TAX PLANNING IN RESPECT OF SOME PROVISIONS OF THE FINANCE BILL ,

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A) INSERTION OF NEW SECTION 80EE – DEDUCTION IN RESPECT OF INTEREST ON LOAN TAKEN FOR 1st RESIDENTIAL HOUSE PROPERTY:

CRUX OF THIS SEC.: Deduction of Interest payable on loan taken from financial institution for 1st residential house property is available.

Applicability: only Individual

Amount of Deduction: Interest payable or 1 lakh whichever is less

Conditions:
(i) the loan has been **sanctioned** by the **financial institution during the f.y.2013-14**;
(ii) the amount of **loan sanctioned** does not exceed **25 lakh rupees;**
(iii) the **value of** the residential house **property** does not exceed **40 lakh rupees**;
(iv) the assessee **does not own any residential house property** on the date of sanction of the loan.

Analysis By CA Nitesh More:

a) Deduction is available even if interest is **not actually paid** as the word " Payable" is used.

b) Loan must be taken for **acquisition** for such property only I.e. **renovation, improvement not covered.**

c) Deduction is available in respect of **1st residential house property** only

d) Loan must be taken from a **financial institution**

e) Value of such property must not exceeds **40 Lakhs**

f) Amount of loan must not exceeds **25 Lakhs**

DRAFTING ERRORS/GREY AREA: There is a drafting error in this sec. , which will be rectified by legislature.Sub-sec. (5) contains the definitions of financial institution as well as housing financial company. Although loan taken from financial institution has been covered, the sec. remains silent about loan from housing financial institution.
Question1: Had the legislature does not intent to allow deduction for housing finance company, why the definition of housing finance company has been included?
Suggestions: Use the words "or housing financial institutions" after the word financial institution in sub section (1).
Question2:If assesse construct additional floor in an existing building, than whether deduction under this sec will be available?

Answer: The word "acquisition of a residential house property" used suggests that deduction may not be available for construction of part of a property.

Suggestions: The word "or a part thereof" may be inserted and the sub-sec. may be redrafted as follows:

In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property or a part thereof .

TAX PLANNING:

1) Take loan only from financial institution.
2) Do not take loan from others.
3) Schedule interest payable during tenure of loan such that you enjoy maximum deduction i.e. you enjoy 1 lakh limit every year

B) TDS of 1% from consideration payable for transfer of Immovable property(Sec 194-IA):

Crux of sec: Consideration for transfer of any immovable property other than agricultural land of 50 lakhs and above attracts TDS @ 1% - Applicable from 1 June 2013

TAX PLANNING:

1) **Consideration may be given before 1st June**
2) **Consideration may be credited Before 1st june, say 28th May and may be paid on or after 1st June . It may be argued that the transferee is liable to deduct TDS at the time of credit or payment whichever is earlier. In this case, the liability to deduct TDS arises on 28th May . But on 28th May , as the provisions of this Sec was not applicable , the liability to deduct tax does not arises.**

C) PURCHASER OF IMMOVABLE PROPERTY HAVE TO PAY TAX ON (STAMP DUTY VALUE – CONSIDERATION):AMENDMENT OF SECTION 56.

Applicability: Individual or HUF

Conditions: If consideration is less than stamp duty value

CRUX OF THIS SEC: Purchase of immovable property by individual or HUF for inadequate consideration (Consideration *minus* Stamp duty value > `50,000) taxable in the hands of the recipient

TAX PLANNING: Purchase immovable property in the name of other assessee i.e. private Ltd Company

D) REBATE OF INCOME TAX IN CASE OF CERTAIN INDIVIDUALS - SEC 87A

Applicability: Individual resident

Conditions: Total income does not exceed five hundred thousand rupees

Amount of Rebate: Rs 2,000 or Income Tax Payable whichever is less

CRUX OF THIS SEC.: Resident Individual whose Total income does not exceed 5 Lakh will be entile a rebate of rs 2000 from Tax payable

E) Insertion of new section 43CA - Special provision for full value of consideration for transfer of assets other than capital assets in certain cases

Comment: **Seller of Land or building or both, which is held as stock in trade have to pay tax on (stamp duty value – consideration)**

Applicability: All assessee

Conditions: **If consideration is less than stamp duty value**

CRUX OF THIS SEC.: **In case of transfer of Land or building or both, held as stock in trade, if consideration is less than stamp duty value, than stamp duty value shall be deemed to be full value of consideration.**

E) SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED INCOME OF DOMESTIC COMPANY FOR BUY-BACK OF SHARES

Applicability: **DOMESTIC COMPANY**

Condition: **Buy back of unlisted shares**

Amount of Tax: **20% on distriduted income to shareholder**

CRUX OF THIS SEC.: **Unlisted domestic Company shall pay 20% tax on distributed income (Distributed Income = Consideration - amount received for issue of shares) to shareholder in case of buy of unlisted shares**

F) INVESTMENT IN NEW PLANT OR MACHINERY – SEC 32AC

Comment: This provision is applicable to very big manufacturing companies only.

Applicability: A Company engaged in manufacturing activities.

conditions:

1) Company aquires and installs new assets exceeding 100 crores

2) New assets are acquired during f.y. 2013-14

Amount of Deduction: **15% of actual cost** will be allowed as deduction.

Lock in period: If assets transferred (except in case of amalgamation or demerger) before 5 years than deduction earlier allowed will be **deemed income.**

CRUX OF THIS SEC.: A company engaged in manufacturing acquires and installs new assets exceeding 100 crores rupees during f. y. 2013-14 than 15% of actual cost will be allowed as deduction. Lock in period of 5 years is also there.