electronic mode;

[For Refer relevant notification to know the details procedures of e-assessment]

CHAPTER TDS & TCS

1. Section 195(2): Where the person responsible for paying any such sum chargeable under this Act (other than salary) to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application ~~to the assessing officer to determine, by general or special order in such form and manner to the Assessing Officer, to determine in such manner, as may be prescribed,~~ the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted under sub-section (1) only on that proportion of the sum which is so chargeable.

2. Section 195(7): The Board may, by notification in the Official Gazette, specify a class of persons or cases, where the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application ~~to the assessing officer to determine, by general or special order in such form and manner to the Assessing Officer, to determine in such manner, as may be prescribed,~~ the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted under sub-section (1) on that proportion of the sum which is so chargeable

3. Section 206A: Furnishing of statement in respect of payment of any income to residents without deduction of tax [substituted w.e.f 1.9.2019]

(1) Any banking company or co-operative society or public company referred to in the proviso to clause (i) of sub-section (3) of section 194A responsible for paying to a resident any income not exceeding ₹ 40,000, where the payer is a banking company or a co-operative society, and ₹ 5000 in any other case by way of interest (other than interest on securities), shall prepare such statement in such form, containing such particulars, for such period, verified in such manner and within such time, as may be prescribed, and deliver or cause to be delivered the said statement to the prescribed income-tax authority or to the person authorised by such authority. [covered in amendment in TDS section 194A]

(2) The Board may require any person, other than a person mentioned in sub-section (1), responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII, to prepare such statement in such form, containing such particulars, for such period, verified in such manner and within such time, as may be prescribed, and deliver or cause to be delivered the said statement to the income-tax authority or the authorised person referred to in sub-section (1).

(3) The person responsible for paying to a resident any income referred to in sub-section (1) or sub-section (2) may also deliver to the income-tax authority referred to in sub-section (1), a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under the said sub-sections in such form and verified in such manner, as may be prescribed

REFUND OF EXCESS PAYMENT

w.e.f 1.9.2019: Refund can be claimed only through return and not through any other manner.

Section 239: Every claim for refund shall be made by furnishing return in accordance with the provisions of section 139

Time limit for sale of attached immovable property for Recovery of tax due

Rule 68B of the Second Schedule to the Income Tax Act, 1961

(1) No sale of immovable property shall be made under this Part after the expiry of ~~3 years~~ 7 years from the end of the financial year in which the order giving rise to a demand of any tax, interest, fine, penalty or any other sum, for the recovery of which the immovable property has been attached, has become conclusive or final.

Provided that the Board may, for reasons to be recorded in writing, extend the aforesaid period for a further period not exceeding three years.

**SECTION 268A: FILING OF APPEAL OR APPLICATION FOR REFERENCE BY
INCOME-TAX AUTHORITY**

Circular No. 03/2018, dated 11.7.2018

[amended by Circular No. 17/2019]

Departmental Appeal before ITAT & HC and SLP before SC shall not be filed in cases where the tax effect does not exceed the following monetary limit-

Appeals in Income tax matter filed before	Monetary limit (in ₹)
ITAT	20,00,000 ₹ 50 lakhs
High Court	50,00,000 ₹ 1 crore
Supreme court	1,00,00,000 ₹ 2 crore

Note:

(1) The above limit is also applicable for filing memorandum of cross objections by the Department.

2. Adverse judgments relating to the following issues should be contested on merits irrespective of amount of tax effect/no tax effect:

- (a) Where the Constitutional validity of the provisions of an Act or Rule is under challenge, or
- (b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or
- (c) Where Revenue Audit objection in the case has been accepted by the Department, or
- (d) Where the addition relates to undisclosed foreign assets/ bank accounts.
- (e) **Where assessee claims bogus LTCG/STCL though penny stock [Circular No. 23/2019, dated 6.9.2019]**
- (f) where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under section 12A/ 12AA of the IT Act, 1961 etc.,

(23) CORPORATE TAXATION**RATE OF TAX FOR DOMESTIC COMPANY**

TOTAL INCOME	WHERE TURNOVER/GROSS RECEIPTS IN P.Y 2017-18 DOES NOT EXCEEDS ₹400 CRORES	COMPANY OPTING SECTION 115BA	COMPANY OPTING SECTION 115BAA	COMPANY OPTING SECTION 115BAB	ANY OTHER COMPANY
Up to ₹ 1 crores	25% + Cess 4% = 26%	25% + Cess 4% = 26%	22% + SC 10%+ Cess 4% = 25.168%	15% + SC 10%+ Cess 4% = 17.16%	30% + Cees 4% = 31.20%
Above ₹1 cr but upto ₹ 10 cr	25% + SC 7%+ Cess 4% = 27.82%	25% + SC 7%+ Cess 4% = 27.82%	22% + SC 10%+ Cess 4% = 25.168%	15% + SC 10%+ Cess 4% = 17.16%	30% + SC @ 7%+ Cees 4% = 33.384%
Above ₹10 cr	25% + SC 12%+ Cess 4% = 29.12%	25% + SC 12%+ Cess 4% = 29.12%	22% + SC 10%+ Cess 4% = 25.168%	15% + SC 10%+ Cess 4% = 17.16%	30% + SC @ 12%+ Cees 4% = 34.944%

DETAIL PROVISIONS**SECTION 115BA: TAX ON INCOME OF CERTAIN DOMESTIC MANUFACTURING COMPANIES**

(1) Notwithstanding anything contained in this Act but subject to the other provisions of this Chapter, other than those mentioned under section 115BAA and section 115BAB the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2017, shall, at the option of such person, be computed at the rate of twenty-five per cent, if the conditions contained in sub-section (2) are satisfied.

(2) For the purposes of sub-section (1), the following conditions shall apply, namely:—

- (a) the company has been set-up and registered on or after the 1st day of March, 2016;
- (b) 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; and
- (c) the total income of the company has been computed,—
 - (i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AC or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AC or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" other than the provisions of section 80JJAA;
 - (ii) without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred to in sub-clause (i); and
 - (iii) depreciation under section 32, other than clause (iia) of sub-section (1) of the said section, is determined in the manner as may be prescribed.

(3) The loss referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income which the person is required to furnish under the provisions of this Act:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Provided further that where the person exercises option under section 115BAA, the option under this section may be withdrawn **w.e.f. 1-4-2020.**

SECTION 115BAA: TAX ON INCOME OF CERTAIN DOMESTIC COMPANIES.

(1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAB, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of twenty-two per cent., if the conditions contained in sub-section (2) are satisfied:

Provided that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1), the total income of the company shall be computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" other than the provisions of section 80JJAA;

(ii) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i);

without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A, if such loss or depreciation is attributable to any of the deductions referred to in clause (i); and

(iii) by claiming the depreciation, if any, under any provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss and depreciation referred to in clause (ii) and clause (iii) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2020, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2019 in the prescribed manner, if the option under sub-section (5) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2020.

In case of a person, having a Unit in the International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, which has exercised option under sub-section (5), the conditions contained in sub-section (2) shall be modified to the extent that the deduction under section 80LA shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

Explanation.—For the purposes of this sub-section, the term "Unit" shall have the same meaning as assigned to it in clause (zc) of section 2 of the Special Economic Zones Act, 2005.

(4) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that in case of a person, where the option exercised by it under section 115BAB has been rendered invalid due to violation of conditions contained in sub-clause (ii) or sub-clause (iii) of clause (a), or clause (b) of sub-section (2) of said section, such person may exercise option under this section:

Provided further that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Section 115BAB: Tax on income of certain new domestic manufacturing companies.

(1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAA, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of fifteen per cent., if the conditions contained in sub-section (2) are satisfied:

Provided that where the total income of the person, includes any income, which has neither been derived from nor is incidental to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed at the rate of twenty-two per cent. and no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income:

Provided further that the income-tax payable in respect of the income of the person deemed so under second proviso to sub-section (6) shall be computed at the rate of thirty per cent.:

Provided also that the income-tax payable in respect of income being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed at the rate of twenty-two per cent.:

Provided also that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1), the following conditions shall apply, namely:—

(a) the company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2023 and,—

(i) the business is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of a company, business of which is formed as a result of the re-establishment, reconstruction or revival by the person of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in the said section;

(ii) does not use any machinery or plant previously used for any purpose.

Explanation 1.—For the purposes of sub-clause (ii), any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(A) such machinery or plant was not, at any time previous to the date of the installation used in India;

(B) such machinery or plant is imported into India from any country outside India; and

(C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.

Explanation 2.—Where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of such machinery or plant or part thereof does not exceed twenty per cent. of the total value of the machinery or plant used by the company, then, for the purposes of sub-clause (ii) of this clause, the condition specified therein shall be deemed to have been complied with;

(iii) does not use any building previously used as a hotel or a convention centre, as the case may be, **in respect of which deduction under section 80-ID has been claimed and allowed.**

Explanation.—For the purposes of this sub-clause, the expressions "hotel" and "convention centre" shall have the meanings respectively assigned to them in clause (a) and clause (b) of sub-section (6) of section 80-ID;

(b) 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.

***Explanation.*—For the removal of doubts, it is hereby clarified that the business of manufacture or production of any article or thing referred to in clause (b) shall not include business of,—**

(i) development of computer software in any form or in any media

(ii) mining;

(iii) conversion of marble blocks or similar items into slabs;

(iv) bottling of gas into cylinder;

(v) printing of books or production of cinematograph film; or

(vi) any other business as may be notified by the Central Government in this behalf; and

(c) the total income of the company has been computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" other than the provisions of section 80JJAA;

(ii) without set off of any loss or **allowance for unabsorbed depreciation deemed so under section 72A where such loss or depreciation is attributable** to any of the deductions referred to in sub-clause (i).

***Explanation.*—For the removal of doubts, it is hereby clarified that in case of an amalgamation, the option under sub-section (7) shall remain valid in case of the amalgamated company only and if the conditions contained in sub-section (2) are continued to be satisfied by such company; and**

(iii) by claiming the depreciation under the provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

If any difficulty arises regarding fulfilment of the conditions contained in sub-clause (ii) or sub-clause (iii) of clause (a) of sub-section (2) or clause (b) of said sub-section, as the case may be, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery. [Sub-section (4)]

Every guideline issued by the Board under sub-section (4) shall be laid before each House of Parliament, and shall be binding on the person, and the income-tax authorities subordinate to it. [sub-section (5)]

(4) Where it appears to the Assessing Officer that, owing to the close connection between the person to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the person more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F:

Provided further that the amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the person. [sub-section (6)]

(5) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year. [sub-section (7)]

Explanation.—For the purposes of section 115BAA and this section, the expression "unabsorbed depreciation" shall have the meaning assigned to it in clause (b) of sub-section (7) of section 72A.'

Comparative analysis of Section 115BA- 115BAA – 115BAB

Particulars	Section 115BA	Section 115BAA	Section 115BAB
Applicable to	Manufacturing domestic company	Any Domestic company	New manufacturing domestic company
Rate of tax for specified business income	25% [restriction on various deduction]	22% [restriction on various deduction]	15% [restriction on various deduction] [If covered under specified domestic transaction as referred in sec. 115BAB(6), rate 30%]
Rate of Tax for capital gains covered u/s. 111A,112,112A	10/15/20 (as per relevant section) (no restriction for deduction)	Same	Same
STCG on capital assets (other than sec.111A)	30% (no restriction for deduction)	22% (no restriction for deduction)	22% (no restriction for deduction)
Rate of tax for other income (HP, Other sources) for which	25% [restriction applies]	22% (no such restriction for	22% (no deduction allowed for any

no specific rate is provided		deduction)	exp/allowances)
For other income for which specific rate is provided [like winning for lotteries etc.]	Such specific rate Applicable	Same	Same
Surcharge	As applicable	10% (fixed)	10% (fixed)
Health & Education Cess	4%	4%	4%
MAT	Applicable	Not Applicable	Not Applicable
Set up and registration of company	On or after 1.3.2016	No such requirement.	On or after 1.10.2019
Commencement of production	-	-	On or before 31.3.2023
Nature of business	not engaged in any business (other than the business of manufacture or production and research in relation to, or distribution of, such article or thing manufactured or produced by i).	Not applicable	same. However, following business shall not be considered – (i) development of computer software; (ii) mining; (iii) conversion of marble blocks or similar items into slabs; (iv) bottling of gas into cylinder; (v) printing of books or production of cinematograph film; or (vi) any other business as may be notified by the Central Government in this behalf
Normal Depreciation	Allowed	Allowed	Allowed
Deduction not allowed for-	Refer Note 1	Refer Note 1 [deduction u/s. 80LA to IFSC Unit allowed]	Refer Note 1
Set off of business loss/unabsorbed dep.	Not allowed (if loss is attributable to any deduction listed in note 1	Same	Same
Set off of MAT credit	Allowed	Not allowed	Not applicable [it is a new company]
Splitting up/reconstruction of existing business	Benefit allowed	Benefit allowed	Benefit Not allowed (except due to natural calamities like flood, typhoon etc. as referred in Sec. 33B)
Use of old p&m	Benefit allowed	Benefit allowed	Benefit not allowed if value of old p&m exceeds 20% of total value.
Use of old Building	Benefit allowed	Benefit allowed	Not allowed if used as hotel/convention Centre for claiming deduction u/s. 80ID.
Onetime Exercising the option	In prescribed manner on or before the due date u/s. 139(1) for filing 1 st return.	Same Return relevant for A.Y 2020-21 or onwards	Same Return relevant for A.Y 2020-21 or onwards
	Option once exercised for any P.Y cannot be withdrawn subsequently for the same or any other previous year	Same	Same

AMENDMENTS IN INTERNATIONAL TAXATION

1. Scope of Specified Domestic Transaction expanded

Section 92BA(va) - any business transacted between the person referred to in section 115BAB(6)

Note- In such case rate of tax shall be 34.32% (30%+10% SC+4%cess) instead of 17.16% [15%+10% SC+4%cess = 17.16%]

2. In case of special tax rate u/s. 115A Deduction u/s. 28 to 44C, 57 & Chapter VI-A is not allowed in computing income. *However, deduction u/s. 80LA to a unit of an IFSC shall be allowed.*

3. RATE OF SURCHARGE ON NON-RESIDENT INDIVIDUAL/HUF/AOP/BOI/AJP HAVING INCOME U/S. 115AD

Situation	Rate of Surcharge
(a) Where Total income is more than ₹ 50 lakhs but does not exceeds ₹ 1 crore.	10%
(b) Where Total income is more than ₹ 1 crores but does not exceeds ₹ 2 crore.	15%
(c) Where Total income (excluding STCG/LTCG on securities referred to in sec. 115AD(1)(b)) is more than ₹ 2 crores but does not exceeds ₹ 5 crore.	25% for other income. 15% for cap. Gains securities referred to in sec. 115AD(1)(b)
(d) Where Total income (excluding STCG/LTCG on securities referred to in sec. 115AD(1)(b)) is more than ₹ 5 crore.	37% for other income. 15% for cap. Gains securities referred to in sec. 115AD(1)(b)
(e) Where Total income (including STCG/LTCG on securities referred to in sec. 115AD(1)(b)) is more than ₹ 2 crores but not covered under clauses (c) and (d) above .	15%.

4. EFFECT TO ADVANCE PRICING AGREEMENT [SECTION 92CD]

(1) If prior to entering the agreement the assessee has already furnished the return then such person shall within a period of three months from the end of the month in which the said agreement was entered into, a modified return in accordance with and limited to the agreement. Such modified return shall be considered as return furnished under section 139.

(2) If the assessment or reassessment proceedings have been completed before the expiry of period allowed for modified return the Assessing Officer shall, in a case where modified return is filed, ~~proceed to assess or reassess or recompute the total income of the relevant assessment year~~ **pass an order modifying the total income of the relevant assessment year determined in such assessment/reassessment** having regard to and in accordance with the agreement. Such order shall be passed within a period of one year from the end of the financial year in which the modified return is furnished;

(3) Where the assessment or reassessment proceedings to which the agreement applies are pending on the date of filing of modified return the Assessing Officer shall proceed to complete the assessment or reassessment proceedings in accordance with the agreement taking into consideration the modified return so furnished. The period of limitation for completing the assessment shall be extended by a period of twelve months.

(4) For the purposes of this section,—

(ii) the assessment or reassessment proceedings for an assessment year shall be deemed to have been completed where—

(a) an assessment or reassessment order has been passed; or

(b) no notice has been issued under sub-section (2) of section 143 till the expiry of the limitation period provided under the said section.!

(5) **Consequential amendment u/s. 246A** -An order of assessment or reassessment made u/s. 92CD(3) can be appealable.

(6) SECONDARY ADJUSTMENT [SECTION 92CE]**ADJUSTMENT IN THE BOOKS OF ACCOUNTS IN ORDER TO GIVE EFFECT TO ARM'S LENGTH PRICE ADJUSTMENT**

(1) Where a primary adjustment to transfer price,—

- (i) has been made *suo motu* by the assessee in his return of income;
- (ii) made by the Assessing Officer has been accepted by the assessee;
- (iii) is determined by an advance pricing agreement entered into by the assessee under section 92CC, **on or after 1.4.2017**;
- (iv) is made as per the safe harbour rules framed under section 92CB; or
- (v) is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 90/ 90A for avoidance of double taxation, the assessee shall make a secondary adjustment:

“primary adjustment” to a transfer price, means the determination of transfer price in accordance with the arm’s length principle resulting in an increase in the total income or reduction in the loss, as the case may be, of the assessee;

“secondary adjustment” means an adjustment in the books of account of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.’

Note: The provision of this section shall apply to the agreements which have been signed on or after 1st April, 2017. However, tax already paid cannot be refunded.

Non-applicability: Nothing contained in this section shall apply, if,

- (i) the amount of primary adjustment made in any previous year does not exceed ₹ 1 crore; or
- (ii) the primary adjustment is made in respect of an assessment year commencing on or before the 1st day of April, 2016.

(2) Where, as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee, the excess money **or part thereof, as the case may be**, which is available with its associated enterprise, if not repatriated to India within the time as may be prescribed, shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed in such manner as may be prescribed.

Explanation.—For the removal of doubts, it is hereby clarified that the excess money or part thereof may be repatriated from any of the associated enterprises of the assessee which is not a resident in India

“excess money” means the difference between the arm’s length price determined in primary adjustment and the price at which the international transaction has actually been undertaken;

Computation of interest income pursuant to secondary adjustments [Rule 10CB]
[Amended by Notification No. 76/2019, dated 30.9.2019]

Situations	Time limit for repatriation of excess money shall be on or before 90 days shall be considered-
(i) where primary adjustments to transfer price has been made suo-moto by the assessee in his return of income (ii) in the case of option exercised by the assessee as per the safe harbour rules under section 92CB	from the due date of filing of return u/s. 139(1)
(iii) if the primary adjustments to transfer price has been accepted by the assessee	from the date of the order of Assessing Officer/ the appellate authority
(iv) in the case of an agreement made under the mutual agreement procedure under a DTAA u/s. 90 or 90A	The date of giving effect by the A.O u.r 44H to such resolution.
(a) if the advance pricing agreement has been entered into on or before the due date of filing of return for the relevant previous year;	from the <u>date</u> of filing of return under sub-section (1) of section 139 of the Act
(b) if the said agreement has been entered into after the due date of filing of return for the relevant previous year	from the end of the month in which the advance pricing agreement has been entered into

Note –

(1) If excess money which is not repatriated, interest is calculated from date as specified in the above table except for point (iv)(a), where it is calculated from due date of filing of return under sub-section (1) of section 139 of the Act.

(2) Rate of Interest —

(i) where the international transaction is denominated in Indian rupee: at the 1 year marginal cost of fund lending rate of State Bank of India as on 1st of April of the current previous Year plus 325 basis points.

(ii) where the international transaction is denominated in foreign currency: at 6 month London Interbank Offered Rate as on 30th September of the current previous Year plus 300 basis points.

Note- The rate of exchange for the calculation of the value in rupees of the international transaction denominated in foreign currency shall be the telegraphic transfer buying rate of such currency on the last day of the previous year in which such international transaction was undertaken.

(2A) Without prejudice to the provisions of sub-section (2), where the excess money or part thereof has not been repatriated within the prescribed time, the assessee may, at his option, pay additional income-tax @ 18% (+ SC-12% + Cess -4%) on such excess money or part thereof, as the case may be.

(2B) The tax on the excess money or part thereof so paid by the assessee under sub-section (2A) shall be treated as the final payment of tax in respect of the excess money or part thereof not repatriated and no further credit therefor shall be claimed by the assessee or by any other person in respect of the amount of tax so paid.

(2C) No deduction under any other provision of this Act shall be allowed to the assessee in respect of the amount on which tax has been paid in accordance with the provisions of sub-section (2A).

(2D) Where the additional income-tax referred to in sub-section (2A) is paid by the assessee, he shall not be required to make secondary adjustment under sub-section (1) and compute interest under sub-section (2) from the date of payment of such tax [newly inserted by the Finance Act(No.2), 2019]

Question 1: Konark Digital solutions Ltd. is an Indian company in which Yokohoma Inc. a Singapore based company holds 30% shareholding and voting power. During the previous year 2018-19, the Indian Company supplied laptops to the Singapore based company @ \$ 800 per piece. The price of laptop supplied to other unrelated parties in Singapore is @ \$ 1200 per piece. During the course of assessment proceedings, the AO carried out primary adjustments and added a sum of ₹130 lakhs, being the difference between actual price of laptop and arm's length price for 500 pieces and it was duly accepted by the assessee. On account of this adjustment, the excess money of (130 lakhs is available with Yokohoma Inc, Singapore. In this context, you are requested to briefly explain the relevant provisions of Income Tax Act, 1961 and suggest suitable solution for the following issues :

(i) What is the effect of this transaction on the taxable income of Konark Digital Solutions Ltd. for the assessment year 20X1-X2 on the basis that it declared an income of ₹250 lakhs and the excess money is still lying with Yokohoma Inc. till today?

Assume the rate of exchange as 1 \$ = ₹65 and the marginal cost of lending rate of SBI as on 01.04.20XX at 10.75%.

(ii) Would taxable income of Konark Digital Solutions Ltd. undergo any change, if the above adjustment carried out resulted in addition of ₹90 lakhs as against ₹130 lakhs?

(iii) What is the impact of this adjustment on taxable income of Konark Digital Solutions Ltd. for assessment year , if such adjustment pertains to the immediately previous year 2015-16? [Nov-18]

Answer:

(i) In the given case, Due to primary adjustment increase in total income is ₹ 130 lakhs which exceeds ₹ 1 crores and it is not related to A.Y 2016-17, further, the assessee has accepted the primary adjustment. Therefore, the excess money available with the associated enterprise if not repatriated to India within 90 days from the date of the order of AO would be deemed as advance made to associated enterprise. Accordingly, liable for interest at 6 month London Interbank Offered Rate as on 30th September of the current previous Year plus 300 basis points (3%), since the international transaction is denominated in foreign currency.

Further, such interest shall be added to his total income of ₹ 250 lakhs for the A.Y 20X1-X2.

Alternatively, if the excess money is not repatriated to India, the assessee instead of paying interest and making secondary adjustment to increase his total income, he may opt to pay additional income-tax @ 18% (+ SC-12% + Cess -4%) on such excess money or part thereof and the tax so paid shall be treated as the final payment of tax.

(ii) No secondary adjustment required as the primary adjustment does not exceeds ₹ 1 crores. Accordingly, the total will remain same i.e ₹250 lakhs.

(iii) NO secondary adjustment required where primary adjustment is made in respect of A.Y 2016-17 or any earlier assessment year. Thus, there will be no change in his taxable income i.e ₹ 250 lakhs.

(7) Provisions of GAAR**1. Procedures of reference to Approving panel u/s 144BA** [Notification No. 67/2019, dated 17.9.2019]**Rule 10UD (Reference to the Approving Panel):**

A reference under sub-section (4) of section 144BA to an Approving Panel shall be,-

(i) made in Form No 3CEIA along with a copy of Form No 3CEI and such other documents which the Principal Commissioner or the Commissioner deems fit; and (ii) submitted in four sets, either in Hindi or English.

Rule 10UE (Procedure before the Approving Panel)

(1) A reference received under rule 10UD shall be caused to be circulated by the Chairperson of the said Panel among the other members within seven days from the date of receipt of such reference.

(2) The Chairperson of the Approving Panel shall cause to be issued the notice to the Assessing Officer and the assessee affording an opportunity of being heard specifying therein the date and place of hearing.

(3) The meetings of the Approving Panel shall take place at such place as the Approving Panel may decide.

Rule 10UF (Remuneration)-

(1) For attending the meeting of an Approving Panel, the Chairperson and other members of the said Panel shall be entitled to-

(i) a sitting fee of six thousand rupees per day; and
(ii) travelling allowances including transportation charges for local travel and daily allowances (including accommodation) as admissible to an officer of the rank of Special Secretary to the Government of India.

(2) The expenditure of an Approving Panel shall be met from the budgetary grants of the Department of Revenue in the Ministry of Finance of the Central Government.”

(8) TRANSFER PRICING DOCUMENTATION**1. Section 92D substituted -**

(1) Every person,—

- (i) who has entered into an international transaction or specified domestic transaction shall keep and maintain such information and document in respect thereof as may be prescribed;
- (ii) being a constituent entity of an international group, shall keep and maintain such information and document in respect of an international group as may be prescribed.

Explanation.—For the purposes of this clause,—

(A) "constituent entity" shall have the meaning assigned to it in clause (d) of sub-section (9) of section 286;

(B) "international group" shall have the meaning assigned to it in clause (g) of sub-section (9) of section 286.

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

(3) The Assessing Officer or the Commissioner (Appeals) may, in the course of any proceeding under this Act, require any person referred to in clause (i) of sub-section (1) to furnish any information or document referred therein, within a period of thirty days from the date of receipt of a notice issued in this regard:

Provided that the Assessing Officer or the Commissioner (Appeals) may, on an application made by such person, extend the period of thirty days by a further period not exceeding thirty days.

(4) The person referred to in clause (ii) of sub-section (1) shall furnish the information and document referred therein to the authority prescribed under sub-section (1) of section 286, in such manner, on or before such date, as may be prescribed.

2. For the purpose of section 286

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;

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TRANSFER PRICING DOCUMENTATION

BEPS-ACTION PLAN 13	Provisions under Income Tax Act
(1) Local File: It requires that detailed transactional transfer pricing documentation be provided to local tax administrator specific to each country covering material related party transactions, the amounts involved in those transactions, and the company's analysis of the transfer pricing determinations (i.e. selection and application of most appropriate method) with regard to those transactions.	Mostly similar to information and document required u/s. 92D(1)(i) read with rule 10D.
(2) Master File: Multinational enterprises (MNEs) shall require to provide to each local tax administrations in which they operate, with high-level information regarding their global business operations and transfer pricing policies in a "master file" that is to be available to all relevant tax administrations. Master File assist the tax administrators to evaluate the presence of significant transfer pricing risk.	Section 92D(1)(ii) & Sec. 92D(4) read with rule 10DA
(3) Country -by-Country Report (CbC): This will provide information relating to the global allocations of the MNE's Income and taxes paid; and indicates location of economy activities within MNE group.	Section 286 read and rule 10DB

1. Local Files

[92D(1)(i) read with rule 10D]

1. Every person, who has entered into an international transaction or specified domestic transaction shall keep and maintain the following information and document

Items	Particulars
(1) Information and Documentation to be kept and maintained	(a) a description of the ownership structure of the assessee enterprise with details of shares or other ownership interest held therein by other enterprises;
	(b) a profile of the multinational group of which the assessee enterprise is a part along with the name, address, legal status and country of tax residence of each of the enterprises comprised in the group with whom international transactions/ specified domestic transactions have been entered into by the assessee, and ownership linkages among them;
	(c) a broad description of the business of the assessee and the industry in which the assessee operates, and of the business of the associated enterprises with whom the assessee has transacted;
	(d) the nature and terms (including prices) of international transactions/ <i>specified domestic transactions</i> entered into with each associated enterprise, details of property transferred or services provided and the quantum and the value of each such transaction or class of such transaction;
	(e) a description of the functions performed, risks assumed and assets employed or to be employed by the assessee and by the associated enterprises involved in the international transaction/ <i>the specified domestic transaction</i> ;

	<p>(f) a record of the economic and market analyses, forecasts, budgets or any other financial estimates prepared by the assessee for the business as a whole and for each division or product separately, which may have a bearing on the international transactions/<i>the specified domestic transactions</i> entered into by the assessee;</p> <p>(g) a record of uncontrolled transactions taken into account for analysing their comparability with the international transactions/<i>or the specified domestic transactions</i> entered into, including a record of the nature, terms and conditions relating to any uncontrolled transaction with third parties which may be of relevance to the pricing of the international transactions/<i>specified domestic transactions</i>;</p> <p>(h) a record of the analysis performed to evaluate comparability of uncontrolled transactions with the relevant international transaction/<i>or specified domestic transaction</i>;</p> <p>(i) a description of the methods considered for determining the arm's length price in relation to each international transaction/<i>specified domestic transaction</i> or class of transaction, the method selected as the most appropriate method along with explanations as to why such method was so selected, and how such method was applied in each case;</p> <p>(j) a record of the actual working carried out for determining the arm's length price, including details of the comparable data and financial information used in applying the most appropriate method, and adjustments, if any, which were made to account for differences between the international transaction/<i>the specified domestic transaction</i> and the comparable uncontrolled transactions, or between the enterprises entering into such transactions;</p> <p>(k) the assumptions, policies and price negotiations, if any, which have critically affected the determination of the arm's length price;</p> <p>(l) details of the adjustments, if any, made to transfer prices to align them with arm's length prices determined under these rules and consequent adjustment made to the total income for tax purposes;</p> <p>(m) any other information, data or document, including information or data relating to the associated enterprise, which may be relevant for determination of the arm's length price.</p>											
Applicability in relation to an International Transaction	<p>In relation to an international transaction, the assessee is not required to keep and maintain the above document where the aggregate value, as recorded in the books of account, of international transactions entered into by the assessee does not exceed ₹ 1 crore.</p> <p>However, the assessee shall be required to substantiate, on the basis of material available with him, that income arising from international transactions entered into by him has been computed in accordance with section 92.</p>											
Applicability in relation to specified domestic transaction for assessee opting Safe Harbour rules	<p>(1) Assessee being a Government company engaged in the business of generation, supply, transmission or distribution of electricity: Following information and document to be kept and maintained instead as prescribed above-</p> <table border="1" data-bbox="395 1738 1453 2184"> <tr> <td data-bbox="395 1738 475 1850">(i)</td> <td data-bbox="475 1738 1453 1850"><i>a description of the ownership structure of the assessee enterprise with details of shares or other ownership interest held therein by other enterprises;</i></td> </tr> <tr> <td data-bbox="395 1850 475 1962">(ii)</td> <td data-bbox="475 1850 1453 1962"><i>a broad description of the business of the assessee and the industry in which the assessee operates, and of the business of the associated enterprises with whom the assessee has transacted;</i></td> </tr> <tr> <td data-bbox="395 1962 475 2074">(iii)</td> <td data-bbox="475 1962 1453 2074"><i>the nature and terms (including prices) of specified domestic transactions entered into with each associated enterprise and the quantum and value of each such transaction or class of such transaction;</i></td> </tr> <tr> <td data-bbox="395 2074 475 2141">(iv)</td> <td data-bbox="475 2074 1453 2141"><i>a record of proceedings, if any, before the regulatory commission and orders of such commission relating to the specified domestic transaction;</i></td> </tr> <tr> <td data-bbox="395 2141 475 2184">(v)</td> <td data-bbox="475 2141 1453 2184"><i>a record of the actual working carried out for determining the transfer price of</i></td> </tr> </table>	(i)	<i>a description of the ownership structure of the assessee enterprise with details of shares or other ownership interest held therein by other enterprises;</i>	(ii)	<i>a broad description of the business of the assessee and the industry in which the assessee operates, and of the business of the associated enterprises with whom the assessee has transacted;</i>	(iii)	<i>the nature and terms (including prices) of specified domestic transactions entered into with each associated enterprise and the quantum and value of each such transaction or class of such transaction;</i>	(iv)	<i>a record of proceedings, if any, before the regulatory commission and orders of such commission relating to the specified domestic transaction;</i>	(v)	<i>a record of the actual working carried out for determining the transfer price of</i>	
(i)	<i>a description of the ownership structure of the assessee enterprise with details of shares or other ownership interest held therein by other enterprises;</i>											
(ii)	<i>a broad description of the business of the assessee and the industry in which the assessee operates, and of the business of the associated enterprises with whom the assessee has transacted;</i>											
(iii)	<i>the nature and terms (including prices) of specified domestic transactions entered into with each associated enterprise and the quantum and value of each such transaction or class of such transaction;</i>											
(iv)	<i>a record of proceedings, if any, before the regulatory commission and orders of such commission relating to the specified domestic transaction;</i>											
(v)	<i>a record of the actual working carried out for determining the transfer price of</i>											

	<p><i>the specified domestic transaction;</i></p> <p>(vi) <i>the assumptions, policies and price negotiations, if any, which have critically affected the determination of the transfer price; and</i></p> <p>(vii) <i>any other information, data or document, including information or data relating to the associated enterprise, which may be relevant for determination of the transfer price;</i></p>
	<p>(2) Assessee is a co-operative society engaged in the business of procuring and marketing milk and milk products: Following information and document to be kept and maintained instead as prescribed above-</p> <p>(i) <i>a description of the ownership structure of the assessee co-operative society with details of shares or other ownership interest held therein by the members;</i></p> <p>(ii) <i>description of members including their addresses and period of membership;</i></p> <p>(iii) <i>the nature and terms (including prices) of specified domestic transactions entered into with each member and the quantum and value of each such transaction or class of such transaction;</i></p> <p>(iv) <i>a record of the actual working carried out for determining the transfer price of the specified domestic transaction;</i></p> <p>(v) <i>the assumptions, policies and price negotiations, if any, which have critically affected the determination of the transfer price;</i></p> <p>(vi) <i>the documentation regarding price being routinely declared in transparent manner and being available in public domain; and</i></p> <p>(vii) <i>any other information, data or document which may be relevant for determination of the transfer price.</i></p>
Information to be supported with authentic documents	<p>The information specified above shall be supported by authentic documents, which may include the following:</p> <p>(a) <i>official publications, reports, studies and data bases from the Government of the country of residence of the associated enterprise, or of any other country;</i></p> <p>(b) <i>reports of market research studies carried out and technical publications brought out by institutions of national or international repute;</i></p> <p>(c) <i>price publications including stock exchange and commodity market quotations;</i></p> <p>(d) <i>published accounts and financial statements relating to the business affairs of the associated enterprises;</i></p> <p>(e) <i>agreements and contracts entered into with associated enterprises or with unrelated enterprises in respect of transactions similar to the international transactions/ the specified domestic transactions;</i></p> <p>(f) <i>letters and other correspondence documenting any terms negotiated between the assessee and the associated enterprise;</i></p> <p>(g) <i>documents normally issued in connection with various transactions under the accounting practices followed.</i></p>
Form and Due date of furnishing of information	<p>No Forms required to be submitted. However, as per section 92D(3) the AO or the Commissioner (Appeals) may, in the course of any proceeding under this Act, asked to furnish any information or document within a period of 30 days from the date of receipt of a notice issued in this regard. [On application, AO/Commissioner (Appeals) extend the period of 30 days by a further period not exceeding thirty days]</p>
Existence of documents & Period to be kept	<p><i>The information and documents specified above shall be kept and maintained for a period of 8 years from the end of the relevant assessment year.</i></p> <p>Such information and documents should, as far as possible, be contemporaneous and should exist latest by the specified date i.e. the due date of furnishing return</p>

	<p>of income.</p> <p>Provided that where an international transaction/specified domestic transaction continues to have effect over more than one previous year, fresh documentation need not be maintained separately in respect of each previous year, unless there is any significant change in the nature or terms of the international transaction/specified domestic transaction, in the assumptions made, or in any other factor which could influence the transfer price, and in the case of such significant change, fresh documentation shall be maintained bringing out the impact of the change on the pricing of the international transaction/specified domestic transaction.</p>
<p>Penalty for violation</p>	<p>The AO or the Commissioner (Appeals), may levy penalty -</p> <p>(i) @ 2% of the value of each international transaction or specified domestic transaction entered into by such person (without prejudice to section 270A): if person fails to keep and maintain any specified information and document; or fails to report such transaction which he is required to do so; or maintains/ furnishes an incorrect information or document [Section 271AA(1)]</p> <p>(ii) @ 2% of the value of the international transaction or specified domestic transaction for each such failure: in case of failure to furnish information or documents u/s. 92D(3) in relation to international transaction/specified domestic transaction.</p> <p>However, no penalty shall be imposable if he proves that there was reasonable cause for the said failure. [Section 273B]</p>

2. Master File related provisions
[Section 92D(1)(ii) read with rule 10DA]

1. Section 92D(1)(ii) and 92D(4): Every person being a constituent entity (CE) of an international group, shall keep and maintain such information and document in respect of an international group as may be prescribed and shall furnish the information and document referred therein to the authority prescribed u/s. 286(1), in such manner, on or before such date, as may be prescribed.

[W.e.f A.Y 2020-21 Section 92D substituted to provide that maintenance of such document and filing of required form shall be applicable even when there is no international transaction undertaken by such CE]

Items	Particulars
Information and Documentation to be kept and maintained	<p><u>Organization structure</u> List of all entities of International Group (IG) including their address, legal status of constituent entity (CE), ownership structure of the entire IG,</p> <p><u>Descriptions of IG's Business</u> nature of business, important drivers of profits, description of supply chain of 5 largest products of IG in terms of revenue any other product amounting to more than 5% of consolidated group revenue.</p> <p><u>IG's intercompany financial activities and Intangibles</u> List and brief description of - important service arrangement, capabilities of main service provider within IG, major geographical markets, important business restructuring transaction, important agreement amongst member of IG related to intangible property, IG that provide central financing function, existing unilateral APA and other tax rulings in respect of IG for allocation of income among countries.</p> <p>Details about TP polices for allocation of services cost and prices for intra-group services, ownership and exploitation of intangible property and financing arrangement.</p> <p>Detail description of Financing arrangement of the IG including top 10 unrelated lenders. A copy of the annual consolidated financial statement of the IG</p>
Period	The above information and documents shall be kept and maintained for a period of 8 years from the end of the relevant assessment year.
<u>Applicability:</u>	<p>The above information and documents shall be maintained and kept by a Constituent Entity (CE) of an IG only if following condition are satisfied-</p> <p>1. if the consolidated group revenue of the IG for accounting year, exceeds ₹500 crore; and</p> <p>2. (A) the aggregate value of international transactions during the accounting year, as per the books of accounts exceeds ₹50 crore, or</p> <p>(B) the aggregate value of international transactions in respect of purchase, sale, transfer, lease or use of intangible property during the accounting year, as per the books of accounts, exceeds ₹10 crore,</p> <p><i>The rate of exchange for the calculation of the value in rupees of the consolidated group revenue in foreign currency shall be the telegraphic transfer buying rate of such currency on the last day of the accounting year</i></p>
<u>Form and Due date of furnishing of information</u>	<p>Form No. 3CEAA to be furnished electronically the Director General of Income-tax (Risk Assessment) on or before the due date for furnishing the return of income as specified u/s. 139(1).</p> <p><u>Part A of the Form No. 3CEAA</u> – shall require to filed by every Constituent Entity (CE) of an IG whether or not the above condition is satisfied. It comprises basic details such as name, Address, number of CEs in India, their names, addresses and PAN etc.</p> <p><u>Part B of the Form No. 3CEAA</u> – shall require to file by CE of an IG only if the above conditions are satisfied. It comprises the main master file information of the IG.</p>

Option to File one Master File on behalf of all Indian CE of an IG	Where an IG has more than one CEs resident in India, the group may opt to designate a CE that shall be obliged to file Form 3CEAA. In such cases, an intimation in Form 3CEAB has to be filed at least 30 days prior to the due date of filing the Form 3CEAA.
Penalty for violation	<p>The AO or the Commissioner (Appeals), may levy penalty -</p> <p>(i) @ 2% of the value of each international transaction or specified domestic transaction entered into by such person (without prejudice to section 270A): if person fails to keep and maintain any specified information and document; or fails to report such transaction which he is required to do so; or maintains/ furnishes an incorrect information or document [Section 271AA(1)]</p> <p>(ii) @ ₹ 5 lakh: if person fails to furnish information and document (Form 3CEAA) [Section 271AA(2)]</p> <p>However, no penalty shall be imposed if he proves that there was reasonable cause for the said failure. [Section 273B]</p>

3. Country-by-Country Report (CbC) related provisions

[Section 286 read with Rule 10DB]

Items	Particulars
(1) Applicability	<p>The CbC reporting obligation would be applicable in respect of an IG for an accounting year, if the total consolidated group revenue, as reflected in the consolidated financial statement (CFS) for the accounting year preceding such accounting year exceeds the prescribed amount i.e ₹ 5500 crores [Section 286(7)]</p> <p><i>The rate of exchange for the calculation of the value in rupees of such total consolidated group revenue shall be the telegraphic transfer buying rate of such currency on the last day of the accounting year preceding the accounting year.</i></p>
(2) Person required to furnish CbC report, due date and relevant form:	
(i) The Parent entity or alternate reporting entity, of an IG if resident in India, shall require to file CbC report in Form 3CEAD [Section 286(2)]	<p>Form 3CEAD (CbC report) – to be furnished electronically with the Director General of Income-tax (Risk Assessment) within a period of 12 months from the end of the said reporting accounting year. This Form is similar to as provided in Action Plan 13.</p>
(ii) Intimation in Form 3CEAC by every CE resident in India, of parent entity not resident in India [Section 286(1)]	<p>Form 3CEAC (intimation)- to be furnished electronically with the Director General of Income-tax (Risk Assessment) at least two months prior to the date of furnishing of CbC report in Form 3CEAC to intimate -</p> <p>(a) whether it is the alternate reporting entity of the international group; or</p> <p>(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. [Section 286(1)]</p>
(iii) CE resident in India [other than the parent entity or alternate reporting entity covered u/s. 286(2)] shall require to furnish CbC report in Form 3CEAD [Sec. 286(4)]	<p>Form 3CEAD (CbC report) – to be furnished electronically with the Director General of Income-tax (Risk Assessment), if the parent entity is resident of a country or territory, —</p> <p>(a) where the parent entity is not obligated to file the CbC report u/s. 286(2).</p> <p>(b) with which India does not have an agreement providing for exchange of the CbC report; or</p> <p>(c) there has been a systemic failure of the country or territory (i.e, not exchanging information by a country with which India has an agreement) and the said failure has been intimated by the prescribed authority to such constituent entity.</p> <p>Report shall be furnished within a period of 12 months from the end of the reporting accounting year. However, where, there has been a systemic failure of the country or territory and the said failure has been intimated to such constituent entity, the period for submission of the report shall be 6 months from the end of the month in which said systemic failure has been intimated.</p> <p>Note- For accounting year ending upto 28th February 2018, the time limit to furnish the CbC report is extended to 31.3.2019 as one-time measure. [Circular No. 9/2018, dated 26.12.2018]</p> <p>Further, in respect of Constituent entities whose parent entities are resident in USA, the furnishing of report in respect of reporting accounting years ending upto 29th April 2018 to 30th April 2019 [Circular No. 7/2019, dated 8.4.2019]</p>
(iv) Intimation in Form 3CEAE to nominate one CE for furnishing CbC report u/s. 286(4)	<p>Form 3CEAE (intimation): If there are more than one constituent entities resident in India of an international group, then the report may be furnished by that entity which has been designated by the international group to furnish the said report and the same has been intimated to the Director General of Income-tax (Risk Assessment) in Form No. 3CEAE (due date not given).</p>
(v) NO obligation to file CbC as per section 286(4)	<p>If, an alternate reporting entity of the IG has furnished CbC report, with the tax authority of the country/territory in which such entity is resident, on or before the</p>

[Section 286(5)]	date specified by that country/territory and the said country/territory has entered into an agreement with India providing for exchange of the said report, then the entities of such group operating in India would not be obliged to furnish report.	
(v) Entity to produce such information and document as may be specified in the notice issued by the DGIT (Risk Assessment) [Sec. 286(6)]	The DGIT (Risk Assessment) 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 30 days of the date of receipt of the notice or such further period as may be extended but such extension shall not exceed a further period of 30 days.	
(3) What are the contents of the CbC report?		
The CbC report in respect of an international group shall include, [Section 286(3)]	<p>(1) OVERVIEW OF ALLOCATION OF <u>INCOME</u>, TAXES AND BUSINESS ACTIVITIES BY TAX JURISDICTION</p> <p>(a) the aggregate information in respect of –</p> <p>(i) the amount of revenue, (ii) profit or loss before income-tax, (iii) amount of income-tax paid, (iv) amount of income-tax accrued, (v) stated capital, (vi) accumulated earnings, (vii) number of employees and (viii) tangible assets not being cash or cash equivalents, with regard to each country or territory in which the group operates;</p> <p>(b) the nature and details of the main business activity or activities of each constituent entity; and</p> <p>(2) 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;</p> <p>(3) any other information as may be prescribed.</p>	
(4) Penalty for non-furnishing of Cbc report /information		
(a) Non-furnishing of CbC report [Sec. 271GB(1)&(3)]	Period of delay/failure	Penalty
	Upto one month	₹ 5,000 per day
	More than one month.	₹ 15,000 per day for the period exceeding 1 month
In case of continuing default even after service of penalty order	₹ 50,000 per day from the date of service of such order.	
(b) Failure to produce information and documents before the prescribed authority within the period allowed u/s. 286(6)	<p>₹5,000 per day from the day immediately following the day on which the period for furnishing the information and document expires.</p> <p>₹ 50,000 per day from the date of service of such order, in case of continuing default even after service of penalty order. [Sec. 271GB(2) &(3)]</p>	
(c) Where a reporting entity provides inaccurate information in CbC [Sec. 271GB(4)]	<p>Penalty of ₹ 5,00,000 may be levied, if</p> <p>(a) the entity has knowledge of the inaccuracy at the time of furnishing the report but fails to inform the prescribed authority; or</p> <p>(b) the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within a period of 15 days of such discovery; or</p> <p>(c) the entity furnishes inaccurate information or document in response to the notice issued u/s. 286(6).</p>	
No Penalty u/s. 271GB: if the assessee proves that there was reasonable cause for the said failure. [Section 273B]		

Meaning of certain terms:

(a) “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 clause (i) or clause (ii), that includes the separate financial statement of the first mentioned constituent entity;

(b) “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 in the country or territory in which the said constituent entity is resident on behalf of such group;

(c) “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 clause (i) or 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

(d) “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;

(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) “reporting accounting year” means the accounting year in respect of which the financial and operational results are required to be reflected in the above report.

(g) “reporting entity” means the constituent entity including the parent entity or the alternate reporting entity, that is required to furnish the above report.

(h) “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;

(i) “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;

REPORT FROM CHARTERED ACCOUNTANT [SECTION 92E]

Every person who has entered into an international transaction/specified domestic transaction during a previous year shall obtain a report from a chartered accountant and furnish such report on or before the specified date (30th November of the relevant assessment year) in the form No. 3CEB duly signed and verified in the prescribed manner by such accountant and setting forth such particulars as may be prescribed:

PENALTY

Section	Nature of default	Quantum of penalty
271BA	Penalty for Failure to furnish a report from an accountant as required by section 92E.	₹ 1,00,000/-

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

What are prescribed conditions for eligible investment fund u/s 9A?

(1) Clause (j) amended-

(j) the monthly average of the corpus of the fund shall not be less than ₹ 100 crore. However, if the fund has been established during the previous year the corpus of fund shall not be less than ₹ 100 crore rupees ~~at the end of such previous year~~ *at the end of a period of six months from the last day of the month of its establishment or incorporation, or at the end of such previous year, whichever is later*

Provided further that nothing contained in this clause shall apply to a fund which has been wound up in the previous year

(2) Clause (m) amended-

(m) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than *the amount calculated in such manner as may be prescribed* ~~arm's length price of the said activity:~~ **[no other amendments]**

(10) Recovery of tax in pursuance of agreements with foreign countries [Section 228A]

(1) Where an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may, if the assessee is a resident of a country (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), or has any property in that country, forward to the Board a certificate drawn up by him under [section 222](#) and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.

[similarly, the authority of other country also send the CBDT a certificate for recovery of tax]

Chapter 3**THE REVISIONARY TEST PAPER**

[Based on recent amendments]

Question 8: Mr. Harilal aged 35, who is working in Apsara Ltd. draws basic salary of ₹ 6 lakhs per annum. He has also received the following during the Previous Year 2019-2020:

- Transport Allowances ₹ 2500 p.m.
- Medical Facility in the hospital maintained by employer ₹ 25,000.
- Reimbursement of Medical expenses ₹ 20,000.

Other relevant information are as under -

1. He owned following properties in India

House 1	Self-occupied	Interest on loan taken for purchase of property comes to ₹ 1,00,000. Stamp value of the property ₹ 37 lakhs. Actual cost of the property ₹ 35 lakhs. The loan is sanctioned on 1.5.2019, The property is purchased on 1.12.2019.
House 2	Self-occupied	Acquired in year 2017-18. Interest on loan for the year 2019-20 is ₹ 2,00,000. Principal amount of loan repaid on 1.3.2020 ₹ 1,00,000.
House 3	Let out	Let out till 31.3.2019 but sold out on 1.4.2019 for ₹ 90 lakhs, where the stamp value of the property is ₹ 92 lakhs. The Indexed cost of the property is ₹ 30 lakhs. Rent for the month March 2019 ₹30,000 p.m
House 4	Let out	Acquired the property on 1.7.2020 for ₹ 25 lakhs. Rent per month ₹ 25,000.

2. He held shares of a listed company since 5 years but on 1.1.2020, the company purchase back such shares. The long term gains arises to the him is ₹ 2 lakhs. The date of declaration of buyback of shares is 1.10.2019.

3. The assessee is willing to avail all permissible tax planning mechanism so as to reduce his tax liability.

From the above details Compute Tax liability of Mr. Harilal for the Assessment Year 2020-21.

Question 9: Mr. Anuj (aged 45 years) engaged in agency business, has provided you the following information for the P.Y 2019-20:-

1. Gross receipts	₹ 20,00,000
2. Medical expenses incurred towards family	
Planning of his employee	₹ 50,000
3. Salary paid to sister in law	₹ 1,20,000
[FMV ₹ 60,000]	
4. Other allowable business expenses	₹ 5,00,000
5. Purchase of electric vehicle for personal use	₹ 2,00,000
6. Interest paid on loan taken for purchase of	
above vehicle (loan sanctioned from SBI on 1.12.2019)	₹ 30,000
7. TDS (deductible but not deducted on commission	₹ 40,000
received from clients)	
8. Income tax paid on 10.3.2020	₹ 30,000
9. Eligible to claim relief u/s. 89	₹ 10,000

You are required to determine his tax liability and interest payable u/s. 234C. He has no other income. Assessee is willing to opt presumptive taxation scheme if it is benefited to him.

Question 10: Mr. Vanu, a tax consultant purchased a motor car on 1.10.2019 both for his personal use as well as professional use at the ratio of 25:75. The cost of Car 12,80,000 (including GST of ₹ 2,80,000). As per the Govt. rule car can be plied in the city only on alternate days. The car is put to use on 1.10.2019. he paid ₹ 1,00,000 in cash and balance in A/c payee cheque for the purchase of the car. Determine the allowable depreciation for the P.Y 2019-20. There is no other asset in the same block.

Question 11: Mr. Raghu owns the following commercial vehicles:

Nature of Vehicle	Number of Vehicle	Period owned
Light Commercial Vehicle	1	9 months and two days
Light Commercial Vehicle [Refer Note 1]	1	12 months
Heavy Goods Vehicle (Gross Vehicle weight 13 MT)	1	6 months 25 days
Heavy Goods Vehicle (Unladen weight is 14 MT)	1	11 months and 12 days
Medium goods vehicle	1	6 months
Medium goods vehicle	1	8 months and 15 days

Note 1: This vehicle is powered by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle and has electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy. The said vehicle is financed from a deposit taking NBFC on which he paid interest of ₹2,00,000 on EMI.

From the above information -

- Determine his business Income, if he opts the scheme under section 44AE.
- Compute his tax liability for the assessment year 2020-21.
- What will be the income if the trucks were not used for business for two months during the year due to strike ?

Question 12: Mrs. Bagchi, an Indian Citizen, who was working in the Ministry of External Affairs, Govt. of India is deputed to Indian High Commission of UK for a period of 3 years from 1.4.2019. She will get a salary of ₹ 1,75,000 p.m. Overseas Allowance ₹ 15000 p.m., a rent free accommodation in London of the fair rental value of ₹ 25000 p.m. a fiat car for use in UK at free of cost and actual air fare from Kolkata to London ₹ 60000. She left Kolkata on 25th March, 2019 for London and was paid her air fare there in London. Throughout the year she remained in London.

During the year the both employer and employee contributes 15% of basic salary towards Tier I NPS A.c u/s. 80CCD. Further, She spent ₹ 60,000 for Medical treatment of disabled dependent son.

During the year she also received following passive income –

- interest of ₹ 20,000 on rupee denominated bond issued on 31.3.2019 by an Indian company.
- interest of ₹ 10,000 on deposit made in London post office a.c.
- Cash gift received outside India on her marriage anniversary on 1.12.2019–
 - from her father from India ₹1,00,000
 - from her friend from India on her marriage anniversary ₹60,000.

You are required to determine her taxable income in India for the P.Y 2019-20.

Question 13: The Gross total income of Mr. Anuj (aged 45 years) engaged in manufacturing business in sole proprietorship mode is ₹ 2,50,000. His tax saving investment u/s. 80C is ₹ 50,000. His turnover from business is ₹ 90 lakhs. You are required to answer the following independent case, whether it is mandatory for him to file his return of income for the A.Y 2020-21 -

- His Purchase manager has travelled to Singapore during the P.Y 2019-20 for –

Date of travel	Travelling cost	Purpose
1.8.2019	1,10,000	Purchase of machinery
2.11.2019	80,000	Purchase of raw materials
15.3.2020	60,000	For personal vacation under Employment facility Scheme.
Total	2,50,000	

(ii) His books of account shows amount paid for electricity consumption for the whole year is ₹ 1,50,000.

(iii) His bank statement of current account shows –

Credit total for the year ₹1.10 crores

Debit total for the year ₹ 1 crores

Net balance ₹ 10 lakhs

Question 14: Mr. Anurag has following bank account in SBI, during the year 2019-20 his total cash withdrawal is as under –

Case 1:

Date of withdrawal	Saving A.c	Current A.c	Total cash withdrawal
Till 31.08.2019	50 lakhs	60 lakhs	110 lakhs
From 1.9.2019 to 31.3.2020	10 lakhs	30 lakhs	40 lakhs
Total	60 lakhs	90 lakhs	150 lakhs

Case 2:

Date of withdrawal	Saving A.c	Current A.c	Total cash withdrawal
Till 31.08.2019	30 lakhs	60 lakhs	90 lakhs
From 1.9.2019 to 31.3.2020	10 lakhs	50 lakhs	60 lakhs
Total	40 lakhs	110 lakhs	150 lakhs

You are required to answer , whether SBI is required to deduct any tax on such cash withdrawals u/s. 194N and if yes, the amount of TDS.

Question 15: Mr. Basu has withdrawn cash from his bank account on or after 1.9.2019 as under –

Name of Bank	Saving A/c	Current A.c	Total
SBI	30 lakhs	50 lakhs	80 lakhs
PNB	20 lakhs	30 lakhs	50 lakhs
Total	50 lakhs	80 lakhs	130 lakhs

His total cash withdrawal before 1.9.2019 is Nil.

Whether TDS u/s. 194N is applicable in the given case?

Question 16: Determine the liability of TDS on the following individual cases, assume all the payments are made to Indian resident .

Case 1: Mr. X, carrying on retail business made following payments during the previous year 2019-20. Turnover of his retail business for Previous Year 2018-19 was ₹ 2.5 crores.

(i) Contract payment of ₹ 5,00,000 for repair of his residential House

(ii) Paid commission to Mr. C ₹ 80,000.

Case 2: Mr. Vinod, a dealer follows Presumptive Taxation Scheme u/s 44AD for Previous Year 2018-19 and 2019-20. He made contract payment of ₹ 55 Lakhs(₹ 20 Lakhs in Jan, ₹ 15 Lakhs in Feb, ₹ 20 Lakhs in March) for reconstruction of his residential house.

Case 3: Mr. Tulsi, having income from salaries, Paid brokerage ₹ 51 lakhs for buying a residential house in March, 2020.

Case 4: Mr. Mazumdar, a pensioner, during the October and November month of ₹ 2019 made contract payment of 48 Lakhs for Reconstruction of his residential house.

Question 17: Determine the taxable income from the following 3 property owned by Mr. Akaash–

House 1	Let out for 9 months and self-occupied for 3 months. Rent per month ₹ 30,000. One month rent could not be realized and the assessee has not instituted any legal proceedings for recovery of unrealized rent. The Municipal Value of the property is ₹ 2,00,000. Rate of municipal tax 10%.
House 2	The property is self-occupied. The municipal value is ₹ 8,00,000. Municipal tax @ 10%.
House 3	The property is used by his relatives. Interest on loan taken for purchase of the property ₹ 220,000. The municipal value is ₹ 15,00,000. Municipal tax @ 10%. Loan taken on 1.4.2019. Value of loan 30,00,000.

SOLUTIONS TO RTP**Solution to Question 8: Computation to tax liability of Mr. Harilal for the A.Y 2020-21**

Particulars	₹	₹
I. Income from Salaries		
Basic salaries	6,00,000	
Transport Allowances – fully taxable	30,000	
Medical Facility in the hospital maintained by employer – Fully exempted	Nil	
Reimbursement of Medical expenses – fully taxable	20,000	
Gross Salary	6,50,000	
Less: Standard deduction u/s. 16(ia)	50,000	
Taxable Salaries		6,00,000
II. Income from House Property		
(i) House 1 & House 2– Self occupied		
Net Annual Value for two self-occupied property	Nil	
Less: Interest on loan u/s. 24(b)		
Actual interest paid [1,00,000 + 2,00,000] ₹ 3,00,000	2,00,000	
Maximum deduction allowed ₹ 2,00,000		
	(2,00,000)	
(ii) House 3 & 4 (Let Out) [Since not L/out in P.Y 2019-20, therefore nothing taxable]	Nil	
Income from House property (i+ii) (maximum set off of loss with any other heads is ₹2,00,000)	(2,00,000)	(2,00,000)
III. Capital Gains		
Sale of House 3 (Long-term)		
Full Value of Consideration [Actual selling price is applicable as stamp value does not exceeds 105% of the actual price]	90,00,000	
Less: Indexed cost of Acquisition	(30,00,000)	
Gross Long-term capital gains	60,00,000	
Less: Exemption u/s. 54		
Acquisition of House 1 in India within 2 year from the date of transfer of House 3 and also within the return filling date. Actual cost is allowed as exemption u/s. 54. It is not necessary that the property must be acquired from own source to claim exemption u/s. 54. It can be purchased from borrowed fund.	(35,00,000)	
Acquisition of House 4 in India within 2 years from the date of transfer of House 3 and also within the return filling the date. For claiming exemption whether the property is self-occupied or let out is not relevant.	(25,00,000)	
[Since the amount of capital gains does not exceed ₹ 2 crores, therefore the exemption can be claimed w.r.t 2 house property acquired/purchased in India and this option is exercised once in the life time of the assessee. Assuming the assessee has exercised this option in this assessment year]		
Taxable Long-term capital gains		Nil

III. Income from other sources		
Purchase of House 1 at lower consideration and the difference between the Actual purchase price of immovable property and Stamp value exceeds ₹ 50,000 and also 5 % of actual purchase price. Therefore, taxable u/s. 56(2)(x)	2,00,000	
Gains on buyback of shares of listed company – exempted u/s. 10(34A)	Nil	2,00,000
Gross Total Income (I+II+III)		6,00,000
Less: Deduction u/s. 80C (repayment of principal amount of housing loan for House 2)	1,00,000	
Deduction u/s. 80EEA- not allowed since on the date of purchase of House 1, the assessee has already owned a residential property	Nil	(1,00,000)
Total Income		5,00,000
Tax on total Income [upto 2,50,000 Nil + 5% on bal.]		12,500
Less: Rebate u/s. 87A [Since the total income does not exceeds ₹ 5,00,000]		12,500
Tax payable		Nil

Answer to Question 9: Since, the assessee is engaged in agency business, therefore he cannot opt presumptive taxation scheme u/s. 44AD, therefore his business income shall be determined by applying normal provisions of the Act.

1. Computation of Business Income:

Gross receipts		₹ 20,00,000
Less: <u>Allowable business exp.</u>		
Salary paid to sister in law –		₹ 1,20,000
(Excess salary paid cannot be disallowed since not covered in the definition of relative for the purpose of section 44A(2))		
Medical exp. towards family planning [not allowed since it is allowed only to company assessee]		Nil
Other allowable business exp.		₹5,00,000
Purchase of e-vehicle (capital assets, no depreciation allowed since used for personal purpose)		Nil
Interest on loan for purchase of e-vehicle (not allowed since used for personal purpose)		Nil
Income tax paid – not allowed u/s. 40(a)		<u>Nil</u>
Business Income/Gross Total Income		13,80,000
Less: Deduction u/s. 80EEB		
Interest on loan taken from financial Institution for purchase of e-vehicle [Maximum deduction ₹ 1,50,000]		<u>(30,000)</u>
Total Income		13,50,000
Tax Payable: upto 5,00,000	12,500	
Next 5,00,000@20%	1,00,000	
Bal. 350,000@30%	<u>1,05,000</u>	
	2,17,500	
Add: HEC @ 4%	<u>8,700</u>	
Tax payable	2,26,200	
Less: Relief u/s. 89	<u>10,000</u>	
	2,16,200	

Note- TDS on commission received deductible but not deducted by client cannot be reduced from tax liability.

Advance Tax payable

	Due	Actual paid	Short-fall	Int. u/s. 234C
By 15.6.2019 @ 15% of 2,16,200 = 32,430		Nil	32,430	@3% 973
By 15.9.2019 @ 45% of 2,16,200 = 97,290		Nil	97,290	@3% 2919
By 15.12.2019 @ 75% of 2,16,200 = 1,62,150		Nil	1,62,150	@3% 4,865
By 15.3.2020 @ 100% of 2,16,200 = 2,16,200		30,000	1,86,200	@1% 1,862
Total Interest payable				10,619

Answer to Question 10: Since the it is the first year of acquisition of car and it is used for more than 180 days, therefore full rate of depreciation is allowed. Use of car in alternate days has no impact in calculation of 180 days. Further the rate of depreciation shall be 30% as the motor car is acquired and put to use between 23.8.2019 to 31.3.2020 and not used in a business of running them on hire. Since the car is used for personal use, therefore only 75% of eligible depreciation shall be allowed as deduction u/s. 32.

Further as per second proviso to section 43(1), actual cost shall not include if payment exceeding ₹10,000 made in other than a/c payee cheque/DD etc.

Further, since input tax credit of will not be allowed on GST paid on purchase of mote car u/s. 17(5), therefore the same shall be included in the cost for the purpose of computing depreciation.

Accordingly, allowable depreciation u/s. 32 for the P.Y 2019-20 shall be as under-

Block of Asset – Plant & Machinery (30%)

On WDV	Nil
Add: Actual cost Motor Car [12,80,000 – 1,00,000]	11,80,000
	11,80,000
Depreciation @ 30% of 11,80,000 x 75%	2,65,500
Closing WDV	9,14,500

Depreciation allowed for P.Y 2019-20 is ₹2,65,500.

Solution to Question 11:

(a) The income under section 44AE shall be computed as under :	₹
(i) 10 * 7500 + 12 * 7500 [other than Heavy goods vehicle]	1,65,000
(ii) 7 * 13000 + 12 * 14000 [Heavy goods vehicle]	2,59,000
(iii) 6 * 7500 + 9 * 7500 [other than heavy goods vehicle]	1,12,500
Income from Business	5,36,500
(b) Gross Total Income	5,36,500
Less: Deduction under section 80EEB (maximum 1.5 lakhs)	1,50,000
Total income	3,86,500
Tax on 3,86,500	6,825
Less : Rebate u/s. 87A (₹ 6825 or ₹12,500, whichever is lower) as the total income does not exceeds ₹5,00,000)	6,825
Tax payable	Nil

Note: Section 80EEB provides deduction of upto ₹ 1,50,000 to Individual on interest payable on loan taken from any financial institution for the purpose of purchase of an electric vehicle. For this purpose,

(i) Financial institution includes a deposit taking NBFC or a systemically important non-deposit taking NBFC.

(ii) Electronic vehicle means a vehicle which is powered by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle and has electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy.

Since, all the requisite conditions of section 80EEB is satisfied therefore the assessee is eligible to take deduction u/s. 80EEB.

(c) Income from vehicles is to be computed for every month or part of the month during which these were owned by the assessee even though these are not actually used for business. Therefore there will be no change in the answer.

Answer to Question 12: She is a non-resident of India for the P.Y 2019-20, since she is not present in India at any time during the previous year 2019-20. Accordingly, as per section 5(2) only income which is accrued or received/deemed to be accrued or received in India is taxable.

Computation of taxable income of Mrs. Bagchi

Particulars	₹ (Amount)	₹(Amount)
I. Income from salaries		
(i) Basic Salary [Taxable, since paid by Govt. therefore accrued in India even though services are rendered outside India and received outside India] – Section 9(1)(iii)	21,00,000	
(ii) Overseas allowances received from Govt. [Exempted u/s. 10(7)]	Nil	
(iii) Perquisite value of Use of Car, Rent free accommodation, reimbursement of travelling cost. [Exempted u/s. 10(7)]	Nil	
(iv) Contribution to pension fund of NPS by Central Govt. [Taxable] 15% of ₹ 21,00,000	3,15,000	
Gross Salary	24,15,000	
Less: Standard deduction u/s. 16(ia)	50,000	23,65,000
II. Income from other sources		
(i) Cash gift from father – exempted since received from relative		
(ii) Cash gift from friend taxable u/s. 56(2)(x) since not received on the occasion of marriage and also, it is deemed to be accrued or arise in India u/s. 9]	60,000	
(iii) Interest on rupee denominated bond issued from 17.9.2018 to 31.3.2019 by Indian Company –Exempted u/s. 10(4C)	Nil	
(iv) Interest from foreign post office [neither accrued nor received in India]	Nil	60,000
Gross Total Income		24,25,000
Less: Deduction under chapter VIA		
Section 80CCD (1) – 10% of 21,00,000 = 2,10,000 but restricted to 1,50,000 u/s. 80CCE	1,50,000	
Section 80CCD(1B) – 15% of 21,00,000 – 1,50,000 claimed u/s. 80CCD(1)= ₹ 1,65,000 but restricted to	50,000	
Section 80CCD(2) – 15% of 21,00,000 but restricted to 14% of 21,00,000.	2,94,000	
Section 80DD- Amount spent for disabled dependent relative – not allowed to non-resident Individual	Nil	4,94,000
Taxable Income		19,31,000

Note: 1. Section 10(7) provides exemption to an individual being an Indian citizen who has been deputed outside India for services outside India by Government in respect of all allowances and perquisites.

2. Section 9(1)(viii) provides that, any sum of money or value of property referred to in section 56(2)(x), paid by a person resident in India to a non-resident in India on or after 5.7.2019, shall be deemed to be accrued or arise in India.

Answer to Question 13: Refer amended provisions u/s. 139(1).

- (i) In the given case, since aggregate expenditure for travel to a foreign country by himself/any other person exceeds ₹ 2,00,000, therefore he is liable to file his return u/s. 139(1), even though his gross total income does not exceeds ₹ 2,50,000.
- (ii) In the given case, since payment for electricity consumption for the whole year exceeds ₹ 1,00,000, therefore it is mandatory for him to file his return u/s. 139(1), even though his gross total income does not exceeds ₹ 2,50,000.
- (iii) In the given case, since total deposit (credit total) in one or more current a.c maintained with a bank exceeds ₹ 1crores, therefore it is mandatory for him to file his return u/s. 139(1), even though his gross total income does not exceeds ₹ 2,50,000.

Answer to Question 14: Since the aggregate cash withdrawals for the whole year exceeds ₹ 1 crores from one or more account maintained with a bank/post office, therefore section 194N is applicable. However, TDS shall be deducted on amount withdrawn on or after 1.9.2019.

Accordingly,

In Case 1: TDS @ 2% on ₹40 lakhs i.e ₹80,000 shall be deducted on payment made by bank between 1.9.2019 to 31.3.2020.

Since ₹ 1 crores limit already crores before 1.9.2019, therefore TDS shall be deducted on all subsequent payment made on or after 1.9.2019. Further, no deduction shall be made for payment made before 1.9.2019, even though it exceeds ₹1 crores.

In Case 2: TDS @ 2% on ₹50 lakhs i.e ₹1,00,000 shall be deducted on payment made by bank between 1.9.2019 to 31.3.2020 after overall withdrawal cross ₹ 1 crores.

Since till 31.08.2019, ₹90 lakhs cash is withdrawn, therefore TDS shall be deducted after further cash withdrawal of ₹ 10 lakhs made between 1.9.2019 to 31.3.2020.

Answer to Question 15: Since, cash withdrawal limit of ₹ 1 crores does not exceeds from a single payer (i.e total withdrawal from SBI is ₹ 80 lakhs and total withdrawal from PNB is ₹ 50 lakhs) , therefore TDS u/s. 194N shall not be applicable.

Answer to Question 16:

Case 1: (i) TDS u/s 194C is not applicable since the payment is for personal purpose. Further, as aggregate payment for the contract does not exceed ₹ 50 lakhs, hence TDS under Sec 194M is also not attracted.

(ii) TDS u/s 194H is applicable as the amount of payment exceeds ₹ 15,000 and last year turnover of Mr. X exceeds ₹ 1 Crore.

Case 2: TDS u/s 194C is not attracted since he is following PTS and not subject to Tax audit in the year 2018-19. But, TDS u/s 194M is applicable since the aggregate amount of payment exceeds ₹ 50 Lakhs and payments are made after 1.9.19.

Case 3: TDS u/s 194M is applicable since the aggregate amount of payment exceeds ₹ 50 Lakhs and payment was made in March 2020. As he is a salaried person, section 194H does not applicable.

Case 4: As Mr. Mazumdar is not liable to tax audit TDS provisions of Sec 194C is not applicable. TDS u/s 194M is also not applicable since the aggregate amount of payment does not exceed ₹ 50 Lakhs even though payments are made after 1.9.2019.

Answer Question 17:**(1) House 1 (partly let out and partly self-occupied – Considered as deemed to be let out)**

Expected Rent (Municipal Value)	₹ 2,00,000
Actual rent received or receivable [30,000 x 9]	₹ 2,70,000
[Unrealized rent cannot be reduced Since condition of Rule 4 not complied)	
Gross Annual Value (higher)	₹ 2,70,000
Less: Municipal tax	<u>(20,000)</u>
Net Annual Value	₹ 2,50,000
Less: Std. deduction u/s. 24(b)@30%	<u>₹ 45,000</u>
	₹ 2,05,000

(2) House 2 (Self occupied)

NAV	NIL
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(3) House 3 (self-occupied)

NAV	Nil
Less: Interest on loan u/s. 24(b) (maximum allowed)	<u>(2,00,000) (2,00,000)</u>
Taxable Income (1+2+3)	5,000

Note: no deduction allowed u/s. 80EEA since he has already owned residential house property.

Chapter 4**INTEGRATED CASE SCENARIO BASED MCQS****Know the pattern**

- ✘ Integrated case scenarios should comprise of a case scenario followed by a 5 to 6 MCQs based on the said case scenario.
- ✘ The length of the case scenario (including MCQs) should be for 1 to 2 pages.
- ✘ Each MCQ should have four options out of which there should be only one correct option.
- ✘ The MCQs should be application-oriented and should arise from the case scenario [i.e., they should be framed in such a manner that the relevant provisions of laws /concepts and principles would need to be applied to the facts of the case scenario to choose the correct option]

Case Study 1: Mr. Tulsi (aged 35 years) is a non-Govt. salaried employee. His basic salary is ₹40,000 p.m.

He gets one month salary as bonus. He has been provided with rent free unfurnished accommodation which is owned by the employer company at the place of his posting i.e. Chennai. Both employer and employee contribute 15% of salary for pension plan under NPS A/c. He also made 5% of his salary as additional investment in Tier-II of NPS A.c. He owns one residential house in his home town Asansol, West Bengal. He paid ₹ 51 lakhs to Mr. Anul Shah under a works contract agreement for construction of a Hi-tech residential house in Kolkata in the month of March, 2020. He has taken loan of ₹ 40 lakhs @ 9% rate of interest and the said loan was sanctioned on 1.12.2019. Both the houses are self-occupied by him.

In view of the above facts, you are required to answer the following-

- (i) What would be his taxable salary for the Assessment year 2020-21?
- (a) ₹6,20,000
 - (b) ₹6,70,000
 - (c) ₹6,14,000
 - (d) ₹6,92,000
- (ii) Whether benefit of self-occupied property allowed to all houses owned by him?
- (a) Yes, since self-occupied property owned by him is not more than two.
 - (b) NO, since self-occupied property including rent free accommodation exceed two, therefore any two house is considered as self-occupied and third house is deemed to be let out.
 - (c) NO, none of the house is eligible to take the benefit u/s. 23
 - (d) No, only one house is considered as self-occupied and second house is considered as deemed to be let out.
- (iii) Whether Mr. Tulsi is required to deduct tax at source on consideration paid to Mr. Anul Shah?
- (a) yes, @ 1% u/s. 194C
 - (b) No, since payment is for personal purpose
 - (c) NO, since his accounts are not audited
 - (d) yes, @ 5% u/s. 194M.

- (iv) His eligible deduction under section 80C and 80CCD, would be –
- Section 80C – Nil and Section 80CCD ₹1,20,000
 - Section 80C – 24,000 and section 80CCD ₹1,20,000
 - Section 80C – Nil, and Section 80CCD ₹96,000
 - Section 80C- 24,000 and section 80CCD ₹ 96,000
- (v) His eligible deduction under section 80EEA, would be –
- ₹1,50,000
 - ₹ 50,000
 - Nil
 - ₹1,20,000
- (vi) What would be the tax liability of Mr. Tulsi for the A.Y 2020-21, assuming he has no other income-
- Nil
 - ₹7800
 - ₹13,000
 - ₹17,992

Case Study 2: Mr. Shyam (aged 28 years) acquired a land from X Ltd, on 15.12.2008 for ₹ 18,00,000 which was sold on 15.05.2019 for ₹ 50,00,000 to Mr. Sundar. The Stamp duty value of such land is 51,00,000. Expenses of transfer were ₹ 1,00,000. He invests ₹3,00,000 on the bonds of Rural electrification Corporation Ltd. on 16.10.2019 out of the sale proceeds of land. Further, on 15th March 2019, he sold 2000 listed equity shares at a consideration of ₹2,500 each share. Those shares were Purchased in the year 2006-07 at a price of ₹ 300 each share. STT has been charged both at the time of purchase and sale. FMV of shares on 30.01.2018 are ₹ 2,400 per share. CII -F.Y 2019-20:289, F.Y 2008-09:137, F.Y 2006-07:122

You are required to answer the following based on above facts-

- (i) With respect to transfer of land , capital gains taxable in the hands of Mr. Shyam would be-
- long-term capital gains of ₹8,02,920
 - long term capital gains of ₹9,02,920
 - long-term capital gains of ₹11,02,920
 - long-term capital loss of ₹8,02,920
- (ii) Whether Mr. Sundar is required to deduct tax at source on consideration paid or payable to Mr. Shyam?
- No, since Mr. Sundar purchased it for his personal use and not for business use
 - No, provisions of TDS is not applicable on transfer of Capital Assets.
 - Yes, TDS u/s. 194IA @ 1% on the entire consideration of ₹ 50 lakhs
 - No, TDS u/s. 194IA not applies since the amount of consideration does not exceeds ₹50 lakhs

- (iii) With respect to purchase of land at a value lower than the stamp value, income taxable u/s. 56(2)(x) in the hands of Mr. Sundar would be-
- Nil, since the excess amount does not exceed 5% of ₹50 lakhs
 - 1 lakhs, since the difference between the stamp value and purchase price is more than 50,000.
 - Nil, since it is purchase for personal use
 - Nil, since it is a capital assets.
- (iv) With respect to transfer of listed equity shares, capital gains taxable in the hands of Mr. Shyam would be
- long-term capital gains of ₹2,00,000
 - long-term capital gains of ₹35,78,788
 - Nil, Fully exempted u/s. 10(38)
 - long-term capital gains of ₹1,00,000
- (v) What would be the tax liability of Mr. Shyam for the A.Y 2020-21, assuming he has no other income-
- ₹1,25,403
 - ₹1,35,803
 - ₹96,803
 - ₹1,20,580

Case Study 3: Mrs. Sharma, a software engineer worked for Data Consultancy Services (India) Ltd. Bangalore, India over 15 years. On 1.6.2017 she left India to work in Data Consultancy Services (England) Inc., London, England, on deputation. On 10th January, 2020 DCS (India) L td. again brought her back to India. During the year, she received total salary of ₹10 lakhs from DCS (India) Ltd. and ₹60 lakhs (converted into INR) from DCS (England) Inc. During the year she also received leave encashment of ₹ 5,00,000 from DCS (India) Ltd. She exercised the option to acquire 30,000 shares of DCS (India) Ltd. under an ESOP Scheme @ ₹ 950 per shares on 1.2.2020. The Market price of the shares in Stock exchange on 1.2.2020 is as under:

Particulars	BSE	NSE
Total No of shares of DCS (India) Ltd. traded	60,000	50,000
Opening market price	990	996
Closing market price	1010	1012

She owned only one house property in Bangalore. Outstanding bank loan for acquisition of said property as on 1.4.2019 is ₹ 30 lakhs. Interest payable @ 10% p.a. The property is non-occupied till 9th January' 2020 due to her employment outside India. From 10th January'2020 she used the property as her residence. On 1.4.2019 she gifted ₹ 40 lakhs to her Spouse Mr. Sharma. Mr. Sharma is a fashion designer employed in a branded company in India. On 1.4.2019, he left the job and started his own sole proprietorship concern of fashion designing and introduced the amount gifted to him by Mrs. Sharma in the business on the same day.

During the year he earned profit of ₹10 lakhs. Out of the profit earned ₹ 5 lakh is invested in corporate bonds fetching interest @ 8% p.a on 1.12.2019.

Mrs. Sharma also owned a free hold land in Kolkata through legal inheritance in August, 2004.

The said property was acquired by her father for ₹ 2 lakhs in June,1986. She agreed to sold the property to Mr. Ghosh and took advance money of ₹ 5,00,000 on August'2019 but the transaction was not successful and she forfeited the advance money. Finally, she sold the property in October, 2019 for ₹ 75,00,000 to Mr. Gupta. The value of property was adopted as ₹ 78,00,000 by the state stamp valuation authority for registration purpose. The Fair Market

Value of the property as on 1.4.2001 was ₹ 10,00,000. Out of the consideration received she acquired a residential house in March, 2020 for ₹ 25,00,000 in Kolkata. She deposited ₹ 10,00,000 in capital gain bonds issued by National Highways Authority of India (NHAI) in

June 2019. CII: F.Y.2001-02 = 100; F.Y.2004-05 =113; F.Y. 2019-20 = 289

On 31.3.2020, the DCS(India) Ltd. declared interim dividend of ₹50 per share.

Mrs. Sharma being a tax compliant citizen of India, seeks your advice on the following issues in order to comply the provisions of the Income Tax Act, 1961:

(1) What should be her residential Status in India for the P.Y 2019-20?

- (a) Resident and ordinarily resident of India
- (b) Resident and not- ordinarily resident of India
- (c) non-resident of India
- (d) none of the above

(2) With respect to Income under the head salaries:

i. Whether salary received by Mrs. Sharma in outside India is taxable in India

- (a) Yes, since she is a resident and ordinarily resident of India.
- (b) No, since salary is not accrued in India
- (c) No, since salary is not received in India
- (d) Yes, since salary is accrued in India

ii. What should be her taxable salaries in India?

- (a) ₹90,00,000
- (b) ₹89,50,000
- (c) ₹86,60,000
- (d) ₹29,60,000

(3) With respect to Income under the head house properties:

i. Whether interest on outstanding loan utilised for acquisition house property 1 at Bangalore, for the period for which the property is non-occupied due to her employment outside India shall be allowed as deduction u/s. 24(b) of the Income Tax Act, 1961? If yes, the maximum limit if any.

- (a) Yes, the benefit of deduction allowed to self-occupied property as well as non-occupied due to employment elsewhere, upto 2,00,000
- (b) No, since the property is not self-occupied
- (c) Yes, upto 30,000
- (d) No, since loan is not taken in this year.

ii. What should be her income from house property in India?

- (a) (₹2,00,000)
- (b) (₹3,00,000)
- (c) (₹2,10,000)
- (d) Nil

iii. Can she be eligible to set off the house property loss against other heads of Income in the P.Y 2019-20 as per section 71 of the Income Tax Act, 1961 and if yes, how much?

- (a) Yes, maximum of ₹ 2,00,000
- (b) Yes. maximum of ₹ 3,00,000
- (c) No, can be set off only against own heads of Income
- (d) No, the entire loss to be carried forward to the subsequent year

(4) Whether Mrs. Sharma or Mr. Sharma is liable for any gift tax in India?

- a) Yes, Gift is taxable u/s. 56(2)(x) in the hands of Mr. Sharma being the recipient of cash gift exceeding ₹50,000.
- b) Yes, Gift is taxable u/s. 56(2)(x) in the hands of Mrs. Sharma being the giver of cash gift exceeding ₹50,000.
- c) No, nothing taxable in the hands of Mr. Sharma u/s. 56(2)(x), since gift is received from a relative i.e his wife.
- d) No, nothing taxable in the hands of Mrs. Sharma u/s. 56(2)(x), since gift is given to a relative i.e her husband.

(5) What should be the treatment of business income earned by Mr. Sharma in 1 P.Y 2019-20?

- (a) The entire business income is to be clubbed in the total income of Mrs. Sharma as per section 64(1)(iv) of the Income Tax Act, 1961 and Mrs. Sharma is liable to pay tax on it.
- (b) the entire income is taxable in the hands of Mr. Sharma, as the provisions of clubbing shall not be attracted in the given case.
- (c) Only some portion is clubbed in the hands of Mrs. Sharma and balance is taxable in the hands of Mr. Sharma
- (d) Business income cannot be clubbed in this year

(6) With respect to the income under the head capital gains:

(i) What would be the cost of acquisition and period of holding of free hold land 1

acquired through inheritance by Mrs. Sharma? (a) Nil, from August, 2004 to October, 2019

- (b) ₹10,00,000, from June, 1986 to October, 2019

(c) ₹2,00,000, from June,1986 to October, 2019

(d) ₹5,00,000, from June,1986 to October, 2019

(ii) What would be the Gross taxable capital gains on sale of free hold property by Mrs. Sharma?

(a) ₹50,00,000

(b) ₹46,10,000

(c) ₹61,00,000

(d) ₹64,00,000

(iii) Whether she is eligible to claim any exemption under capital gains on purchase 1 of residential house property in Kolkata? If yes, how much?

(a) Yes, U/s. 54 of ₹ 25,00,000

(b) Yes, U/s. 54F of ₹ 15,36,667

(c) No, since she already owns a property in Bangalore

(d) No, since the original property was acquired through inheritance

(iv) Whether she is eligible to claim any exemption under capital gains on purchase of capital gains bonds issued by National Highways Authority of India in June 2020? If yes, how much?

(a) Yes, U/s. 54EC of ₹ 10,00,000 in the P.Y 2019-20

(b) No, since it is acquired after the expiry of relevant period.

(c) No, since section 54EC is not applicable in case of capital assets being free hold land

(d) Yes, but allowed in the subsequent year.

(7) With respect to the income under the head Other Sources:

(i) the interest income earned by Mr. Sharma is to be clubbed and taxable under the head income from other sources of Mrs. Sharma. [True/False]

(a) True, as per the provisions of section 64(1)(iv) of the Income Tax Act, 1961

(b) False, not covered u/s. 64(1)(iv) of the Income Tax Act, 1961 since being income from income and not income earned from an asset transferred. (c) Partially correct

(d) None of the above

(ii) What should be the treatment of ₹5,00,000 of advance money forfeited by Mrs. 1 Sharma in August,2019?

(a) ₹ 5,00,000 shall be reduced from the cost of acquisition

(b) ₹ 5,00,000 shall be taxable in the year of receipt under the head income from other sources by virtue of section 56(2)(ix)

(c) Either (a) or (b)

(d) None of the above

(iii) What should be the treatment of interim dividend received by Mrs. Sharma on listed equity shares held under ESOP?

- (a) ₹ 15,00,000 is taxable under the head income from other sources
- (b) ₹ 5,00,000 is taxable under the head income from other sources and balance is exempted u/s. 10(34)
- (c) nothing shall be taxable as entire dividend is exempted u/s. 10(34).
- (d) ₹ 10,00,000 is taxable under the head income from other sources and balance is exempted u/s. 10(34)

(8) What should be her taxable income in India for the A.Y 2020-21?

- (a) ₹1,38,23,330
- (b) Nil
- (c) ₹1,40,93,330
- (d) None of the above

(9) What would be her tax liability in India for the A.Y 2020-2021?

- (a) ₹46,33,280
- (b) ₹38,80,499
- (c) ₹42,48,390
- (d) None of the above

Answers to Case Scenario bases MCQs**Answer to Case Study 1:**

Correct option	Remarks/ Brief working																				
(i) Option(a)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Basic salary</td> <td style="text-align: right;">₹4,80,000</td> </tr> <tr> <td>Bonus</td> <td style="text-align: right;">40,000</td> </tr> <tr> <td>15% of 5,20,000 (RFA)</td> <td style="text-align: right;">78,000</td> </tr> <tr> <td>Employers contribution to NPS [15% of 4,80,000]</td> <td style="text-align: right;">72,000</td> </tr> <tr> <td>Gross salary</td> <td style="text-align: right; border-top: 1px solid black;">6,70,000</td> </tr> <tr> <td>Less: Std. deduction u/s. 16(ia)</td> <td style="text-align: right; border-top: 1px solid black;">50,000</td> </tr> <tr> <td></td> <td style="text-align: right; border-top: 1px solid black;">6,20,000</td> </tr> </table>	Basic salary	₹4,80,000	Bonus	40,000	15% of 5,20,000 (RFA)	78,000	Employers contribution to NPS [15% of 4,80,000]	72,000	Gross salary	6,70,000	Less: Std. deduction u/s. 16(ia)	50,000		6,20,000						
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	6,20,000																				
(ii) Option (a)	Rent free accommodation is not owned by him, so cannot be considered as self-occupied property under house property.																				
(iii) Option (d)	Refer the provisions of section 194M																				
(iv) Option (a)	Sec. 80C (NPS Tier-II) – Nil (since he is not a Central govt. employee) <u>Section 80CCD</u> Employers contribution (10% of 4,80,000) u/s. 80CCD(2) ₹48,000 Employee's cont. (15% of 4,80,000) [50,000 u/s. 80CCD(1B) and balance u/s. 80CCD(1)] ₹72,000 1,20,000																				
(v) Option (c)	Nil, since on the date of sanction of loan he has owned a residential house																				
(vi) Option (a)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">1. Income from salaries [Refer point (i)]</td> <td style="text-align: right;">6,20,000</td> </tr> <tr> <td>2. <u>Income from H.P</u></td> <td></td> </tr> <tr> <td>NAV for two s/o property</td> <td style="text-align: right;">NIL</td> </tr> <tr> <td>Less: Int. on loan u/s. 24(b)</td> <td style="text-align: right; border-top: 1px solid black;">1,20,000</td> </tr> <tr> <td></td> <td style="text-align: right; border-top: 1px solid black;">5,00,000</td> </tr> <tr> <td>Less: Chp.VIA (Section 80CCD)</td> <td style="text-align: right; border-top: 1px solid black;">1,20,000</td> </tr> <tr> <td></td> <td style="text-align: right; border-top: 1px solid black;">4,00,000</td> </tr> <tr> <td>Tax liability</td> <td style="text-align: right;">7500</td> </tr> <tr> <td>Les: Rebate u/s. 87A</td> <td style="text-align: right; border-top: 1px solid black;">7500</td> </tr> <tr> <td></td> <td style="text-align: right; border-top: 1px solid black;">Nil</td> </tr> </table>	1. Income from salaries [Refer point (i)]	6,20,000	2. <u>Income from H.P</u>		NAV for two s/o property	NIL	Less: Int. on loan u/s. 24(b)	1,20,000		5,00,000	Less: Chp.VIA (Section 80CCD)	1,20,000		4,00,000	Tax liability	7500	Les: Rebate u/s. 87A	7500		Nil
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Tax liability	7500																				
Les: Rebate u/s. 87A	7500																				
	Nil																				

Answer to Case Study 2:

Correct Option	Remarks/ Brief working												
(i) Option(a)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">FVC</td> <td style="text-align: right;">50,00,000 [stamp value does not exceed 105% of 50 lakhs]</td> </tr> <tr> <td>(-)</td> <td style="text-align: right;">1,00,000</td> </tr> <tr> <td>(-) ICOA</td> <td style="text-align: right; border-top: 1px solid black;">37,97,080 [18,00,000 x 289/137]</td> </tr> <tr> <td></td> <td style="text-align: right; border-top: 1px solid black;">11,02,920</td> </tr> <tr> <td>Less: 54EC</td> <td style="text-align: right; border-top: 1px solid black;">3,00,000</td> </tr> <tr> <td>LTCG</td> <td style="text-align: right; border-top: 1px solid black;">8,02,920</td> </tr> </table>	FVC	50,00,000 [stamp value does not exceed 105% of 50 lakhs]	(-)	1,00,000	(-) ICOA	37,97,080 [18,00,000 x 289/137]		11,02,920	Less: 54EC	3,00,000	LTCG	8,02,920
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(-) ICOA	37,97,080 [18,00,000 x 289/137]												
	11,02,920												
Less: 54EC	3,00,000												
LTCG	8,02,920												
(ii) Option(c)	For Section 194IA threshold limit for no deduction of tax at source is less than 50 lakhs.												
(iii) Option(a)	Refer provisions of section 56(2)(x)												
(iv) Option (a)	Cost of acq. = FMV as on 31.1.2018 or FVC, lower. No indexation benefit allowed. [(2500 -2400)x2000 = 2,00,000]												
(v) Option (a)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Tax@ 20% u/s. 112 [8,02,900 – 2,50,000]=</td> <td style="text-align: right;">1,10,580</td> </tr> <tr> <td>Tax @ 10% u/s. 112A [2,00,000 -1,00,000] =</td> <td style="text-align: right; border-top: 1px solid black;">10,000</td> </tr> <tr> <td></td> <td style="text-align: right; border-top: 1px solid black;">1,20,580</td> </tr> <tr> <td>Add: HEC @ 4%</td> <td style="text-align: right; border-top: 1px solid black;">4,823</td> </tr> <tr> <td></td> <td style="text-align: right; border-top: 1px solid black;">1,25,403</td> </tr> </table>	Tax@ 20% u/s. 112 [8,02,900 – 2,50,000]=	1,10,580	Tax @ 10% u/s. 112A [2,00,000 -1,00,000] =	10,000		1,20,580	Add: HEC @ 4%	4,823		1,25,403		
Tax@ 20% u/s. 112 [8,02,900 – 2,50,000]=	1,10,580												
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	1,20,580												
Add: HEC @ 4%	4,823												
	1,25,403												

Answer to Case Study 3:

Question No.	Correct Option	Hints
1.	(a)	Since, she stays in India in the relevant previous year for more than 60 days (i.e 81 days) and in 4 years preceding the relevant previous year for more than 365 days (i.e 792 days) and therefore is resident for the A.Y. 2019-20. [2 nd conditions of section 6(1) applicable since she came back to India not for visit but for employment purpose] Again, since she was in India for 15 years therefore, she satisfies both the secondary conditions. Therefore, she will be treated as resident and ordinarily resident for the A.Y. 2020-21.
2.(i)	(a)	since she is a resident and ordinarily resident of India, therefore her global income is taxable in India.
2.(ii)	(b)	70,00,000 + 5,00,000+15,00,000 (-) 50,000 = ₹89,50,000 Leave encashment during employment fully taxable Taxable value of ESOP = [FMV – allotment price] x no of shares = [1000 – 500] x 30,000 = 15,00,000 BSE price to be taken (highest no. of shares of the co. is traded) = 990+1010/2 = 1,000
3.(i)	(a)	Allowed to both self-occupied and to non-occupied due to employment elsewhere
3.(ii)	(a)	Net Annual Value Nil (-) Interest on loan (maximum allowed ₹2 lakhs) = loss 2,00,000
3.(iii)	(a)	Where in respect of any assessment year, the net result of the computation under the head “Income from house property” is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to set off such loss, to the extent the amount of the loss exceeds ₹ 2,00,000, against income under the other head [Section 71(3A)]
4.	(c)	Nothing taxable, being exempted u/s. 56(2)(x)
5.	(a)	Since amount is invested in the 1 st day of April 2019. The entire capital is from money received from Mrs. Sharma; therefore, entire profit is to be clubbed.
6.(i)	(b)	In case of inheritance cost of asset shall be taken as that of previous owner. Further, since acquired before 1.4.2001, original cost or FMV as on 1.4.2001, higher i.e., 10 lakhs Period of holding = June 1986 to October 2019 [as per case of Manjula J. shah]
6.(ii)	(b)	FVC = 75,00,000 (since stamp value is not more 105%) (-) Indexed cost [10,00,000 x 289/100] i.e., 28,90,000 = 46,10,000
6.(iii)	(b)	Sec. 54F allowed in owns maximum 1 house 25/75 x 47 lakhs = 15,66,667
6.(iv)	(b)	Since invested after 6 months from the date of transfer.
7.(i)	(b)	Being income from income cannot be clubbed.
7.(ii)	(b)	Since advance money is forfeited on or after 1.4.2014 the same shall be taxable under other sources.
7.(iii)	(b)	Dividend from Indian company received by resident of India shall be exempted u/s. 10(34) upto 10 lakhs and balance is taxable. [30,000 x 50] – 10,00,000 = 5,00,000.

8.	(a)	<p>Salary:</p> <table border="0"> <tr> <td>Total salary (In India + in USA)</td> <td></td> <td>70,00,000</td> <td></td> </tr> <tr> <td>Leave encashment during employment -fully taxable</td> <td></td> <td>5,00,000</td> <td></td> </tr> <tr> <td>Perquisite value of ESOP[(1000 -500)x 30,000]</td> <td></td> <td><u>15,00,000</u></td> <td></td> </tr> <tr> <td>[BSE Market value [(990+1010)/2]</td> <td></td> <td>90,00,000</td> <td></td> </tr> <tr> <td></td> <td>Less: Std. deduction u/s. 16(ia)</td> <td></td> <td><u>50,000</u></td> </tr> <tr> <td></td> <td></td> <td></td> <td>89,50,000</td> </tr> </table> <p>Income from house property:</p> <table border="0"> <tr> <td>NAV of self-occupied property</td> <td>NIL</td> <td></td> <td></td> </tr> <tr> <td>Less: Interest on loan -maximum</td> <td><u>2,00,000</u></td> <td>(2,00,000)</td> <td></td> </tr> <tr> <td>Profit and gains from business or professions (to be clubbed u/s. 64(1)(iv))</td> <td></td> <td>10,00,000</td> <td></td> </tr> </table> <p>Capital Gains</p> <table border="0"> <tr> <td>Full value of consideration [stamp value not considered since difference with actual price does not exceed 105%]</td> <td>75,00,000</td> <td></td> <td></td> </tr> <tr> <td>Less: ICOA [10,00,000 x 289/100]</td> <td><u>28,90,000</u></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>46,10,000</td> <td></td> </tr> <tr> <td>Less: Exemption u/s. 54F [25 lakhs/75 lakhs x 46.1 lakhs]</td> <td><u>15,36,667</u></td> <td>30,73,333</td> <td></td> </tr> </table> <p>5. Income from other sources</p> <table border="0"> <tr> <td>Dividend received from Indian co. taxable in excess of 10 lakhs [(30,000 x 50) – 10,00,000] advance money forfeited u/s. 56(2)(ix)</td> <td>5,00,000</td> <td></td> <td></td> </tr> <tr> <td></td> <td><u>5,00,000</u></td> <td><u>10,00,000</u></td> <td></td> </tr> <tr> <td>Gross Total Income</td> <td></td> <td>1,38,23,333</td> <td></td> </tr> <tr> <td>R/off</td> <td></td> <td>1,38,23,330</td> <td></td> </tr> </table>	Total salary (In India + in USA)		70,00,000		Leave encashment during employment -fully taxable		5,00,000		Perquisite value of ESOP[(1000 -500)x 30,000]		<u>15,00,000</u>		[BSE Market value [(990+1010)/2]		90,00,000			Less: Std. deduction u/s. 16(ia)		<u>50,000</u>				89,50,000	NAV of self-occupied property	NIL			Less: Interest on loan -maximum	<u>2,00,000</u>	(2,00,000)		Profit and gains from business or professions (to be clubbed u/s. 64(1)(iv))		10,00,000		Full value of consideration [stamp value not considered since difference with actual price does not exceed 105%]	75,00,000			Less: ICOA [10,00,000 x 289/100]	<u>28,90,000</u>					46,10,000		Less: Exemption u/s. 54F [25 lakhs/75 lakhs x 46.1 lakhs]	<u>15,36,667</u>	30,73,333		Dividend received from Indian co. taxable in excess of 10 lakhs [(30,000 x 50) – 10,00,000] advance money forfeited u/s. 56(2)(ix)	5,00,000				<u>5,00,000</u>	<u>10,00,000</u>		Gross Total Income		1,38,23,333		R/off		1,38,23,330	
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NAV of self-occupied property	NIL																																																																					
Less: Interest on loan -maximum	<u>2,00,000</u>	(2,00,000)																																																																				
Profit and gains from business or professions (to be clubbed u/s. 64(1)(iv))		10,00,000																																																																				
Full value of consideration [stamp value not considered since difference with actual price does not exceed 105%]	75,00,000																																																																					
Less: ICOA [10,00,000 x 289/100]	<u>28,90,000</u>																																																																					
		46,10,000																																																																				
Less: Exemption u/s. 54F [25 lakhs/75 lakhs x 46.1 lakhs]	<u>15,36,667</u>	30,73,333																																																																				
Dividend received from Indian co. taxable in excess of 10 lakhs [(30,000 x 50) – 10,00,000] advance money forfeited u/s. 56(2)(ix)	5,00,000																																																																					
	<u>5,00,000</u>	<u>10,00,000</u>																																																																				
Gross Total Income		1,38,23,333																																																																				
R/off		1,38,23,330																																																																				
9.	(c)	<table border="0"> <tr> <td>Tax on Normal income 1,02,49,997 = 28,87,500</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Tax on LTCG @ 20% on 30,73,333</td> <td>6,14,667</td> <td></td> <td></td> </tr> <tr> <td>Dividend @ 10% on 5,00,000 =</td> <td><u>50,000</u></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>35,52,167</td> <td></td> </tr> <tr> <td>+SC @15%</td> <td></td> <td><u>5,32,825</u></td> <td></td> </tr> <tr> <td></td> <td></td> <td>40,84,992</td> <td></td> </tr> <tr> <td>+HEC @ 4%</td> <td></td> <td><u>1,63,400</u></td> <td></td> </tr> <tr> <td></td> <td></td> <td>42,48,392 (r/off 4248390)</td> <td></td> </tr> </table>	Tax on Normal income 1,02,49,997 = 28,87,500				Tax on LTCG @ 20% on 30,73,333	6,14,667			Dividend @ 10% on 5,00,000 =	<u>50,000</u>					35,52,167		+SC @15%		<u>5,32,825</u>				40,84,992		+HEC @ 4%		<u>1,63,400</u>				42,48,392 (r/off 4248390)																																					
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RECENT JUDICIAL UPDATES

Case Laws	Relevant Section	Synopsis
1. Laxman Das Khandelwal (2019) (SC)	Section 292BB (Notice deemed to be valid)	<ul style="list-style-type: none"> Non-issuance of notice u/s. 143(2) is not a curable defect u/s. 292BB even if the assessee has participated in the proceedings. Section 292BB does not save complete absence of issue of notice.
2. Maruti Suzuki India Ltd. (2019) (SC)	Section 292B (curing defect of technical nature in assessment, notice etc.)	<ul style="list-style-type: none"> Issue of notice u/s. 143(2) and initiation of proceedings in the name of erstwhile amalgamating company is void-ab-initio and cannot be protected u/s. 292B the amalgamating company ceased to exist and therefore is not a person u/s. 2(31) against which assessment proceedings is to be initiated.
3. A.A Estate Pvt. Ltd. (2019)(SC)	Section 260A (Appeal to High Court)	<ul style="list-style-type: none"> High court must formulate substantial question of law by itself and heard it on merit. Appeal cannot be heard based on the question proposed by the appellant.
4. Metal and Chromium Plater (P) Ltd. (2019)(Mad)	Section 115JB (MAT on Book profit)	<ul style="list-style-type: none"> Capital gains in respect of which exemption u/s. 54EC is available and which form part of net profit shall be excluded in computing book profit by virtue of section 115JB(5).
5. Smt. Ritha Sabapathy (2019)(Mad)	Section 254 read with Rule 24 (Appeals to Tribunal)	<ul style="list-style-type: none"> If the assessee fails to appear in the hearing, the tribunal should decide the appeal only on merits and cannot dismiss the appeal.
6. Sunil Vasudeva & Others Vs. Sundar Gupta & Others (2019)(SC)	Section 260A (Appeal to High Court)	<ul style="list-style-type: none"> The High Court is justified in recalling and reviewing its own order to correct an apparent error from record i.e directing civil suit against an Income tax authority which was is prohibited u/s. 293 of the Income Tax Act and left both parties remediless.
7. Eurotech Maritime Academy Pvt. Ltd. (2019) (Ker.)	Section 271C (penalty for non-deduction of tax at sources) and 273B(waiver of penalty)	<ul style="list-style-type: none"> Penalty u/s. 271C is applicable for both non-deduction and non-remittance of TDS. Section 273B is not applicable for non-remittance of TDS
8. Valsad District Central Co-operative Bank Ltd. (2019)(Guj)	Section 147 and 148	<ul style="list-style-type: none"> Mere failure to produce commissioner's order of approval of Gratuity Scheme in long year back 1976 does not amount to non-disclosure of materials facts, since the assessee has produced the documents pertaining to the contribution made towards the fund and a copy of agreement between the trustees of the Gratuity Scheme and LIC to manage the fund and based on which deduction u/s. 36(1)(v) was allowed in earlier years. Therefore, issue of notice u/s. 148 after 4 years is not justified.
9. Reham Foundation (2019) (ALL)	Section 12AA and 254	<ul style="list-style-type: none"> Tribunal can direct the CIT for registration of a trust without remanding the case to CIT only if it disagrees with the opinion of the CIT as regards to the genuineness of the activities of the trust and object(s) of the trust on the basis of material already on record before the CIT. However, Tribunal has to remand the case to the CIT, where material or documentary evidence produce before the tribunal for the first time or in case the CIT rejects the application on technical ground without recording its opinion on facts/genuineness of the activities and such decision is overturned by the tribunal.
10. Aaraham Softronics (2019)(SC)	Section 80-IC	<p>100% of profit and gains is allowed as deduction for the first five year and for remaining 5 years deduction @ 25%/30%(for company) is allowed u/s. 80IC. However, in case of substantial expansions after 5 years then deduction 100% shall be allowed for the remaining period of 10 years.</p>

DETAIL CASE LAWS

1. Laxman Das Khandelwal (2019)(SC):

Issue: Whether omission of issue of notice u/s. 143(2) is a defect curable u/s. 292BB, on the ground that the assessee has participated in the proceedings?

Relevant Provisions: Section 292BB provides that where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him.

Observation of the court:

- (i) Issue of notice u/s. 143(2) is mandatory for making a regular assessment u/s. 143(3)
- (ii) Non-issuance of notice u/s. 143(2) is not a curable defect u/s. 292BB even though the assessee has participated in the proceedings.
- (iii) For application of section 292BB notice must have been emanated from the department and it does not save complete absence of issue of notice.
- (iv) Only the infirmities in the manner of service of notice can be cured u/s. 292BB.

2. Maruti Suzuki India Ltd. (2019) (SC)

Facts: on 29th Jan 2013, The High Court approved the Scheme for Amalgamation w.e.f 1.4.2012. on 2.4.2013, the amalgamated (called MSIL) company intimated the AO of the amalgamation. On 26.9.2013 assessment notice was issued against the amalgamating (called SPIL) company, and accordingly, order with the direction of Dispute resolution panel is passed in the name of amalgamating. The amalgamated company has participated in all the proceedings.

Issue:

- (i) Whether issue of notice in the name of amalgamating company after the intimation of amalgamation to the AO is a defect curable u/s. 292B?
- (ii) Whether participation of the amalgamated company would operate as an estoppel against law?

Relevant Provisions: Section 292B provides that, return of income, assessment, notice, summons, other proceedings, not to be invalid merely by reason of any mistake, defect or omission in such return etc. if such return of income etc., is in substance and effect in conformity with or according to the intent and purpose of the Income tax Act, 1961.

Observation of the court:

- (i) In the present case, despite the fact that the assessing officer was informed of the amalgamating company having ceased to exist as a result of the approved scheme of amalgamation, the jurisdictional notice was issued only in the name of amalgamating company.
- (ii) The basis on which jurisdiction was invoked was fundamentally at odds with the legal principle that the amalgamating entity ceases to exist upon the approved scheme of amalgamation (u/s. 393 of the Companies Act, 1956/section 232 of the Companies Act, 2013) and therefore is not a person u/s. 2(31) against which assessment proceedings is to be initiated.
- (iii) This is a substantive illegality and not a clerical error/ procedural violation of the nature adverted to in Section 292B.
- (iv) Participation in the proceedings by the appellant in the circumstances cannot operate as an estoppel against law.

3. A.A Estate Pvt. Ltd. (2019)(SC):

Issue: Whether the action of the High Court is justified without framing substantial question of law by itself and deciding the appeal merely on the question put forth by the appellant?

Relevant provisions of the Act:

Section 260A(1)	An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.
Section 260A(2)(c)	The appellant aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.
Section 260A(3)	Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.
Section 260A(4)	The appeal shall be heard only on the question so formulated
Section 260A(5)	The High Court shall decide the question of law so formulated

Observation of the Court: The question proposed by the appellant is fall u/s. 260A(2)(c), whereas the question framed by the High Court I fall u/s. 260A(3). Section 260A(4) provides that the appeal shall be heard only on the question so formulated by the High Court u/s. 260A(3). In the given case, appeal is heard on question proposed by the appellant and not on question framed by the High Court. Therefore, the decision is not in conformity with the mandatory requirement prescribed u/s. 260A. Hence, the Apex Court remand back the case to the High Court for deciding the appeal afresh.

4. Metal and Chromium Plater (P) Ltd. (2019)(Mad):**Relevant provisions –****(1) Section 115JB**

(a) Section 115JB is a self-contained code; (b) sub-section (1) lays down the manner in which income tax payable is to be computed; (c) Sub-section (2) provides for computation of “book profit”; (d) Sub-section (5) provides that “Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee, being a company, mentioned in this section”

(2) **Circular No. 13/2001 dated 9.11.2001:** clarifies that that except for *substitution of tax payable under the provision and manner of computation of book profit*, all the provisions of the tax including the provisions relating to charge, definitions, recoveries, payment, assessment, etc. would apply in respect of the provisions of the Income Tax Act.

Thus, exemption and deductions allowable under normal provisions of the Act would not be allowed while computing book profit unless expressly provided [Such as income exempt u/s. 10,11, and 12 is deducted while computing book profit]

Decision of the high court:

(i) Section 115JB(5) allows for application of all other provisions of the income tax Act except if specifically barred in section 115JB itself.

(ii) Therefore, the book profit shall be further eligible for adjustment to the benefit (exemption/deduction) provided in other provisions of the Act that are specifically brought into play u/s. 115JB(5).

(iii) AO’s reliance on Judgement of Apollo Tyres Ltd (2002)(SC) and Veekaylal Investment Co. (P.) Ltd(2001) (Bom.) were rendered in the context of erstwhile section 115J which does not contain a provision similar to section 115JB(5).

Therefore, Capital gains in respect of which exemption u/s. 54EC is available and which form part of net profit shall be excluded in computing book profit by virtue of section 115JB(5).

5. Smt. Ritha Sabapathy (2019)(Mad):

Facts: The assessee fails to appear on the appointed date of hearing. The Tribunal dismissed the appeal due to such non-appearance. The Assessee filed an appeal to High Court u/s. 260A.

Relevant provisions:

Section 254: The Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon **as it thinks fit**.

Rule 24 of the Income-tax (Appellate Tribunal) Rules, 1963, in case the appellant not appeared on the date of hearing the Tribunal shall dispose the appeal on merits, *ex parte*, after hearing the respondent.

Decision: The Tribunal being the final fact-finding body is legally bound to decide the appeal on merits. Cryptic orders (without touching the merit of the case) would not give rise to any substantial question of law for consideration before the High Court. Therefore, the High Court set aside the order of the Tribunal and directed to decide the appeal afresh on the basis of merits as accorded u/s. 254 read with rule 24.

6. Sunil Vasudeva & Others Vs. Sundar Gupta & Others (2019)(SC):

Facts: The Property (including one in new Delhi) of the assessee was with a receiver of the Calcutta High Court. The Property of New Delhi was sold by Income tax department for recovery of tax due. The assessee filed a writ petition on the ground that no leave was obtained from the Calcutta High Court by the department. However, the Calcutta High Court, while dismissing the writ direct the parties to file a civil suit against the property at Delhi without noticing that the civil suit was not maintainable in view of section 293 of the Act. Therefore, the said order was recalled for review and after review the Court restore the writ to be heard on its own merit.

Relevant Provisions: Section 293 of the Income-tax Act, 1961 puts a complete bar on filing civil suits in any civil court against the Income-tax authority.

Issue: Whether the High Court is justified in reviewing its own order to correct the mistake on the face of the record i.e overlooking of section 293 while passing the order?

Observation of the Apex Court:

- If the civil suit was not maintainable in view of section 293 of the Act and in consequence both the respondents and of the Department was left remediless. Therefore, the grievance raised before the Calcutta High Court, had to be examined on its own merits.
- Hence, there was no error committed by the High Court in its judgment rendered in exercise of its review jurisdiction calling for interference.

Further, the Supreme Court by referring its own ruling in the case of Kamlesh Verma vs. Mayawati (2013) has drawn the following principles:

(1) Cases for which review application is maintainable/non-maintainable:

cases in which the review application could be entertained	cases in which a review will not be maintainable
(i) discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;	(i) repetition of old and overruled argument;
(ii) mistake or error apparent on the face of the record;	(ii) minor mistakes of inconsequential import.
(iii) any other sufficient reason.	(iii) for an error on face of the record which has to be fished out and searched
	(iv) mere possibility of two views on the subject

	(v) when the same relief sought at the time of arguing the main matter had been negative
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2. Other relevant guiding principles: -

- Review proceedings cannot be equated with the original hearing of the case.
- A review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
- A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.
- The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

7. Eurotech Maritime Academy Pvt. Ltd. (2019) (Ker.):

Facts: The assessee a charitable trust u/s. 12AA deducted TDS u/s. 194I on rent paid for building occupied by it. However, it deposited the TDS belatedly and accordingly, penalty u/s. 271C was imposed. The assessee offer explanation that the clerk failed to discharge her duties properly and also, since it is a trust therefore not liable for audit u/s. 44AB and therefore not responsible to deduct tax at source u/s. 194I. Hence, levy of penalty is not justified.

Relevant provisions:

- (i) If any person fails to deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B, penalty equal to the amount of tax which such person failed to deduct or pay shall be leviable u/s. 271C.
- (ii) Further, section 273B no penalty shall be imposable for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure.
- (iii) Second proviso to section 194I: 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 clause (a) or clause (b) of [section 44AB](#) during the financial year immediately preceding the financial year in which such income by way of rent is credited or paid, shall be liable to deduct income-tax under this section.

Observation of the High Court:

- (i) A trust is neither an Individual nor a HUF, therefore the trust is liable to deduct tax at source, irrespective of whether or not it was covered u/s. 44AB.
- (ii) Penalty is leviable not only for failure to deduct tax at source but also for non-deposit of TDS to Govt.
- (iii) There cannot be any justifying ground for delay in payment of tax deducted at sources because the assessee cannot divert tax recovered for the Government towards working capital or any other purpose. Hence, the relaxation available u/s. 273B is not applicable in case of failure pay the TDS.
- (iv) Hence, levy of penalty u/s. 271C is justified.

[Note: U/s. 276B imprisonment (3months to 7 years and with fine) shall also be leviable in case of non-remittance of TDS)

8. Valsad District Central Co-operative Bank Ltd. (2019)(Guj):

Facts:

1. An employee Gratuity Scheme was framed in 1976, which was approved by the commissioner. Based on this order, LIC had accepted the responsibility to manage the Fund but at this point of time the assessee did not have the approval order.

2. However, it has produced the documents pertaining to the contribution made towards the fund and a copy of agreement between the trustees of the Gratuity Scheme and LIC to manage the fund.
3. In original assessment u/s. 143(3) after examining these documents deduction u/s. 36(1)(v) [contribution to approved Gratuity Fund] was allowed in earlier years. However, after 4 years, AO issued notice u/s. 148 on the ground that the assessee failed to produce Commissioner's Order of approval of the Gratuity Fund and therefore to the extent of such deduction the income of the assessee has escaped assessment u/s. 147.

Provisions: Proviso to section 147: Where an assessment u/s. 143(3) has been made for the relevant assessment year, no action shall be taken u/s. 147 after the expiry of 4 years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to **disclose fully and truly all material facts necessary for his assessment, for that assessment year.**

Issue: Whether re-opening of assessment is on account of mere change of opinion of the assessing officer or on account of failure on the part of the assessee to disclose fully and truly all material facts?

Observation:

1. At the time of assessment u/s. 143(3), the A.O did not pointedly examine this aspect of gratuity nor raised any queries thereto. Therefore, the question of change of opinion does not arise.
2. In the given case notice was issued after 4 years, therefore the crucial additional element i.e failure on the part of the assessee to disclose fully and truly all material facts must be examined.
3. Mere failure to produce commissioner's order of approval of Gratuity Scheme in long year back 1976 does not amount to non-disclosure of materials facts on the following ground-
 - (i) in none of the earlier years since 1976 any such issue was raised by the AO
 - (ii) in the relevant assessment year, the assessee had produce the same document what it had been producing all along i.e, the documents pertaining to the contribution made towards the fund and a copy of agreement between the trustees of the Gratuity Scheme and LIC to manage the fund.
 - (iii) Based on the above document deduction u/s. 36(1)(v) was allowed in earlier years.
4. Hence, issue of notice u/s. 148 after 4 years is not valid

9. Reham Foundation (2019) (ALL):

Issue: Whether the Tribunal has the power to direct for registration of a trust u/s. 254(1) or the tribunal has to remand the case to the CIT for deciding the matter afresh?

Observation:

Under section 12AA the principal Commissioner of Income tax (CIT)/CIT is empowered to grant registration of a trust. Where registration is not granted appeal lies to the Tribunal u/s. 254.

By virtue of power given u/s. 254(1), the tribunal can pass such orders, as it think fit. However, such power is to be read along with other provisions of the Act such as section 12AA. If the tribunal is given wide powers to direct registration in all or any circumstances, it would render the provisions of section 12AA, which cannot be the intention of the Legislature.

Where the CIT refused to accept for registration of trust after recording its findings that the activities and object(s) of the trust is not genuine on the basis of the material on record before him and the tribunal, on the basis of same material comes to the conclusion that the order of the CIT is perverse and passed by ignoring, misconstruing or misinterpreting such evidence, tribunal can direct for registration without remand to the CIT.

However, in the following cases the tribunal has to remand the case to the CIT for deciding the matter afresh –

(i) where material or documentary evidence produce before the tribunal for the first time and was not available before the CIT.

(ii) in case the CIT rejects the application on technical ground without recording its opinion on facts/genuineness of the activities and such decision is overturned by the tribunal.

10. Aaraham Softronics (2019)(SC):

Facts: The assessee was engaged in manufacture of specified article in the State of Himachal Pradesh and eligible to claim deduction @100% of profit for the first 5 years and 25% of profit for the next 5 years u/s. 80IC(3). The assessee claimed 100% deduction for the first 5 years. Further, it has claim 100% instead of 25% from the year of substantial expansion till 10 years.

Issue: Can substantial expansion render the assessee eligible to claim 100% of profit u/s. 80-IC (3) once again even after completion of first 5 years?

Observation:

1. Section 80-IC allow deduction for manufacturing of specified article by setting up a new factory in special Category States such as North Eastern States including Himachal Pradesh. The deduction is allowed @ 100% of profit and gains for 5 years commencing from the “initial assessment year” and, @ 25% (30% for company) of profit and gains for the next 5 year. As per section 80-IC(6) the total period of deduction is restricted to 10 years.

2. The term "Initial assessment year" is defined in that section as the assessment year relevant to the previous year in which the undertaking or the enterprise begins to manufacture or produce articles or things, or commences operation **or completes substantial expansion;**

3. The moment substantial expansion takes placed another initial year triggered which enables for 100% deduction. However, because of section 80IC(6) a new period of 10 years does not start. Therefore, the assessee shall be eligible for 100% deduction from the year of substantial expansion for remaining period out of 10 years.

For example: If substantial expansion is taken place in 7th year, then deduction shall be allowed as under-

For first 5 years -100%

For 6th year- 25%/30%

From 7th year to 10th Year- 100%

Note: Case of Classic Binding Industries (2018)(SC) given in the study mat/last term case law sheets is no longer relevant for exam.
