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CHANGES MADE IN THE DIRECT TAX CODE

1. **INCOME FROM SALARY**
   A. House Rent Allowance: Restriction has been removed for the least of 3 as mentioned under the Income Tax Act. Extent of limits are yet to be prescribed under Direct Tax Code.
   B. Leave Travel Allowance would become taxable.
   C. Medical Allowance to be taxable.
   D. Interest Free loan, whole of the amount to be become taxable. Rates have not been prescribed by the Direct Tax Code for the loan taken from the employer even at zero rate of interest.
   E. Leave Encashment, Gratuity, Pension not to be included in the total income as per 6th Schedule to DTC, 2010 subject to prescribe limits.

2. **INCOME FROM HOUSE PROPERTY**
   A. Standard Deduction from Rent from 30% has been reduced to 20%
   B. As per the Income Tax Act, the gross rent is higher of the amount received/ receivable or municipal value of the property. However as per the Direct Tax Code, amount of rent received/ receivable will be taxable.

3. **INCOME FROM BUSINESS OR PROFESSION**
   A. Fixed Assets has been classified under Business Assets and Investment Assets. If the asset being not current in nature used for the purpose of business, it is to be called as business assets. However if the such assets is held for capital appreciation or for the purpose of investments it would be classified under Investment Assets.
   B. Income from sale of business assets to be classified under income from business or profession and income from sale of investment assets to be classified under Capital Gain.
   C. Depreciation on business assets to be claimed as deduction in the form of Capital Allowance.
   D. New concept of Separate and Distinct business has been introduced under the Direct Tax Code.
   E. Computation of Income from Special Economic Zone has been introduced under this Code.
   F. Income/ Receipts has been termed as Gross Earnings.
   G. Expenditure has been termed as the operating expenditure, finance charges and capital allowance
   H. Re-imbursement of expenditure to be treated as income. It would not be allowance to set off with the expenditure.
   I. Amount standing to the credit of Investor Protection fund to be taxable.

J. Under Direct Tax Code, it has been clearly stated that the interest, dividend and income from transfer of investment assets under no circumstances to be clubbed under Business Income.
K. If the assessee is non-resident, the expenditure related to the head office (Office maintained in foreign country), an estimated expenditure of 0.50% would be allowed to the extent it is incurred
L. Repayment of advance/ security deposit would be allowed as expenditure if the same has been earlier treated as income.
M. New Concept of deduction of Deferred Revenue Expenditure has been introduced in Direct Tax Code. IF the expenditure incurred which relates to period over many years (More than 1 year, **Refer 22nd Schedule to DTC, 2010**), the expenditure to be spread over the several years.
N. The words "additional depreciation" has been now changed to "Initial Depreciation".
O. Additional/ Initial Depreciation would be allowed on aircraft, road vehicles and vessels. The additional depreciation was not allowable under Income Tax Act, 1961.
P. Terminal Allowance will be allowed from the income from business or profession, which was earlier classified under Capital Gain.
Q. Separate computation of income to be made for the following business:
    a. Income from Qualifying Ship
    b. Computation of Income from Special Economic Zone
    c. Income from specified business
    d. Computation of Income from Mineral Oil/Natural Gas

    Separate schedule has been drafter for the computation of the income from the above business.

    Further the cost of the asset for the purpose of computation of income would be treated as NIL, by the virtue of sub section 7 of section 44 of the Direct Tax Code.
R. New concept of Adjusted Value has been introduced under Direct Tax Code

4. INCOME FROM CAPITAL GAINS

A. Concept of Long Term and Short Term Capital Gain has been removed. Only Capital Gains would be there.
B. However indexation benefit could be availed for the assets whose holding period of the assessee is more than 1 year.
C. Rates of the Capital Gain under all circumstances will be same as applicable to other heads of income. No subsidized rate will be allowed under Direct Tax Code.
D. Base year for the Cost Inflation Index has been changed from the year 1st April 1980 to 1st April 2010

E. Income from the transfer of Investment Assets would be not be taxable for the transfer made by the assessee being land of sick industrial company under scheme sanctioned under section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985.
F. Under Income Tax Act, exemption was granted for the long term capital gain from sale of shares attracting security transaction tax. However under Direct Tax Code, deduction upto 100% will be allowed. By the introduction of word deduction, it would be under the authority to change deduction rate from 100% to others percent.
G. Benefit from sale of the following investment assets has been removed as follows:
    a. Profit from sale of property user for residence.
    b. Capital gain on compulsory acquisition of land and building.
    c. Capital Gain on transfer of certain listed securities or unit.
    d. Capital Gain on transfer of assets in cases of shifting of Industrial Undertaking from urban are to any Special Economic Zone.
    e. Capital Gain on transfer of assets in cases of shifting of Industrial Undertaking from urban.

5. TAX INCENTIVES

A. Earlier Deductions for 80G was maximum 100%. As per the Direct Tax Code, various rates of deduction of 175%, 125%, 100%, 50% of the amount donated.
B. Deduction under Section 80C of the Income Tax Act, for the repayment of housing loans principal have been removed, however deduction for the housing loan interest has been restored under the Direct Tax Code regime.
C. Deductions have been increased to 1.50 Lacs from 1 Lac however different forms of investments have been prescribed under the Code.
D. Taxability of the Stock Exchange has been explained under the Direct Tax Code, which was missing in the Income Tax Act.

E. Presently, deductions under Section 80C are available, up to ‘1 lakh, for various investment instruments including premium paid for life insurance, provident fund, etc. Under the DTC, only sums paid to towards a contract for an annuity plan of any insurer (subject to it being an approved plan) is eligible for a deduction of up to an aggregate limit of ‘1 lakh (along with other approved funds).
F. **Deduction of LIC Premiums:**
It is also proposed that premiums paid to LIC should be included in the additional deduction of ‘50,000, which is currently available to other payments such as health insurance and education of children. An important condition , however, is that only those insurance policies where the premium does not exceed 5 per cent of the capital sum assured in any year during the term of the policy would be eligible for this deduction .
G. **Tax Free Investments:**

As the EEE (Exempt-Exempt-Exempt) system of taxation (i.e. contributions are tax free, accretions are tax free and withdrawals are also tax free) will continue, long-term savings instruments such as contributions to provident funds, approved superannuation funds, life insurance , gratuity funds, etc. will continue to be tax free.

H. **Tax on Maturity Proceeds:**

DTC provides that proceeds on maturity of life insurance policies (in cases other than the death of the policyholder) will be taxable in the policyholder's hands. The exception, however, is in the case of polices where the premium paid does not exceed 5 per cent of the sum assured or the insurer has paid distribution tax.

In such cases, the life insurance company would have to withhold tax at specified rates from these proceeds being paid to policy holders. In the case the policy holder is an individual or has HUF status the tax withheld will be at the rate of 10 per cent, in the case of any other deductee, the withholding would be at the rate of 20 per cent, where payment exceeds '10,000.

6. MAINTENANCE OF BOOKS OF ACCOUNTS AND TAX AUDIT LIMITS

A. As per the Income Tax Act, if the income from business exceeds Rs. 1.20 Lacs, he was required to maintain the books of accounts, however as per the Direct Tax Code, the limit has been increased to 2 Lacs.
B. Books of accounts has been specified in the Direct Tax Code, however the same was not prescribed under the Income Tax Act.
C. The assessee would be required to maintain original bills of the expenditure if the same exceeds Rs. 200 under clause (g), sub section 4, section 87. Maintenance of original bills was not a compulsion under the Income Tax Act.
D. Further if there no bills of expenditures then the payment vouchers are required to be signed by person in respect of such expenditure.
E. Audit limits has been increased under the Direct Tax Code:
    a. Persons engaged in profession- Rs. 25 Lacs from Rs. 15 Lacs
    b. Persons carrying on business- Rs. 100 Lacs from Rs. 60 Lacs
F. As under Section 88 of Code (Section 44 AB of Income Tax Act), tax audit report is to be furnished, similarly report of international transaction is to be submitted before the due date to the Transfer Pricing Officer.

7. MINIMUM ALTERNATIVE TAX (CHAPTER V OF THE DIRECT TAX CODE)

A. SEZ are required to pay MAT under the Direct Tax Code. Under the Income Tax Act, SEZ was not required to pay MAT.
B. MAT Credit period has been increased from 8 years to 15 years.
C. Every company shall prepare its profit and loss account for the financial year in accordance with the provisions of Part II and III of the Schedule VI of the Companies Act.

D. Provisions of MAT will not be applicable to Limited Liability Partnership.
E. Tax Rate for MAT has been increased from existing 18% to 20%.

8. BRANCH PROFIT TAX (Section 111)

Every Foreign company is required to pay additional tax of 15% of the branch profit. This provision is totally new. In case of Income Tax Act, Foreign Company was required to pay higher rate of tax @ 40%, however under the Direct Tax, tax payable by foreign company will be the same as that of domestic company in India.

9. WEALTH TAX

A. Earlier Wealth Tax Act was separate, however the wealth tax become now payable under the Direct Tax Code itself.
B. Changes made to the definition of the assets: As per Wealth Tax Act, 1957 If the house is given to the employee, whose salary is less than Rs 2 Lacs per month, then the same assets is not included in the definition of the assets. However such restrictions have been removed.
C. Following has been added to the definition of the assets:
    a. Archeological collections, drawings, paintings, sculptures or any other work of art.
    b. Cash in hand in excess of Rs. 2 Lacs (Earlier it was Rs. 50,000).
    c. Deposits in a bank located outside India in case of Individuals and HUF.
    d. Watch having value in excess of Rs. 50,000/-
    e. Any interest in a foreign trust or any other body located outside India, other than a foreign company.
    f. Any equity or preference shares held by a resident in a controlled foreign company which is separately defined.

10. PREVENTION OF THE ABUSE OF THE CODE (NEW CHAPTER INTRODUCTION)

11. TAX MANAGEMENT (ADMINSTRATION) CHAPTER-XII

A. The board has given the authority to issue general or special orders for the disposal of any class of tax bases or class of cases. However board does not have authority to require any income tax authority to make a particular assessment or to dispose of a particular case in a particular manner.

B.

12. PROSECUTIONS (CHAPTER XV)

Earlier there were no prosecution sections for the defaults made under the Income Tax Case Law. However with the introduction of Direct Tax Code, 2010 prosecuting sections have been introduced.

13. TDS RATES (3RD SCHEDULE TO THE DTC, 2010)

A. Works Contract- As per the DTC, 2010 TDS Rate would be 2% for both Individual and HUF, however as per Income Tax Act, 1961 it is 1%.
B. As per DTC TDS rate on advertisement will be 2%, however as per Income Tax Act, it is 1%
C. TDS will be applicable on the payment of compensation on compulsory acquisition of immovable property other than agricultural land. Rate of TDS will be 10%.

14. 6TH and 7th SCHEDULE IN PLACE OF SECTION 10 OF THE INCOME TAX ACT, 1961

Entity and forms of exemption of income has been listed in the 6th Schedule and 7th Schedule.

15. COMPUTATION OF INCOME OF SPECIFIED BUSINESS (Schedule- 8th, 10th, 11th 12th)

A. 8th Schedule- Income from Insurance Business
B. 10th Schedule- Income from Qualifying Operating Ships
C. 11th Schedule- Income from Minerals Oil
D. 12th Schedule- Computation of Income for unit located in Special Economic Zone

16. INCOME FROM SPECIAL SOURCES (REFER 9th SCHEDULE TO DTC, 2010)

This is new concept drawn into Direct Tax Code, 2010. Total Income will be aggregate of income from **Ordinary sources** (Employment, House Property, Business/ Profession, Capital Gain, Residuary Sources) and **Special sources**-

Following income to become taxable under this schedule-

a. Any amount by way of accrual or receipts
b. Re-imbursement of any expenditure
c. Income tax borne by the person by whom the income is payable

Further no normal depreciation, initial depreciation and terminal allowance would be allowed for the assets used in respect of the above assets. Any depreciation computed would be deemed to be allowed.

No deductions will be allowed for the attributable common costs.

17. DEDUCTION OF SPECIFIED BUSINESS (13TH SCHEDULE)

A. Earlier the benefits have been specified under section 80IA, 80IB and 80IC of the Income Tax Act, 1961.

B. Tax Deduction benefits to the Telecommunication Industry has been removed.

C. Tax Deduction benefits to the Power Generating units was available up to 31.03.2011. However as per Direct Tax Code, 2010 the benefits have been restored.

18. PRESUMPTIVE BASIS OF TAXATION (14TH SCHEDULE TO DTC)

Name of the Item	As per DTC	As per IT Act
Business of plying, hiring etc	Rs 5000 for heavy vehicles Rs. 4500 for light vehicles	Rs. 3500 for heavy vehicles Rs. 3150 for light vehicles
Any other business	8% of the turnover	5% of the turnover
Civil construction in connection with turnkey power project **(Non Resident)**	10%	10%
Business of operation of ship including arrangement such as slot, charter, space charter of joint charter **(Non Resident)**	10%	7.50%
Business of operation of aircraft **(Non Resident)**	7%	5%
Business of supplying plant and machinery on hire, used or to be used in the prospecting for, or extraction or production of mineral oils or natural gas **(Non Resident)**	14%	10%

19. RATES OF DEPRECIATION (15th Schedule to DTC)

Name of the Item	Rate as per DTC	Rate as per IT Act
Rails, Engines, Coaches & Wagons	40%	15%
Ships	20%	25%
Buildings- Hotel, Railway Stations, airport, sea port, bus terminal, hospital, convention centre	15%	10%

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20. **DETERMINATION OF COST OF ACQUISITION (17TH SCHEDULE TO DTC, 2010)**

Cost of Acquisition of Sweat Equity Shares is equal to the cost of Fair Market Value of the shares which was taken into account while computing the perquisite which is added to the total income.

As regard to mode of acquisitions defined for Amalgamation, Demerger, Bonus Shares, Right Issue, conversion of bond/debenture into shares, conversion of clearing rights under the de-mutualization are more or less same

21. **MINERALS AND GROUP OF ASSOCIATE MINERALS (18TH SCHEDULE)**

Under this schedule word minerals and group of associated minerals has been defined. The word minerals have been used in the 22nd Schedule of Direct Tax Code, 2010 (Deferred Revenue Expenditure)

22. **CONTROLLED FOREIGN COMPANY (20TH SCHEDULE TO DTC, 2010)**

23. **ORDER APPEALABLE BEFORE CIT(A) (21ST SCHEDULE TO DTC, 2010)**

Orders appealable before the said authority

24. **DEFERRED REVENUE EXPENDITURE ALLOWANCE (22ND SCHEDULE TO DTC, 2010)**

Earlier as per the Income Tax, 1961 there was no specific provision for the allowance of expenditure for which the benefit of the expenditure is availed for a period more than 5 years. This schedule addresses the mode of allowance of expenditure being of deferred re venue in nature. Deferred Revenue Expenditures of following types:

1. Non Compete Fees
2. Premium paid for obtaining leases
3. Business Re-organization
4. Prospection of natural deposit of any minerals
5. Loss on account of forfeiture of the agreement
6. Preliminary Expenses