# HIGHLIGHTS OF THE FINANCE ACT, 2009

**(Assessment year 2010-11 applicable for May 2010 and Nov 2010 CA IPCC/PCC Exams)**

## RATES OF TAXATION

| ASSESSES | AMOUNT | RATES |
|---|---|---|
| Individuals,<br>H.U.F., A.O.P/B.O.I. | Up to 1,60,000<br>1,60,001-3,00,000<br>3,00,001-5,00,000<br>Above 5,00,000 | Nil<br>10%<br>20%<br>30% |
| Individual's > 65 years (Senior Citizens). | Up to 2,40,000<br>2,40, 001-3,00,000<br>3,00,001 – 5,00,000<br>Above 5,00,000 | Nil<br>10%<br>20%<br>30% |
| Individual's (Women < 65) | Up to 1,90,000<br>1,90,001-3,00,000<br>3,00,001-5,00,000<br>Above 5,00,000 | Nil<br>10%<br>20%<br>30% |
| Partnership firms (incl. LLP) | Flat rate | 30% |
| Companies:<br>Indian<br>Foreign | <br>Flat rate<br>Flat rate | <br>30%<br>40% |
| Local authorities | Flat rate | 30% |
| Co-operative societies | Up to10,000<br>10,001-20,000<br>Above 20,000 | 10%<br>20%<br>30% |
| Other Artificial persons | | Same as type 1 |

## SURCHARGE

- For individuals / HUF / AOP - Nil.
- Companies: Indian – 10% & Foreign – 2.5% (only if the total income exceeds 1 crore).
- Partnership firm – Nil.
- Co operative societies/local Authorities - Nil.
- Any other artificial person – Nil.

# INCOME FROM SALARIES

| *Additions* | *Deletions* | *Modifications* |
|---|---|---|
| NIL | FBT | 17(2) |

## SEC.17(2) – PERQUISITES DEFINITION

**d.** The value of any specified security or sweat equity shares allotted or transferred by an employer or former employer, free of cost or at concessional rate. Value of perquisite is equal to the fair market value of the shares as on the date on which the option is exercised as reduced by the amount actually paid by or recovered from employee.

**e.** Any amount of contribution towards an approved superannuation fund by the employer in respect of an employee to the extent it exceeds Rs.1,00,000.

**f.** The value of any other fringe benefit as may be prescribed, expect mobile/telephone.

## PERQUISITE IN RESPECT OF MOTOR CAR

**a.** Where the car is owned by the employee and the expenses are met by him the question of perquisite and its taxability does not arise.

**b.** Where the car is owned by the employer/employee and used wholly and exclusively for official purposes, there is no taxable perquisite even if the employer meets the expenses provided certain conditions are satisfied (Discussed in e point below).

**c.** ***To & Fro:*** Conveyance provided to go to office from home and to return to home from office is considered as use for official purposes and therefore not taxable as a perquisite.

**d.** ***Other cases:***

| ***Car owned by*** | ***Expenses met by*** | ***Used for wholly personal use*** | ***Used for partly personal use & partly official use*** |
|---|---|---|---|
| Employee | Employer (Met by/ Reimbursed by)<br><br>**(*)** | Actual Exp.'s incurred | Actual amount of expenditure incurred by the employer ***as reduced by*** below amounts towards official use:<br>Up to 1.6 liters cubic capacity of engine Rs. 1,200 p.m.<br>Above 1.6 liters of C.C. - 1,600 p.m. (Or as reduced by higher amount if conditions of e point are satisfied)<br>Reduce 600 p.m. for driver salary. (If provided) |
| Employer (Owned/ Hired) | Employee | Dep. (Prescribed rate is at 10% on original cost) (Or) Hire Charges, Driver Salary (If provided). | Up to 1.6 liters C.C. of engine the value of perk is Rs.400 p.m.<br>Above 1.6 liters of C.C. of engine the value of perk is Rs.600 p.m.<br>Add the Driver salary - Rs.600 p.m. (If provided) |
| Employer (Owned/ Hired) | Employer (Met by/ Reimbursed by) | Running & Maintenance expenses, Dep. (rate is at 10% on original cost) (or) Hire Charges, Driver Salary (If provided). | Up to 1.6 liters C.C. of engine the value of perk is Rs.1,200 p.m.<br>Above 1.6 liters of C.C. of engine value of perk is Rs.1,600 p.m.<br>Add the Driver salary - Rs.600 p.m. (If provided) |

***Additional Points:***

**a.** In * situations, perquisite is chargeable in the hands of all employees i.e. both specified & non specified employees. In other cases it is taxable for specified employees only.

**b.** Here ***month*** refers full month only.

**c.** ***Claim 1:*** Where the employer or the employee claims that the motor car is used wholly and exclusively in the performance of official duty certain conditions are required to be satisfied (Discussed in e point below).

**d.** ***Claim 2:*** Similarly, where it is claimed that the actual expenses on the running and maintenance of the motor car owned by the employee for official purposes is more than the amounts prescribed as deductible, such higher amount can be deducted if certain conditions are satisfied. (Discussed in e point below).

**e.** The ***conditions*** prescribed for c & d, are as follows:

- ϒ The employer has maintained complete details of journey undertaken for official purpose which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon.
- ϒ The employee gives a certificate that the expenditure was incurred wholly and exclusively for the performance of his official duty.
- ϒ The supervising authority of the employee, wherever applicable, gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

**f.** ***Car at concessional rate:*** From the answer as obtained above reduce the amount collected from employee. But as per the new valuation rules nothing is deductible from such answer in cases of 2b & 3b cases.

**g.** ***More than one car:*** Where the employee or his family members are provided with more than one car owned by the employer, otherwise than wholly and exclusively for official purposes, the value of perquisite shall be calculated as under.

- ϒ The value of perquisite in respect of one car shall be Rs.1,200 up to 1.6 liters cubic capacity of engine Rs.1,600 if such capacity exceeds 1.6 liters as increased by Rs.600 if driver is provided; and
- ϒ In respect of other car or cars the value of perquisite shall be calculated as if such car or cars have been provided exclusively for his private or personal purposes.

**h.** In the case of any other conveyance provided by employer the value of perquisite shall be as follows depending upon the usage indicated below:

| | |
|---|---|
| **a)** Private purposes | Running and maintenance expenses |
| **b)** Partly private purposes | Actual expenditure incurred by the employer as reduced by an amount of Rs.600 |

***Problem 7 (VKS):*** Find out the value of the perquisite in respect of car in the following different situations for the A.Y. 2010-11. The employees are specified employees:

**a.** X is employed by a company. He has been provided a car (1200cc) owned by the employer, cost of the car is Rs.4,26,000. The expenditure incurred by the company on maintenance of the car are-petrol: Rs.46,000, driver: Rs.36,000 and maintenance Rs.10,000. The car is used by X partly for official purposes partly for private purposes. A sum of Rs.12,000 is recovered from X.

**b.** Assume in Situation 'a' that the car is used only for private purposes.

**c.** A car (1800cc) is owned by the employer (cost of the car being Rs.4,80,000). X, an employee, can use it partly for official purposes and partly for private purposes. Expenses are, however, incurred by X. During the previous year 2009-10 the total expenditure incurred by X is Rs. 50,000 on car and Rs. 20,000 on driver.

**d.** Assume in Situation 'c' that the car is used only for private purposes.

**e.** X owns a car (1400cc). He uses it for official & private purposes. During the previous year 2009-10 he incurs a sum of Rs. 40,000 on running and maintenance of car.

Besides, he has appointed a driver (salary Rs. 24,000). The employer reimburses the entire expenditure of Rs. 64,000. Logbook of the car is not maintained.

**f.** Assume that in Situation e that the logbook of the car is maintained and 70% of the expenditure is attributable towards the official use of the car. A certificate is given by the employer & employee to this effect.

**g.** A car (1700cc) is owned by the employer. All expenses (Rs.56,000) are incurred by the employer. The employer maintains logbook of the car. X, an employee, uses the car only for official purposes. A certificate is given by the employer & employee to this effect.

## INTEREST ON LOANS

***Rate of int.:*** The value of the benefit to the employee on account of interest free or concessional loan given to him or to any member of his household is equal to simple interest, at the rate of: ()

| Nature of Loan | Rate of Interest - per annum |
|---|---|
| Housing Loan up to 30L | 0 to 5 yrs – 9.75%; 5 to 15 yrs –10%; 15 to 25 yrs – 10.25% |
| Loan above 30L to Less than 75L | 0 to 5 yrs – 10.25%; 5 – 15 yrs – 10.50%; 15 to 25 yrs - 10.75% |
| Loan above 75L | 0 to 5 yrs – 10.25%; 5 – 15 yrs - 10.50%; 15 to 25 yrs – 11% |
| Car | 0 - 3 yrs – 11.75 % (if below 7.5 lakhs) and 11.50% (if above 7.5 lakhs); Above 3 yrs but less than 5 years - 11.75%; and Above 5 yrs but less than 7 yrs – 12% |
| Education | Up to 4 L - 11.75%;above 4 L but less than 7.5L – 13.25% & above 7.5 L -12,50% |

## TRAVELING ETC (OTHER THAN LTC).

The value of perk taxable in hands of all the employees:

| | |
|---|---|
| The value of traveling, touring, stay and other expenses borne by the employer for any holiday availed by the employee or any member of his household. | The amount of expenditure incurred by the employer. |
| Where such facility is maintained by the employer, and is not available uniformly to all employees. | It will be the value at which such facilities are offered by other agencies to the public. |
| Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him/her. | The amount of expenditure so incurred in relation to accompanied person. |
| If official tour is extended as a vacation. | Expenses incurred for extended period. |

The value of benefit is to be reduced by the amount recovered from employee.

## VALUE OF FREE MEALS, TEA AND SNACKS

The value of free meals provided by the employer shall be the amount of expenditure incurred by the employer. It is taxable in the hands of all the employees. However, the following shall be considered:

| | |
|---|---|
| Free meals provided by the employer during the office hours at office or business premises. | Up to Rs.50 per meal exempted. |
| Free meals provided through paid vouchers/tokens usable only at eating canteens. | - do - |
| Free meals during working hours (including overtime/on holidays) provided in a remote area or at an offshore installation. | Nil |
| Tea/Snacks provided during working hours (including overtime/on holidays). | Nil |

The value of benefit is to be reduced by the amount recovered from employee. Free meals provided in excess of 50 per meal is chargeable to that extent in excess of 50 per meal.

***Problem 11A:*** R is provided free meals in the office, during office hours, for 300 days during the previous year. The cost of meals to the employer is Rs.65 per meal.

**a.** Determine the value of perquisite in respect of meals.

**b.** What shall be the value if the value per meal is Rs.50.

**c.** R who is working in a remote area, is provided free meal during office hours for 300 days. The cost to the employer per meal is Rs.60. Determine the value of perquisite.

## VALUATION OF PERQUISITE IN RESPECT OF FREE TRANSPORT:

| Mode of valuation | Employees of railways / airlines | Employees of any other transport undertaking |
|---|---|---|
| Step 1 - Find out cost to the employer | Nil | Value at which such benefit is offered by the employer to the public |
| Step-2 – Less: Amount recovered from the employee | Nil | Recovery from the employee |
| Taxable value of the perquisite (Step 1 – Step 2) | Nil | Balancing amount (if it is positive) |

## GIFTS

| *Circumstances* | *Value of benefit* |
|---|---|
| The value of any gift, or voucher or token in lieu of which such gift may be received by the employee or by member of his household on functional occasions (in cash or in kind). | The sum equal to the value/amount of such gift. |
| If the value of such gift etc. is < Rs.5,000 in the aggregate during the previous year | The value of perquisite shall be taken as Nil. |

If the value of gift is ≥ 5,000, then the gift is taxable to the extent it is in excess of Rs.5,000. It is taxable in the hands of all employees (both specified and non specified). Gift allowance is fully taxable.

***Problem 11B:*** On the occasion of silver jubilee of A Ltd.:

**a.** R an employee, is given a gift of watch whose value is Rs.4,500. Is this gift taxable?

**b.** What shall be taxable value of perquisite if instead of watch, R is given a cash of 4,500.

**c.** What shall be the taxable value of perquisite if the value of watch is Rs.6,500.

## CREDIT CARD

1. ***Perk:*** The expenses incurred by the employee or any member of his household which is charged to a credit card (including add on card) borne by the employer.
2. Perk ***includes*** membership fees and annual fees born by employer for such cards.
3. It is taxable in the hands of ***all employees*** (both specified and non specified).
4. The value of benefit is to be reduced by the amount recovered from employee.
5. However, ***no perquisite*** will be taken if the expenses incurred are for official purposes & the following conditions are satisfied:
   - **a.** Complete details in respect of such expenditure is maintained by the employer.
   - **b.** Employee issues a certificate that the exp's were incurred for official purposes.
   - **c.** The supervising authority of the employee gives a certificate for such expenditure to the effect that the same was incurred for official purposes.

## CLUB

1. If employer meets any expenditure incurred in a club by the employee or any member of household, such expenditure shall be the value of perquisite.
2. Perk includes the amount of annual or periodical fee.
3. ***Amount recovered:*** The value of benefit is to be reduced by the amount recovered.
4. ***Exceptions:***
   - **a.** Where the employer has obtained ***corporate membership*** of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall not include the initial fee paid for acquiring such membership.
   - **b.** If the employer provides ***uniformly to all employees*** the use of health club, sports and similar facilities, there will be no taxable perquisite in respect of such facilities.
   - **c.** Write the $5^{th}$ point of credit card.
5. The value of benefit is taxable in the hands of all the employees.

# INCOME FROM HOUSE PROPERTY

No changes

# INCOME FROM BUSINESS AND PROFESSION

| *Additions* | *Deletions* | *Modifications* |
|---|---|---|
| Sec.35 AD | NIL | Sec.28, Sec.35, Sec.36, Sec.40(b), Sec.40A(3), Sec.43(1), Sec.43(6), Sec.2(23), Rule 6 DD |

## DEDUCTION OF CAPITAL EXP.OF SPECIFIED BUSINESS – SEC.35AD:

Sec 35AD provides for 100% deduction in respect of any capital expenditure incurred by an assessee for specified business. (Replaces Sec.80IA which is profit based deduction. This is Investment based Deduction).

***Eligible business:*** The following shall be considered as specified business:

**a.** Setting up and operating a cold chain facility; (Any person)

**b.** Setting up & operating a warehousing facility for storage of agri. produce; (Any person)

**c.** Laying and operating a cross-country: (a) natural gas; or (b) crude; or (c) petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network. (Only companies or Consortium of Compmanies)

***Date of commencement - Sec 35AD(5):*** Deduction shall be allowed only if the specified business is commenced on or after the following dates;

| ***Commenced on or after*** | ***Nature of specified business*** |
|---|---|
| 1st April,2007 | Laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network |
| 1st April,2009 | Other specified business |

***Conditions to be complied:***

**1.** It is not setup by splitting up, or the reconstruction, of a business already in existence;

**2.** It is not setup by the transfer to the specified business of machinery or plant previously used for any purpose. However, up to 20% of total value of plant and machinery can be plant and machinery earlier used. In the following situations, it shall not be regarded as machinery or plant previously used of any purposes, where:

   **a.** Such machinery or plant was not at any time 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 has been allowed or is allowable in respect of such machinery or plant to any person earlier.

**3.** The assessee shall not be allowed any deductions in respect of specified business under the provisions of chapter VI-A Deductions in respect of certain incomes.

**4.** Once the assessee claims deductions under section 35AD, no other deduction shall be allowed under any other section in any other previous year;

**5.** Where any goods or services held for the purposes of eligible business are transferred to any other business carried on by the assessee or any goods or services held for any other business are transferred to the eligible business and in either case, if the consideration for such transfer as recorded in the accounts of the eligible business does not correspond to the market value thereof, then the profits eligible for deduction shall be computed by adopting market value for such goods or services. In case of practical difficulty in this regard, the profits shall be computed by the Assessing Officer on a reasonable basis.

**6.** Similarly, where due to the close connection between the assessee and other person or for any other reason, it appears to the Assessing Officer that the profits of eligible business is increased to more than the ordinary profits, the Assessing Officer shall compute the amount of profits on a reasonable basis for allowing the deduction.

**7.** The deduction shall be allowed only if the accounts are audited by a Chartered Accountant and audit report thereof is furnished along with the return of income.

***Amount eligible for deduction:***

1. 100% of the amount of any capital expenditure incurred wholly and exclusively for the purposes of the specified business carried on by the assessee shall be allowed.
2. It may be noted that, for the purpose of deduction under this section, capital expenditure shall not include acquisition of: Land, Goodwill, Financial instrument.

***Year of deduction:***

1. The deduction under this section shall be allowed in the previous year in which such capital expenditure is incurred.
2. In a case where, such capital expenditure were incurred prior to the commencement of the operations of the specified business, the deduction shall be allowed in the previous year in which the operations are commenced, provided the amount is capitalized in the books of account on the date of commencement its operations.

***Special conditions - For Undertaking engaged natural gas, crude or petroleum oil:***

1. Such business should be owned by a company or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act.
2. It has been approved by the Petroleum and Natural Gas Regulatory Board established under the Petroleum and Natural Gas Regulatory Board Act, 2006.
3. It has made at least 1/3rd of its total pipeline capacity available for use on common carrier basis by any person other than the assessee or an associated person.

An ***"associated person"*** in relation to the assessee, means a person:

a. Who participates, directly or indirectly, or through one or more intermediaries on the management or control or capital of the assessee or

b. Who holds, directly or indirectly, shares carrying not less than 26% of the voting power in the capital of the assessee or

c. Who appoints more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee or

d. Who guarantees not less than 10% of the total borrowings of the assessee

***Additional Ded. - for undertaking engaged in laying & operating natural gas pipeline:***

For the AY.2010-11, an additional deduction shall be allowed in the case of an assessee engaged in the business of laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network, in respect of capital expenditure incurred during any earlier previous year if the following conditions are satisfied:

a. Commenced its operations at any time between 01-04-2007 and 31-03-2009; and

b. No deduction for such amount has been allowed in any earlier previous year.

Please note this special deduction is available only in case of specified business relating to natural gas. In respect of other business, including petroleum, crude distribution, only normal deduction shall be allowed.

***Consequential Amendments:*** Sec.28(vii), Expl. 13 to Sec.43(1), Sec.50 B, Sec.73A, Sec.80IA.

## CHARGING SECTION - SEC.28(vii)

Where any capital asset, in respect of which deduction has been allowed u/s 35AD, has been discarded demolished, destroyed or transferred and consequent to that, any sum has been received or is receivable, shall be subject to tax under the head 'Profit and Gains of Business or Profession'.

## IN HOUSE RESEARCH - SEC.35(2AB)

***Eligible assessee*:** Any company engaged in any business of manufacture or production of any article or thing other than those specified in the 11th schedule.

## SEC.36(1)

Discount on ***Zero coupon bonds*** on pro rata basis having regard to the period of life of such bonds (Interest). In the Finance Act 2009, in the list of Eligible Issuers Scheduled banks were added.

Any amount of ***BCTT, STT*** paid. (CTT deleted))

## EXPL.7 TO SEC.43(6)

Where an assessee derives composite income, which comprise partly of agriculture and partly of business in nature, namely tea, coffee, or rubber, part of the depreciation has not 'actually been allowed'. There was an issue as to whether the full amount of depreciation should be counted for computing the value of WDV or only to the extent of what is actually allowed while computing the business income. Expl. 7 to Sec.43(6) has been introduced to clarify this issue. Accordingly, in the cases of composite income, depreciation shall be computed as if the total income of the assessee is chargeable under the income-tax Act and such depreciation shall be deemed to have been 'actually allowed'.

## EXPL. 13 TO SEC.43(1)

| | | |
|---|---|---|
| **13** | Actual cost of any capital asset on which deduction has been allowed or allowable u/s 35AD &<br>Asset acquired from Specified business activities namely Cold Chain Facility, Warehousing facility for agriculture produce, Laying cross country natural gas, crude, petroleum pipe line, as referred in Sec.35AD by way of:<br>(i) Gift or will of Irrevocable trust<br>(ii) On any distribution on liquidation of the company<br>(iii)Transfer through any specified business reorganization as referred in Sec.47. | Actual cost shall be adopted as Nil. |

## ASSESSMENT OF PARTNERSHIP FIRMS

**PARTNERSHIP FIRM:** Sec. 2(23) which defines the term 'Firm' has been amended. Accordingly, a firm shall have the meaning assigned to it in the Indian PartnershipAct,1932 and shall include a Limited Liability Partnership as defined in the Limited Liability Partnership Act,2008. The taxation of LLP is on par and similar to that of taxation of firms.

**TAX RATES:** 30% Flat rate. (Surcharge was removed)

**REMUNERATION:** It should be within the limits prescribed as below:

| *Book profit* | *Remuneration as a % of Book Profit* |
|---|---|
| On the first 3 lakhs | 1,50,000 or 90% of Book Profit, Which ever is higher. |
| On the balance | 60% of book profit |

***Note:*** In case of loss the remuneration payable - Rs.1,50,000.

## CASH PAYMENTS > 20,000 - SEC.40A(3)

Where the assessee makes any payment towards an expenditure, in cash, for a sum exceeding Rs.20,000, 100% of such total expenditure will be disallowed. This disallowance is not applicable when the payment is made by a A/c payee cheque/DD. However in case of payment made for plying, hiring or leasing goods carriers, the amount shall not exceed Rs.35,000.

***Rule 6DD - In the following cases, no disallowance shall be made u/s.40A (3):***

1. Where payment is made to RBI, banks, co-operative banks, Primary agricultural credit society or Primary credit society or Land mortgage bank or LIC.
2. Where the payment is made by Credit Card, Debit Card, Letter of credit, Telegraphic transfer by through a bank.
3. Where the payment by way of Gratuity, Compensation etc is paid to an employee or his legal heirs if the income under the head salaries does not exceed Rs.50,000.

# CAPITAL GAINS

| *Additions* | *Deletions* | *Modifications* |
|---|---|---|
| Sec.49(2AA), Sec.49(4) | Sec.49(2AB). | ZCB, Sec.50B, Sec.50C, & New CII is 632 |

## ESOP/SWEAT EQUITY SHARES - SEC.49(2AA)

While computing salary, value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer or former employer free of cost or at concessional rate to an employee shall be considered as taxable perquisite. In a case where such specified security or sweat equity shares are subsequently transferred, for the purpose of computation of capital gains, the cost of acquisition of such specified security or sweat equity shall be the fair market value which was adopted for the purpose of calculation of perquisite u/s 17 under the head 'Salaries'.

## IMMOVABLE PROPERTY RECEIVED BY WAY OF GIFT - SEC 49(4)

Where an immovable property is gifted, otherwise than by way of exempted cases covered u/s 56 (gift by relatives etc), the value of such property for stamp duty purpose shall be considered as the income chargeable under the head 'Income from Other Sources' in the hands of the recipient of such gift. Again in a case where an immovable property was received by a person for a consideration which is less than the stamp duty value, the difference between the actual consideration and the value of stamp duty shall be charged to tax under the head 'Income from Other Sources' in the hands of such recipient.

In both the situations explained above, where the recipient subsequently transfers the immovable property, for the purpose of computation of capital gain, the cost of acquisition shall be equivalent to the amount taxed as income under the head income from other sources as gift.

## SEC.45(5) - COMPULSORY ACQUISITION

Interest on enhanced compensation is chargeable under Income from other sources in the year of receipt subject to a deduction u/s 57.

## SEC.50B - SLUMP SALE

The total value of total assets, for this purpose, shall be:

- In the case of depreciable assets - the written down value of assets as per I.Tax act.
- In the case of other assets - the book value (Other than revalued figures).
- In respect of a capital asset, where a special benefit u/s 35 AD has been availed, the value of such asset shall be considered as Nil.

## SEC.50C - SPECIAL PROVISIONS FOR COMPUTATION OF CONSIDERATION

***What it says:*** Where the consideration for the transfer of land or building or both (LTCA/STCA/Dep./Non-Dep.) whether registered with stamp duty authority or executed through agreement to sell or by power of attorney (), is < the value adopted by stamp duty authorities for the purpose of payment of stamp duty (Called stamp duty value), the value so adopted shall be taken as consideration. **(i.e. Stamp duty value = Consideration)**

## MEANING OF ZERO COUPON BONDS:

"Zero coupon bond" means a bond, Issued by any infrastructure capital company or infrastructure capital fund or public sector company or a scheduled bank ( *) on or after 1.6.2005.

* Necessary amendments was also made in Sec.36(1)(iiia) & Sec.194A.

# INCOME FROM OTHER SOURCES

| ***Additions*** | ***Deletions*** | ***Modifications*** |
|---|---|---|
| Nil | Nil | Sec.56, Sec.57 |

## SEC.56

**1.** Any sum of Money or Property (Movable/Immovable - F.Act 09 #), the aggregate value of which exceeds Rs.50,000 (*****), received from any person without or inadequate consideration (gifts) by an individual or HUF during the year (i.e. it treats Gift as income of Donee). # with effect from 1/10/2009.

***Illustration:***

| **Nature of receipt** | **Sum taxable** |
|---|---|
| Any sum of money received without consideration in aggregate > Rs. 50,000; | Whole of such sum received. |
| Any immovable property received without consideration, the stamp value of which > Rs. 50,000; | The entire value of such property equivalent to the amount of stamp duty valuation. |
| Any immovable property received for a consideration which is less than the stamp duty value by an amount > Rs. 50,000; | The difference between the amount of stamp duty valuation and the consideration paid for the immovable property. |

| | |
|---|---|
| Any movable property received without consideration, the fair market value of which > Rs.50,000 | The whole of the aggregate fair market value of the property. |
| Any movable property received for a consideration which is less than the fair market value by an amount > Rs.50,000. | The difference between the amount of fair market value and the consideration paid for the movable property. |

**2.** Any Interest on Compensation/Enhanced Compensation received. Taxable in the year of receipt.

### EXPENSES DEDUCTIBLE UNDER THIS HEAD (SEC.57)

In respect of interest on compensation or enhanced compensation, a sum equal to 50 % of such interest income can be availed as deduction u/s 57(iv). It may be noted that no other deduction shall be allowed to an assessee in respect of such expenditure under any other provisions.

## CLUBBING AND DEEMED INCOME

Amendments made in the Finance act, 2009 - Nil

## SET OFF AND C/F OF LOSSES

#### C/F & SET OFF OF LOSSES BY SPECIFIED BUSSINESS - SEC.73A

**a.** Sec 35AD provides special deduction for 'specified businesses'. In a case where, such specified business suffers loss, Sec 73A provides for setoff of such loss only against the profits of any other 'specified business'.

**b.** Thus, by virtue of Sec73A, now a prohibition has been introduced for setoff of losses of specified business as against the profits from non-specified business.

**c.** In a case where the loss suffered by a specified business is unabsorbed, the same shall be carried forward to the subsequent assessment for setoff against profits of any specified business.

**d.** Even during the carry forward mode, setoff of losses of specified business against the profits from non- specified business is not allowed.

**e.** Such unabsorbed loss of specified business may be carried forward for setoff for an indefinite period

### DEDUCTIONS UNDER CHAPTER VI A

| ***Additions*** | ***Deletions*** | ***Modifications*** |
|---|---|---|
| NIL | NIL | 80 A, 80 C, 80DD, 80 CCD, 80 E, 80 U<br>80 GGB, GGC |

### SEC.80A

Further, as per Sec.80A(6), Where any goods or services held for the purposes of eligible business are transferred to any other business carried on by the assessee (sale by an eligible unit to a normal unit); or any goods or services held for any other business are transferred to the eligible business (purchase by an eligible unit from a normal unit) and in either case, if the consideration for such transfer as recorded in the accounts of the eligible business does not correspond to the market value thereof, then the profits eligible for deduction shall be computed by adopting market value for such goods/services.

It is also provided that in order to grant deduction under Sections 80 JJA, JJAA, LA, P, QQB and RRB, the assessee should have made a claim in the return of income in the respective assessment year. Failure to make a claim in the return of income disentitles an assessee to avail the deduction.

## PENSION CONTRIBUTION - SEC.80CCD

It provides deduction in respect of contribution to pension scheme of Central Government.

***Conditions:*** This is applicable only if the following conditions are satisfied:

**a.** He is employed by the Central Government or any other employer. From now onwards even Self Employed person can also claim this benefit.

***Deduction:***

**a.** In case of an Individual having salary income:

- Employee's contribution to the notified pension scheme is deductible in the year in which contribution is made (Limited to 10% of salary).
- Contribution made by the C.G./any other employer shall also be allowed as deduction (Limited to 10% Sal.).

**b.** In case of an Individual having income other than salary income (Self Employed): Limited to 10% of GTI.

Further, Where any withdrawal has been made from the account of the contributor towards purchase of annuity, the withdrawal shall not be considered as income in the hands of such individual.

## MAINTENANCE & MEDICAL TREAT. OF HANDICAPPED DEPENDENT - SEC.80DD

In case dependent is a person with severe disability, deduction is 1 Lakh.

## REPAYMENT OF LOAN TAKEN FOR HIGHER EDUCATION - SEC.80E

**a.** ***Eligible Assessee:*** Individual.

**b.** ***Deduction:*** Any amount paid in the previous year towards interest on loan taken from any financial Institution/any approved charitable Institution for the purpose of pursuing higher education is deductible .

**c.** The term 'Higher Education' for this purpose has been amended to mean any course of study pursued:

- After passing the Senior Secondary Examination or its equivalent from any school;
- Board or university recognized by the central government or state government or local authority or by any other authority authorized by the central government or state government or local authority.

## SEC.80G

Approval granted under this section is valid for five assessment years in accordance with Sec.80G(5)(vi). An amendment to this section has been made in order to remove limitation for validity period of approval and therefore, the approval once garneted u/s 80G to an institution shall remain in perpetuity unless it is terminated.

## CONTRIBUTIONS BY COMPANIES TO POLITICAL PARTIES - SEC.80GGB

Deduction shall be allowed in respect of any contribution made by an Indian company to any political party (Registered under Representation of the people act, 1951) or to an Electoral trust.

## CONTRIBUTIONS BY ANY PERSON TO POLITICAL PARTIES - SEC.80GGC

Deduction shall be allowed in respect of any contribution made by any person (Other than company) to any political party (Registered under Representation of the people act, 1951) or to an Electoral trust (). However no such deduction shall be allowed to a local authority and artificial person which is wholly or partly funded by the government.

## DEDUCTION IN CASE OF A PERSON WITH DISABILITY - SEC.80U

***Quantum of deduction:*** Rs.50,000 in case of a person with disability or Rs.1,00,000 in case of person with severe disability i.e. disability of 80% or more.

## RELIEF - SEC.89 (1)

Where by reason of his having received in any one financial year salary for more than 12 months (arrears/salary received in advance), assesse's income is assessed at the higher rate, the assessing officer shall, on an application made to him in this behalf, grant such relief as may be prescribed. No benefit is available in respect of VRS payment.

# RETURN OF INCOME

| ADDITIONS | DELETIONS | MODIFICATIONS |
|---|---|---|
| NIL | NIL | Sec.140 |

## RETURN TO BE SIGNED BY WHOM - SEC.140

| *Assessee* | *Signatory* |
|---|---|
| Limited Liability Partnership (LLP)<br><br>When the Designated partner is unable to sign and verify the return or when there is a no designated partner | Designated Partner.<br><br>Any partner. |

# ADVANCE TAX AND INTEREST

Advance tax shall be payable during any financial year in every case where the amount of such tax payable by the assesse during that year is Rs.10,000/- or more - Sec.208.

# EXEMPTIONS

| *Additions* | *Deletions* | *Modifications* |
|---|---|---|
| Sec.10(44), Sec.13B | Sec.10BA | Sec.10(23C), 10A, 10B, 10 AA, |

## SEC.10(44)

Any income derived for or on behalf of new pension scheme set up by the central government under the Indian trust act is exempt.

## SEC.10 (23C)

Any income received by any person on behalf of the following is exempted - Which may be approved by the prescribed authority (CBDT). Such institution shall make an application to CBDT at any time during the financial year or up to a maximum of 6 months from the end of the financial year.

## EXEMPTION UNDER SEC. 10A & 10B

The benefit of these deductions is available up to A.Y. 2011-12.

It is also provided that in order to grant deduction u/s 10A, 10AA or 10B, the assessee should have made a claim in the return of income in the respective assessment year. Failure to make a claim in the return of income disentitle an assessee to avail the deduction.

## NEW UNDERTAKINS IN SPECIAL ECONOMIC ZONE (SEZ)-SEC.10AA

It is also provided that in order to grant deduction under sections 10A, 10AA or 10B, the assessee should have made a claim in the return of income in the respective assessment year. Failure to make a claim in the return of income disentitle an assessee to avail the deduction.

## EXEMPTION TO ELECTORAL TRUST - SEC.13B

1. Electoral trusts are the trusts constituted for funding then the political parties in an organized manner.
2. Sec.2(22AAA) defines the term 'Electoral trust' to mean a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government.
3. Any voluntary contribution received by an Electoral Trust shall be exempt from tax u/s 13B provided the following conditions are fulfilled:
   - **a.** The trust shall distribute to any political parties a minimum of 95% of the aggregate donations received during the year along with surplus, if any, brought forward from any earlier previous year;
   - **b.** The political party receiving contribution from an Electoral Trust shall be registered under section 29A of the Representation of the People Act, 1951 ;and
   - **c.** The Electoral Trust shall function in accordance with the rules made by the Central Government.

Where an electoral trust fails to distribute a minimum of 95% of voluntary contributions, entire contribution shall be subject to tax.

# TDS & TCS

## VARIOUS PROVISIONS RELATING TO TDS

| SEC. | PAYER | TYPE PAYMENT/ INCOME | TYPE OF PAYEE | RATE OF TAXS () |
|---|---|---|---|---|
| 192 | Any person (clarification 1) | Salary | Employee | As per the slab rates applicable for individuals. (Note 1) |
| 193 | Any person | Interest on Securities more than Rs.2,500 (Note 7) | Any person resident of India | 10% |
| 194 | Domestic company | Dividend more than Rs.2,500 | Resident shareholder | 10% (Note 2) |
| 194A | Any person | Any interest other than interest on Securities more than Rs.5,000 | Any resident in India | 10% (Note 3, 4) |
| 194B | Any person | Winnings from-lottery or crossword puzzle or card game and other game of any sort exceeding Rs.5,000 | Any person | 30% |
| 194BB | Book maker or person holding a license for horse racing, betting in any race course | Winnings from horse race exceeding Rs.2,500. | Any person | 30% |
| 194C | * Discussed below () | * Discussed below | * Discussed below | * Discussed below |
| 194D | Any person | Insurance Commission exceeding Rs.5,000. | Any resident person (eg. Insurance Agents) | 10% |
| 194E | Any person | Income for participation in any game or sport in India; Income by way of advertisement; Income by way of remuneration for articles on sports, etc. | Any non-resident sportsman who is not citizen of India | 10% |
| 194E | Any person | Guaranteed sum in relation to any game or sport played in India | Any non-Resident association or institution | 10% |
| 194EE | Any person | Any sum out of National Savings Scheme Account, exceeding Rs.2,500 | Any person | 20% |
| 194F | Any person | Amount on account of repurchase of units covered u/s.80CCB. | Any person | 20% |
| 194G | Any person | Commission, Remuneration or prize exceeding Rs. 1,000. | Any person Stocking purchasing or selling lottery tickets. | 10% |
| 194H | Any person | Commission, Remuneration or prize exceeding Rs. 2,500 per annum | Any resident | 10% |

| | | | | |
|---|---|---|---|---|
| 194-I | Any person | Rent exceeding Rs.1, 20,000 per annum. Rent may be for land, building, land appurtenant to building, machinery equipment, furniture (whether lease/rent/sublease) | -Any resident | Plant & machinery or equipment - 2% Land, building or both, furniture or fittings - 10% - w.e.f. 1/10/2009 (N 5) |
| 194J | Any person | Fees for Professional or technical services or royalty or non-compete fee u/s 28 - exceeding Rs.20,000/- in a year | Any resident | 10% (N 6) |
| 194LA | Any person | Acquisition of certain immovable property other than agricultural land, where compensation exceeds Rs.1 Lakh | Any resident | 10% |
| 195 | Any person | Any interest or any sum chargeable as income (other than salaries) | Any non-resident other than co. or any foreign co. | As specified by Finance Act or under an agreement u/s 90 or 90A. |

**Note:** Except u/s 194 C, the above rates are subject to surcharge, education cess.

* **TDS on contracts – Sec.194 C:**

***Applicability***

1) Any person responsible for paying any sum to a resident contractor for carrying out any work, in connection with a contract, including sub- contract shall deduct tax at source under this section. It may be noted that the contract under this section includes a contract for supply of labour for carrying out work.

2) ***Person responsible for deduction*** - The payer may be: Central Government or any State Government; (ii) Local Authority; (iii) Central/State Provincial Corporation; (iv) Company; (v) Cooperative Societies; (vi) Housing Board; (vii) Trust; (viii) University; (ix) Any foreign government or a foreign enterprise or any association or body established outside India; (x) Firm; (xi) HUF; (xii) Individual; (xiii)AOP; or (xiv) BOI;

3) ***Exceptions in the case of individuals etc.:***

   **a.** It may be noted that, where the payer is an Individual, HUF, AOP or BOI, the provisions of sec, 194C is not applicable where the total sales, gross receipts or turnover of such Individual, HUF, AOP or BOl from the business or profession carried on by them is below the monetary limits specified u/s 44AB during the financial year immediately preceding the financial year in which sum is credited or paid- Explanation to Section 194C(7).

   **b.** Again, where any sum paid or credited to the account of the contractor by an individual or HUF and such sum is incurred exclusively, for personal purposes of such individual or any member of HUF, tax shall not be deducted at source- Section 194C(4).

***Nature of "Work" for tax deduction:*** According to Section 194C, any payment for carrying out any work shall be subject to TDS. For the purpose of this section, work shall include:

**a.** Advertising;

**b.** Broadcasting and telecasting including production of programmes for such broadcasting or telecasting;

**c.** Carriage of goods or passengers by any mode of transport other than by railways;

**d.** Catering;

**e.** Manufacturing or supplying a product according to the requirement or specification of the customer by using material purchased from such customer.

***Threshold limit for deduction:*** The payer is responsible to deduct tax at source where:

**a.** The amount of any single sum credited or paid to the contractor exceeds Rs.20,000; or

**b.** The aggregate amount of such sums credited or paid to the contractor during the financial year exceeds Rs.50, 000.

***Some issues:***

**a.** Rate of TDS is to be applied on amount of Payment but not on Income/profit. Further, even if the contract is resulting into loss, TDS is still to be made.

**b.** TDS is applicable even in case of Oral contracts.

**c.** TDS is to be made even on service tax amount included in payment.

***Rates of tax deduction:*** The following rates are applicable up to September 30, 2009:

| | Advertising contracts | Other contracts |
|---|---|---|
| Payment to contractor | 1% | 2% |
| Payment to sub-contractor | 1% | 1% |

***From October 1, 2009:*** In order to reduce the scope for disputes regarding classification of contract as sub-contract & to remove multiple classifications, the same rate of TDS has been specified for payments to both contractors, sub-contractors and for different categories. To rationalize the TDS rates and to remove multiple classifications, the same rate of TDS will be applicable in the case of payment for advertising contracts. With effect from October 1, 2009, the following are TDS rates:

| | |
|---|---|
| Payment to contractor | 1% |
| Payment to sub-contractor | 2% |

The following points should also be noted:

**a.** There is no surcharge, education cess or secondary and higher education cess under section 194C during the financial year 2009-10.

**b.** If the recipient is a transport operator (i.e., one who is in the business of plying, hiring or leasing goods carriages) and he furnishes his PAN to the payer, TDS rate is nil with effect from October 1, 2009. If PAN is not furnished, then tax will be deductible at the rate of 1 per cent (if the recipient is individual/HUF) or 2 per cent (if the recipient is any other person) during October 1, 2009 and March 31, 2010) and at the rate of 20 per cent from April 1, 2010 onwards.

## PROCESSING OF STATEMENTS OF TDS – SEC. 200A –

Just like processing the Income tax returns, by the income tax department, from now onwards TDS returns will also be processed. The procedure to be adopted for processing of statement of tax deducted at source is highlighted here below:

**1.** The amount of tax deductible at source shall be computed after making the following adjustments, namely:

   **a.** Any arithmetical errors in the statement; or

   **b.** Any incorrect claim, if such incurred claim is apparent from any information in the statement.

**2.** An incorrect claim apparent from any information in the statement shall means the following claims, on the basis of an entry in the statement:

   **a.** Claim of an item which is inconsistent with another entry of the same or some other item in the statement of tax deducted at source.

   **b.** Claim in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of the Act

**3.** The tax and interest, if any, shall be computed on the basis of the tax deductible computed after considering the adjustments mentioned above.

4. The tax payable by, or refund due to, the assesses shall be determined after adjusting the tax and interest paid and any other amount paid otherwise by way of tax or interest.
5. Based on the above, intimation shall be sent to the tax deductor specifying the sum payable or refund due. The amount of refund, if any, shall be granted to the deductor.
6. Intimation shall be sent within one year from the end of the financial year in which the statement of tax deducted at source is filed.

## ISSUE OF CERTIFICATE OF TAX DEDUCTION TO THE RECIPIENT

1. The payer of the income is supposed to issue a certificate of tax deduction to the recipient in the following format:

| Different payments | Form. no. |
|---|---|
| In case of salary payment to a resident individual where the income from salary before deduction u/s 16 does not exceed Rs.1,50,000 | 16 |
| In case of salary payment not covered by above | 12BA and 16 |
| In case of payment other than salary | 16A |

2. Even if the tax was paid by the deductor out of his pocket, the above certificates shall be issued.
3. **Dematerialization of TDS certificates – With effect from April 1st 2010 – :**
   - **a.** The payer of income will not issue TDS certificate directly to the recipient as stated above. The new procedure is that the person deducting the tax at source shall after paying the amount to the credit of the Central Government prepare periodic statements as may be prescribed and furnish the same to the income-tax authority or person authorized by such authority – Sec.200.
   - **b.** The prescribed income-tax authority or the person authorized by such authority shall prepare and deliver to every person from whose income the tax has been deducted or in respect of whose income the tax has been paid, a statement in the prescribed from specifying the amount of TDS and such other particulars prescribed – Sec.203AA.

## RESPONSIBILITIES ATTACHED TO DEDUCTION OF TAX

In the following situations, assessee shall be deemed to be in default for failure to deduct whole or any part of the tax, at any time after the expiry of: -

**a.** 2 years from the end of the financial year in which the periodic statements have been filed and

**b.** In any other case, 4 years from the end of the financial year in which payment is made of credit given.