AMENDMENTS BROUGHT IN BY THE FINANCE ACT, 2012"

A. Rates of Income Tax

I. In the case of every individual (other than those mentioned in part II & III below) or Hindu undivided family or AOP/BOI (other than a co-operative society) whether incorporated or not, or every artificial judicial person

Upto Rs.2,00,000	Nil
Rs.2,00,010 to Rs.5,00,000	10%
Rs.5,00,010 to Rs.10,00,000	20%
Above Rs.10,00,000	30%

II. In the case of every **individual**, being a resident in India, who is of the age of 60 years or more but less than 80 years at any time during the previous year.

Upto Rs.2,50,000	Nil
Rs.2,50,010 to Rs.5,00,000	10%
Rs.5,00,010 to Rs.10,00,000	20%
Above Rs.10,00,000	30%

III. In the case of every **individual**, being a resident in India, who is of the age of 80 years or more at any time during the previous year.

Upto Rs.5,00,000	Nil
Rs.5,00,010 to Rs.10,00,000	20%
Above Rs.10,00,000	30%

Note: - No surcharge is payable.
'Education Cess' @2%, and 'Secondary and Higher Education Cess (SHEC)' @ 1% on income tax shall be chargeable.

IV. In the case of a company

(i) For domestic companies: 30%, surcharge @ 5% on tax payable shall be levied where total income of the company exceeds `1 crore.

(ii) For foreign company: 40%, surcharge @ 2% on tax payable shall be levied where total income of the foreign company exceeds Rs.1 crore.
'Education Cess' @ 2%, and 'Secondary and Higher Education Cess' @ 1% on income tax (inclusive of surcharge if applicable) shall be chargeable.

Amendments relating to Income from Business and Profession

B. Eligibility condition for exempt life insurance policies [Section 10(10D)] [W.e.f. A.Y. 2013-14]

Clause (d) has been inserted in section 10(10D) so as to provide that the exemption for insurance policies issued on or after 1.4.2012 would only be available for policies where the premium payable for any of the years during the term of the policy does not exceed 10% of the actual capital sum assumed (as against existing 20%)

In other words, if the premium payable during any previous year for a policy issued on or after 1.4.2012 exceeds 10% of the actual capital sum assured, the entire amount received under such policy shall be taxable.

However, the above provision shall not apply to any sum received on the death of a person.

Further, in order to ensure that the life insurance products are not designed to circumvent the prescribed limits by varying the capital sum assured from year to year, Explanation 2 has been inserted to provide that expression "actual capital sum assured" shall have a meaning assigned to in the Explanation to section 80C(3A).

This Explanation will apply to insurance policies issued on or after 1.4.2012.

C. Income of Prasar Bharati (Broadcasting Corporation of India) exempt [Clause (23BBH) to section 10] [W.e.f. A.Y. 2013-14]

Any income of the Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 shall be exempt.

D. Exemption in respect of income received by certain foreign companies [Section 10(48)] [W.e.f. 1.4.2012]

A new clause (48) has been inserted in section 10 of the income-tax Act to provide for exemption in respect of any income of a foreign company received in India in Indian currency on account of sale of crude oil to any person in India subject to the following conditions being satisfied:

(i) The receipt of money is under an agreement or an arrangement which is either entered into by the Central Government or approved by it.

(ii) The foreign company, and the arrangement or agreement has been notified by the Central Government having regard to the national interest in this behalf.

(iii) The receipt of the money is the only activity carried out by the foreign company in India

Amendments relating to Income from Business and Profession

E. Extending benefit of initial/additional depreciation to the power sector [Section 32(1)(iia)][W.e.f. A.Y.2013-14]

In order encourage new investment by the assesses engaged in the business of generation or generation and distribution of power, section 32(1) (iia) relating to additional depreciation has been amended to provide that like an assessee who is engaged in the business of manufacture of any article or thing, an assessee engaged in the business of generation or generation and distribution of power shall also be allowed additional depreciation at the rate of 20% of actual cost of eligible new machinery or plant (other than ships and aircraft) acquired and installed in a previous year.

For meaning of eligible plant and machinery and other provisions of additional depreciation see Chapter on profit or Gains of business and profession.

F. Weighed deduction for in-house scientific research and development [Section 35(2AB)][W.e.f. A.Y. 2013-14]

In order to incentivisie the companies to continue to spend on in-house research, section 35(2AB) has been amended to extend the benefit of the weighted deduction of 200% of revenue and capital expenditure (not being in the nature of cost of any land or building) for a further period of 5 years i.e. upto 31.3.2017.

G. Deduction in respect of capital expenditure on specified business [Section 35AD] [W.e.f. A.Y. 2013-14]

Three new businesses have been added to the list of "specified business" for the purposes of the investment-linked deduction of 100% of the capital expenditure under section 35AD, namely:-

(a) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962;

(b) bee-keeping and production of honey and beeswax; and

(c) setting up and operating a warehousing facility for storage of sugar.

The date of commencement of operations for availing investment linked deduction in respect of the above three new specified businesses shall be on or after 1.4.2012.

Further, the following specified businesses commencing operations on or after 1.4.2012 shall be allowed a weighted deduction of 150% of the capital expenditure under section 35AD(1A) of the income-tax Act, namely:-

(i) setting up and operating a cold chain facility;

(ii) setting up and operating a warehousing facility for storage of agricultural produce;

(iii) building and operating , anywhere in India, a hospital with at least one hundred beds for patients;

(iv) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed; and

(v) production of fertilizer in India.

A new sub-section (6A) has also been inserted in section 35 AD, w.r.e.f. A.Y. 2011-12 to provide that where the assessee builds a hotel of two-star or above category as classified by the Central Government and subsequently, while continuing to own the hotel, transfers the operation thereof to another person, the assessee shall be deemed to be carrying on the specified business of building and operating hotel and shall continue to be eligible for the deduction under section 35AD.

H. Weighted deduction of 150% for expenditure incurred on agricultural extension project [Section 35CCC] [W.e.f. A.Y. 2013-14]

Agricultural extension services play a critical role in enhancing the productivity in the agricultural sector. In order to incentivize the business entities to provide better and effective agriculture extensive services, new section 35CCC has been inserted in the Income-tax Act to allow weighted deduction of 150% of the expenditure incurred on agricultural extension project. The agricultural extension project eligible for this weighted deduction shall be notified by the Board in accordance with the prescribed guidelines.

Where a deduction claimed and allowed for any assessment year in respect of any expenditure referred to in section 35CCC(1), deduction shall not be allowed in respect of such expenditure under any other provisions of the Income-tax Act for the same or any other assessment year.

I. Weighted deduction of 150% for expenditure incurred by a company on skill development project [Section 35CCCD] [W.e.f. A.Y. 2013-14]

In order to incentivize companies to invest on skill development projects in the manufacturing sector, new section 35CCCD has been inserted in the Income-tax Act to provide weighted deduction of 150% of expenses (not being expenditure in the nature of cost of any land or building) incurred on skill development project. The skill development project eligible for this weighted deduction shall be notified by the Board in accordance with the prescribed guidelines.

Where a deduction claimed and allowed for any assessment year in respect of any expenditure referred to in section 35CCD(1), deduction shall not be allowed in respect of such expenditure under any other provisions of the Income-tax Act for the same or any other assessment year.

J. Rationalizing of provisions of disallowance of business expenditure on account of non-deduction of tax on payment to resident payee [Section 40(a)(ia)] [W.e.f. A.Y. 2013-14]

In order to rationalize the provisions of disallowance on account of non-deduction of tax from the payments made to a resident payee, section 40(a)(ia) has been amended to provide that where an assessee make payment of the nature specified in the said section to a resident payee without deduction of tax and is not deemed to be an assessee in default under the amended section 201(1) as the tax has been paid by the payee on such income and the payee has furnished the return of income, then, for the purpose of allowing deduction of such sum, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee. These beneficial provisions are made to be applicable only in the case of resident payee.

In other words, if the deductor is able to establish that the payee has furnished the return of income by including such income in his return o\and has paid tax due on income declared by him in such return of income, it shall be deemed that the assessee has deducted and paid tax on such income on the date of furnishing return of income by the resident payee.

K. Turnover or gross receipts for audit of accounts [Section 44AB] [W.e.f. A.Y. 2013-14]

In order to reduce the compliance burden on small businesses and on professionals, amendment has been made in section 44AB to increase the threshold limit of total sales, turnover or gross receipts, for getting accounts audited, from Rs.60,00,000 to Rs.1 crore in the case or persons carrying on business and from Rs.15,00,000 to Rs.25,00,000 in the case of persons carrying on profession.

Amendments relating to Capital Gains

L. Fair market value to be full value of consideration in certain cases [Section 50D] [W.e.f.A.Y. 2013-14]

Capital gains are calculated on transfer of a capital asset, as sale consideration minus cost of acquisition. In some recent rulings, it has been held that where the consideration in respect of transfer of an asset is not determinable under the existing provisions of the Income-tax Act, then, as the machinery provision fails, the gains arising from the transfer of such assets is not taxable.

Accordingly, a new section 50D has been inserted to provide as under:

"Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gains, the fair market value of the said asset on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer"

M. Exemption of capital gains on transfer of agricultural land extended to Hindu undivided family (HUF) also [Section 54B] [W.e.f.A.Y.2013-14]

Capital gains on transfer of land which, in the two years preceding the year in which it has been transferred, has been used for agricultural purposes by assessee or his parent, is exempt to the extent such capital gains is reinvested in the purchase of agricultural land in the next two years. This benefit is now being extended to HUF also.

Accordingly, section 54B has been amended to provide that exemption shall also be available to the HUF, if the land is used for agricultural purposes by a HUF for at least a period of 2 year immediately preceding the date of its transfer.

N. Relief from long-term capital gains tax on transfer of residential property if invested in a new manufacturing SME company [Section 54GB] [W.e.f. A.Y. 2013-14]

Capital gain on transfer of residential house property [S.54GB]

(a) Who can claim exemption: Individual or HUF

(b) The assessee has transferred a Long Term Capital asset in the nature of residential property i.e. a house or a plot of land on or after 1/4/2012.

(c) The assessee has utilised the net sale consideration in equity shares of a qualifying company before due date of furnishing return of income u/s 139(1).

(d) The company in which amount is invested should utilise the amount for purchase of a new asset within one year from the date of subscription in new shares. If the company does not utilise before due date of furnishing return of income by the assessee, then it shall have to be deposited by the company in capital gain deposit account.

(e) Amount of exemption: Investment in new asset by the eligible company / net sale consideration * Amount of capital gain. (Total exemption can't exceed amount of capital gain).

(f) Forfeiture of exemption: Exemption will be forfeited and it will be taxable as long term capital gain in the hands of the assessee in which the exemption is forfeited due to any of the following defaults:

(i) If equity shares in the company are sold / transferred by the assessee within 5 years from date of acquisition.

(ii) If new asset is sold by the eligible company within 5 years from date of acquisition.

(iii) If deposit amount is not utilised by the company for acquisition of a new asset within 1 year from date of subscription in equity shares.

Eligible Company

(a) It is incorporated on or after 1st April of the financial year in which residential property is transferred but before due date of submission of return of income u/s 139(1) by the assessee.

(b) It is engaged in the business of mfg of any article or thing.

(c) The assessee (transferor) has more than 50% share capital / voting right after subscription of shares by the assessee.

(d) The company is a SME (small medium enterprise) i.e investment in plant & machinery is more than Rs. 25 lacs but not more than Rs. 10.00 cr.

New Asset

It means new plant & machinery excluding:

(a) Any plant / machinery which is used in India / outside India before its installation by the eligible company.

(b) Any plant & machinery used in office premises / accommodation / guest house.

(c) Any office appliances, computers, software, vehicle.

(d) Any machinery which is eligible for 100% depreciation or 100% deduction under any of the sections of Income tax act.

O. Reference to a Valuation Officer [Section 55A] [W.e.f. 1.7.2012]

Section 55A of the Income-tax Act has been amended to enable the Assessing Officer to make a reference to the Valuation Officer where in his opinion the value declared by the assessee is at variance from the fair market value.

Therefore, in case where the Assessing Officer is of the opinion that the value taken by the assessee as on 1.4.1981 is higher than the fair market value of the asset as on that date, the Assessing Officer would be enabled to make a reference to the Valuation Officer for determining the fair market value of the property.

Amendments relating to Income from Other Sources

P. Share premium in excess of the fair market value to be treated as income [Section 56(2)(viib)] [W.e.f. A.Y. 2013-14]

- Section 56(2) provides for the specific category of incomes that shall be chargeable to income-tax under the head "Income from other sources".
- A new clause (viib) has been inserted to section 56(2) to provide that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares and if the consideration received for issue of shares exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income-tax under the head "Income from other sources".
- However, the above provision shall not apply where the consideration for issue of shares is received by a venture capital undertaking from a venture capital company or a venture capital fund.
- Further, an opportunity has been provided to the company to substantiate its claim regarding the fair market value. Accordingly, an Explanation has been inserted to the above sub-clause to provide that for the purpose of this clause the fair market value of the shares shall be the value
  - as many be determined in accordance with such method as may be prescribed; or
  - as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value on the date of issue of shares, of its assets, including intangible assets, being goodwill, know-how, patents, copyrights, trademarks, license, franchises or any other business of commercial rights of similar nature (i.e. the value shall be determined as per the net asset method including the value of intangible assets which are specified) whichever is higher.

Q. Eligibility condition for deduction in respect of life insurance policies [Section 80C(3A)] [W.e.f. A.Y.2013-14]

Section 80C has been amended by inserting sub-section (3A) to provide that the deduction for life insurance premium as regards insurance policies other than a contract for deferred annuity issued on or after 1.4.2012 shall be allowed for only so much of the premium or other payment made as does not exceed 10% of the actual capital sum assured.

Explanation.-" Actual capital sum assured" in relation to a life insurance policy shall mean the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account-

(i) the value of any premiums agreed to be returned, or

(ii) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

This Explanation has been inserted to ensure that the life insurance products are not designed to circumvent the prescribed limits by varying the capital sum assured from year to year.

The above definition is also referred to in Explanation 2 in section 10(10D).

R. Deduction in respect of investment made under an equity savings scheme [Section 80CCG] [W.e.f.A.Y.2013-14]

(1) To whom the deduction is allowed: The deduction under the section is allowed to an individual who is resident in India

(2) Purpose for which deduction is allowed: Deduction is allowed to such assessee who has-

(a) in a previous year, acquired listed equity shares in accordance with a scheme, as may be notified by the Central Government in this behalf, and

(b) satisfied the prescribed conditions.

(3) Quantum of deduction: The assessee shall be allowed a deduction, in the computation of his total income of the assessment year relevant to such previous year to the extent of-

(a) 50% of the amount invested in such equity shares

(b) Rs.25,000

(4) Conditions to the satisfied [Section 80CCG(3)]

(i) The gross total income of the assessee for the relevant assessment year should not exceed Rs.10,00,000;

(ii) The assessee is a new retail investor as may be specified under the scheme notified in this behalf;

(iii) The investment is made in such listed equity shares as may be specified under the notified scheme;

(iv) The investment is locked-in for a period of three years from the date of acquisition in accordance with the notified scheme; and

(v) Such other condition as may be prescribed.

(5) Consequences if the above conditions are not satisfied [Section 80CCG(4)]: If the assessee, in any previous year, fails to comply with any condition specified above, the deduction originally allowed shall be deemed to be the income of the assessee of such previous year and shall be liable to tax for the assessment year relevant to such previous year.

S. Deduction for expenditure on preventive health check-up [Section 80D] [W.e.f. A.Y. 2013-14]

♣ Section 80D has been amended so also to include any payment made by an individual on account of preventive health check-up of self, spouse, dependant children or parent(s) during the previous year as eligible for deduction within the overall limits prescribed in the section. However, the deduction on account of expenditure on preventive health check-up (for self, spouse, dependant children and parents) shall not exceed in the aggregate Rs.5,000.

It is further provided that for the purpose of the deduction under section 80D, payment can be made-

(i) by any mode, including cash, in respect of any sum paid on account of preventive health check-up;

(ii) by any mode other than cash, in all other cases.

T. Reduction of the eligible age for senior citizens for certain tax reliefs [Section 80D, 80DDB and Section 197A(IC)] [W.e.f.A.Y. 2013-14]

- Section 80D, 80DDB and 197A, the effective age for a "senior citizen" who can avail of the benefit is mentioned as 65 years or more at any time during the relevant previous year.
- In order to make the effective age of senior citizens uniform across all the provisions of the Income Tax Act, the age for availing of the benefits by a senior citizen under the aforesaid sections viz. sections 80D, 80DDB and 197A has been reduced from 65 years to 60 years.
- The amendment to section 80D and section 80DDB will take effect from A.Y. 2013-14 and amendment to section 197A will take effect from 1.7.2012.

U. Prohibition of cash donations in excess of Rs.10,000 [Section 80G and 80GGA] [W.e.f.A.Y.2013-14]

Currently, there is no provision in either of the aforesaid sections specifying the mode of payment of money. Therefore, sections 80G(5D) and 80GGA(2A) have been inserted to provide as under:

- Sec 80G(5D): No deduction shall be allowed under section 80G in respect of donation of any sum exceeding Rs.10,000 unless such sum is paid by any mode other than cash.
- Sec 80GGA(2A): No deduction shall be allowed under section 80GGA in respect of any sum exceeding Rs.10,000 unless such sum is paid by any mode other than cash.

V. Deduction in respect of interest on deposits in savings accounts to the maximum extent of Rs.10,000 [Section 80TTA] [W.e.f. A.Y. 2013-14]

Where the gross total income of an assessee, being an individual or a Hindu undivided family, includes any income by way of interest on deposits (not being time deposits) in a savings account with

(a) a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act);

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

(c) a Post Office as defined in clause (k) of section 2 of the Indian Post Office Act, 1898,

A deduction of such interest shall be allowed to the maximum extent of Rs. 10,000.

However, where the income referred to in this section is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.

OTHERS

From AY 13-14 : Income of Prasar Bharti (Broadcasting Corpn. Of India) 10(23BBH):
From AY 12-13: Income received by certain companies in Indian currency for import of crude oil – 10(48): Income will be exempted u/s 10(48) if following conditions are fulfilled. (a) Recipient of income is a foreign company. (b) Income is recd in India in Indian currency due to sale of crude oil to any person in India and such receipt is in accordance with an agreement entered / approved by Central Government. (c) The foreign company and the agreement are notified by the Central Government in this behalf. (d) The foreign company is not engaged in any activity in India other than receipt of above income.

Amendment in above from AY 13-14: New Section 92BA

Sec. 92BA is inserted to extend transfer pricing provisions to a few domestic transactions including transactions u/s 10A,B,AA,BA. So, the deductions under sections 80IA to 80IE will be calculated with regard to Arm's Length Price. This provision will apply only if value of transactions exceed Rs. 5.00 crore.

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Upto 31/3/12 any power unit not for captive consumption but engaged in the business of generation of power / electricity is not entitled for additional depreciation irrespective of method of depreciation i.e SLM/WDV applied for normal depreciation. It is amended from AY 13-14 that these units will also be eligible to claim additional depreciation if normal depreciation is claimed on WDV basis.

The impact of amendment is that now from AY 13-14, any power unit which opts WDV method for claiming normal depreciation will be eligible for additional depreciation where as in case SLM is used for normal depreciation, no additional depreciation as per existing provision will be applied.

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Sec 35-Expenses on Inhouse Research & Development (200%)- Extended upto 31/3/2017.

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Sec 35AD- 100% deduction

(i) Setting up and operating an inland container depot or a container freight station approved under custom act on or after 1/4/12.
(ii) Bee Keeping & production of honey and beeswax on or after 1/4/12.
(iii) Setting up and operating a ware housing facility for storage of sugar on or after 1/4/12.

Amendment in deduction amount w.e.f AY 2013-14

If following specified business commences operation on or after 1/4/12, then the deduction will be 150% of qualifying amount.

1. Cold Chain Facility.
2. Warehousing facility for agriculture products.
3. Hospitals with 100 patient beds.
4. Housing projects under affordable notified housing scheme.
5. Production of fertilizers.

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Expenditure on agriculture extension projects [35CCC] from AY 13-14:
Any assessee who has incurred any expenditure on a notified agriculture extension project will be eligible for weighted deduction of 150% of such expenditure.

Expenditure on skill development [35CCD] from AY 13-14:
Any assessee who has incurred any expenditure (except land and building) on a notified skill development project will be eligible for weighted deduction of 150% of such expenditure.

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Payments without compliance of TDS provision [S. 40(a)(ia)
Amendment w.e.f AY 2013-14

Disallowance will not be made if the payer has not deducted TDS at source in case the resident recipient has included such income in return submitted u/s 139 and recipient has paid tax on such income. The payer will have to submit a certificate from a CA as evidence. In such case, it will be deemed that the payer has deducted and paid TDS on the date of furnishing of return of income by the resident recipient.

The above relief is available only if the deductor has failed to deduct TDS wholly or partly. The relief is not available in case the deductor after deduction fails to deposit the same.
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Payment to Relatives [S. 40 (A) (2)]

Amendments w.e.f. AY 2013-14

(i) At present, relatives include if payment is made by a taxpayer to a company which has substantial interest in the business of the assessee, any director of such company or a relative of such director. From AY 13-14, it will also include any other company carrying on business / profession in which first mentioned company has a substantial interest.

(ii) Disallowance under above section will not be made in respect of a specified domestic transaction referred in section 92BA if such transaction is at arm's length price (as defined u/s 92F(ii)).

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AUDIT OF ACCOUNTS:- [S. 44AB]

Books of accounts are required to be audited by CA in case turnover exceeds Rs. 1 cr in case of business and gross receipts exceed Rs. 25 Lac in case of profession.

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Provisions of Sec. 115

Section 115A: Any interest received by a Non Resident from notified infrastructure bond fund shall be taxable @ 5% +(SC and EC, SHEC).

Amendment from 1/7/12: Any interest recd by a non resident / foreign company from a specified company (Indian company) in respect of money borrowed between 1/7/12 to 30/6/15 will be taxable @ 5%. The concessional tax rate will be applicable if interest is covered u/s 194LC.

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S. 115BBA (1)(a)

Non resident sportsman being a foreign citizen.

10% tax rate in case of income received from participation in game in India, advertisement, articles in magazines. The rate is increased to 20% from AY 13-14

From AY 13-14: The scope of Section 115BBA is extended to cover income arising to a Non Resident entertainer (theatre, radio or television artists or musicians) from performances in India.

S. 115BBA (1)(b)

Non resident sports association

10% tax rate in respect of guarantee money for games to be played in India.

S. 115BBE from AY 2013-14: Income referred u/s 68 to 69D (income from undisclosed sources) will be taxable @ 30% +SC+EC

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Definition of Capital Assets [S.2(14)]

Assets will include any right in or in relation to an Indian Company including rights of management or control or any other rights whatsoever.

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Section 50D: Fair Market value to be full value of consideration in certain cases

At present, it is held in many cases that if consideration is not determinable as per existing provisions, then gain arising from transfer of such assets is not taxable.

To avoid above situation: Section 50D is introduced from AY 13-14. Accordingly, if consideration for transfer of a capital asset is not determinable, then the Fair Market Value of assets transferred shall be treated as full value of consideration.

REFERENCE TO VALUATION OFFICER [S. 55A]

The assessing officer is empowered to refer valuation of a capital assets to departmental valuation officer if following conditions are fulfilled:

(i) If A.O. thinks that value as declared by the assessee is less than even if it is already valued by an independent private valuer.
(ii) If AO thinks that FMV exceeds by Rs. 25000 or 15% of the value declared by assessee whichever is less.
(iii) If nature of assets is such that independent valuation is required.

At present, it is held in various cases that Sec. 55A is not applicable in case asset is acquired upto March 1981 and assessee has adopted FMV on 1/4/81 as cost. The AO can't refer these matters to valuation officer. However it is amended from 1/7/2012 that if the AO is of the opinion that value declared by assessee as on 1/4/81 is higher than the FMV as on 1/4/81, then he can refer the matter to valuation officer for determining FMV of the asset.

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Capital gains arising from transfer of land used for agriculture purposes [S.54B]

Assessee is individual. From AY 13-14, exemption will be applicable to HUF assessee also.

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Capital gain on transfer of residential house property [S.54GB]

(a) Who can claim exemption: Individual or HUF

b) The assessee has transferred a Long Term Capital asset in the nature of residential property i.e. a house or a plot of land on or after 1/4/2012.

(c) The assessee has utilised the net sale consideration in equity shares of a qualifying company before due date of furnishing return of income u/s 139(1).

(d) The company in which amount is invested should utilise the amount for purchase of a new asset within one year from the date of subscription in new shares. If the company does not utilise before due date of furnishing return of income by the assessee, then it shall have to be deposited by the company in capital gain deposit account.

(e) Amount of exemption: Investment in new asset by the eligible company / net sale consideration * Amount of capital gain. (Total exemption can't exceed amount of capital gain).

(f) Forfeiture of exemption: Exemption will be forfeited and it will be taxable as long term capital gain in the hands of the assessee in which the exemption is forfeited due to any of the following defaults:

(i) If equity shares in the company are sold / transferred by the assessee within 5 years from date of acquisition.

(ii) If new asset is sold by the eligible company within 5 years from date of acquisition.

(iii) If deposit amount is not utilised by the company for acquisition of a new asset within 1 year from date of subscription in equity shares.

Eligible Company

(a) It is incorporated on or after 1st April of the financial year in which residential property is transferred but before due date of submission of return of income u/s 139(1) by the assessee.

(b) It is engaged in the business of mfg of any article or thing.

(c) The assessee (transferor) has more than 50% share capital / voting right after subscription of shares by the assessee.

(d) The company is a SME (small medium enterprise) i.e investment in plant & machinery is more than Rs. 25 lacs but not more than Rs. 10.00 cr.

New Asset

It means new plant & machinery excluding:

(a) Any plant / machinery which is used in India / outside India before its installation by the eligible company.

(b) Any plant & machinery used in office premises / accommodation / guest house.

(c) Any office appliances, computers, software, vehicle.

(d) Any machinery which is eligible for 100% depreciation or 100% deduction under any of the sections of Income tax act.

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Share Premium in excess of fair market value: From AY 2013-14
If a company in which public are not substantially interested, receives from any resident person any consideration for issue of shares in excess of face value of shares, then the aggregate consideration for which shares exceed the FMV of such shares shall be chargeable to tax in the hands of recipient company under "IOS" head.

The FMV will be higher of the following:

(1) As determined as per the prescribed method

(2) As may be substantiated by the company to the satisfaction of I.T Department based on the value of its assets.

The above provision will not be applicable in following two cases.

(1) If the consideration for issue of shares is recd by a venture capital undertaking from a venture capital company / venture capital fund.

(2) If the consideration for issue of shares is received from a class of person/s notified by the Central Govt.

Note: If after issue of shares, the company becomes a public substantially interested company but before 31st March of the financial year, then above provisions will not be applicable since it will become a company in which public is interested as per section 2(18) for the whole financial year.

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Sec 80C- Life Insurance Premium (maximum of 20% of sum assured): 10% from AY 13-14

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80CCG (From AY 13-14)	Investment made under any equity saving scheme	Resident Individual	50% of amount invested or Rs 25000 (lower)	(a) The GTI of assessee does not exceed Rs. 10 lacs. (b) He has acquired listed shares as per notified scheme. (c) The assessee is a new retail investor as per the above notified scheme. (d) lock in period of 3 years on investment will apply.

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Sec.80D-

From AY 13-14: Deduction can be claimed for preventive health check up also maximum of Rs. 5000/- within existing overall limits. It can be paid in cash also.

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Sec.80G-

From AY 13-14: Any payment in excess of Rs. 10000/- will be allowed as deduction only if it is paid by any mode except cash.

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Sec.80GG

From AY 13-14: Any payment in excess of Rs. 10000/- will be allowed as deduction only if it is paid by any mode except cash.

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Amendment in above from AY 13-14: New Section 92BA

Sec. 92BA is inserted to extend transfer pricing provisions to a few domestic transactions including transactions u/s 80IA to 80IE. So, the deductions under sections 80IA to 80IE will be calculated with regard to Arm's Length Price. This provision will apply only if value of transactions exceed Rs. 5.00 crore.

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80TTA (From Ay 13-14)	Interest on deposit in savings a/c	Individual & HUF	- Interest is recd on savings account (Not time deposits) - Interest is recd from bank, post office, co-op society	Interest recd or Rs. 10000/- (whichever is lower)

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Alternate Minimum Tax (AMT) from AY 2013-14 (Section 115JC to 115JF)

From AY 2012-13, the tax of any assessee will be calculated on two basis. The detailed steps are as under:

1. Part A: Calculate tax on total income of the assessee as per normal rules ignoring the rules of AMT.
2. Part B: Calculate tax as per AMT
   Total income of the LLP will be converted into Adjusted total income as under:

Total income as per normal provisions		xxxxx
Add: Deduction u/s 10AA if any claimed	xxxxx	
Deduction u/s 80H to 80RRB, if any	xxxxx	xxxxx
Adjusted total income		xxxxx

Calculate tax on adjusted total income i.e. AMT @ 18.5% + (3% cess).

3. Net tax payable : Part A or Part B whichever is higher.

4. Tax paid under AMT will be allowed as credit in subsequent year upto 10 years.

Note : AMT will be applicable only if adjusted total income exceeds Rs. 20.00 lacs

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From AY 13-14: Amount standing in the revaluation reserve relating to revalued asset which has been retired or disposed if same is not credited to P&L A/c.

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Amendments from AY 2013-14

(a) MAT (115JB) provisions will not be applicable to any income arising to a company from life insurance business referred in section 115B.

(b) At present provisions of MAT are not applicable to insurance, banking and electricity companies since they are not required to prepare their P&L A/c as per schedule VI of Companies Act. From AY 13-14, section 115JB is amended as under: In case of insurance / banking / electricity company / any class of company which is not required to prepare P&L A/c as per Schedule VI but are required to prepare P&L A/c as per the act governing these companies, book profit shall be calculated on the basis of P&L A/c prepared in accordance with their regulatory acts.

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Other than Co / Firm	If income before giving exemption u/s 10A,10B, 10BA & before deduction u/s 80C to 80U exceeds taxable limit From AY 13-14: If assessee is Ordinarily Resident in India then he will be required to file return of income if he has any assets including financial interest in any entity located outside India or he is signing authority in any account located outside India.

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(a) <u>Self Assessment Tax [S. 140A]</u>

Payment of taxes suo moto by the assessee at the time of filing of return after adjusting all deductions, TDS, Advance Taxes, Interest is paid by way of "Self Assessment Tax" u/s 140A.

From AY 13-14: Credit available to be set off as per AMT will also be considered u/s 140A for calculation of tax payable and interest calculation u/s 234A and 234B.

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<u>143(3): Scrutiny Assessment</u>

- <u>Time Limit:</u> Assessment u/s 143(3) should be completed **<u>within 21 months from the end of relevant assessment year.</u>** Assessment is deemed to be completed if not only the assessment order but also notice of demand u/s 156 is passed within above time limit. Date of communication to the assessee is irrelevant. Extended to 24 months from 1/7/12.

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<u>143(1D): It is inserted from 1/7/2012 to provide as under:</u>

1. Processing of return u/s 143(1) shall not be necessary in case a scrutiny notice is issued to the assessee u/s 143(2).

2. No effect shall be given by the AO to the provisions of Sec. 10(23C) in case of a trust or institution if the provisions of section 2(15) become applicable in case of such person. This

rule will be applicable whether or not the approval granted to such trust / institution or any notification issued in respect of above is withdrawn or rescinded.

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Amendment in above w.r.e.f. AY 2009-10 by FA, 2012

The powers of DRP to enhance the variation will include / deemed to be included the power to consider any matter arising out of the assessment proceedings relating to draft assessment order. The DRP is empowered to consider any issue irrespective of the fact that whether or not such matter was raised by the eligible assessee.

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144C(14A) inserted to provide that provisions of sec. 144C shall not apply to any assessment / reassessment order passed by AO with the approval of Commissioner in accordance with section 144BA(12). – (GARR-General Anti Avoidance Rules)

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(a) Amendment made by FA 2012 w.r.e.f. any year upto 31/3/2012
In following cases, it will also be deemed that income has escaped assessment.

i. If assessee fails to furnish report of international transactions u/s 92E
ii. If a person is found to have any asset including financial interest in any entity located outside India.

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Time limit of 6 years is extended to 16 years in case of reassessment of income in relation of assets located outside India.

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(a) If any person is treated as agent of NR in India, then notice can not be issued only within 2 years from the end of relevant assessment year. It is extended to 6 years by FA 2012.

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Amendment by FA 2012: The above provision for concealment on part of assessee will not be applicable in case where any income in relation to any asset (including financial interest in any entity) located outside India has escaped assessment for any assessment year.

(i) Time limit for completion of assessment

Assessment u/s 147should be completed within 9 months from the end of the financial year in which notice u/s 148 is served to the assessee. Time limit extended to 12 months from 1/7/2012.

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(ii) **Time limit for completion of assessment under different sections:**

S.N	Section	Time limit for completion of assessment	Section applicable for time limit

1	143	Within 21 months from the end of relevant Assessment Year (24 months from 1/7/12)	153(1)
2	144	Within 21 months from the end of relevant Assessment Year	153(1)
3	147	Within 9 months from the end of the financial year in which notice u/s 148 is served (12 months from 1/7/12)	153(2)

(iii) **<u>Time limit for completion of fresh assessment [S. 153(2A)]:</u>**
Fresh assessment means order by higher authorities.

Particulars	**Time Limit**
• If fresh assessment due to order of CIT(A) / Tribunal	Within 9 months from the end of the financial year in which order received by CIT / CCIT. 12 months now.
• If fresh assessment as a revision order passed by CIT u/s 263 / 264	Within 9 months from the end of the financial year in which order passed by CIT. 12 months now.

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<u>Penalty procedure in search cases initiated on or after 01.06.2007 [271AAA]- deleted from 1/7/2012</u>

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<u>If search is initiated on or after 1/7/2012, then 271AAA is not applicable. It is substituted by a new section 271AAB as under:</u>

The assessee will have to pay penalty u/s 271AAB if undisclosed income relates to a specified previous year. The provisions of section 271AAB are elaborated as under:

1. Penalty will be 10% of undisclosed income if it is admitted during the course of search if following conditions are fulfilled.
   i. The assessee by way of a statement during the course of search admits the undisclosed income and discloses the manner of earning of such income.
   ii. He substantiates the manner in which such income is derived.
   iii. He pays tax and interest on such income.

iv. He furnishes the return of income for the specified previous year declaring such undisclosed income in it.

2. If undisclosed income is not admitted during search but condition iii & iv of above para is fulfilled, then penalty will be 20% of UDI.
3. If 1 or 2 both not fulfilled, then penalty will be 30% to 90%.

Definition of specified previous year

i. A previous year which satisfies following conditions:
   1. It has ended before the date of search.
   2. Due date for filing of return u/s 139(1) is not expired before date of search and assessee has not furnished return of that year.

ii. The previous year in which search is conducted.

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271AA	Failure to keep information in respect of international transaction. From 1/7/2012, penalty will be levied if the assessee a. fails to maintain prescribed documents / informations b. fails to report any international transaction c. maintains/furnish incorrect details Extended to specified domestic transactions also from 1/7/12	2% of value of each transaction. From 1/7/12: It will be in addition to penalty u/s 271BA and 271G.
271AAA	Undisclosed income during search on or after 01.06.07. Deleted from 1/7/12. New Section 271AAB substituted. Detailed in search chapter.	10% of Undisclosed Income

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271BA	Fails to submit international transaction report u/s 92E. Extended to specified domestic transactions from 1/7/2012.

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271G	Fails to furnish information etc. u/s 92D (Transfer Pricing). Extended to specified domestic transactions from 1/7/2012.

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234(E) – 1/7/12	Fees for default in furnishing quarterly TDS/TCS returns	Rs. 200/- per day of default	Amount of TDS/TCS
271H – 1/7/12	Fails to submit TDS/TCS returns on or before due date / furnish incorrect information	Rs. 10000/-	Rs. 100000/-

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Prosecution-

Amendment in above from 1/7/2012: The limit is increased to Rs. 25 lacs from 1 lacs for 6 months to 7 years imprisonment while the maximum period in case it is less than 25 lacs will be 2 years.

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Every assessee whose **estimated tax liability** for any financial year exceeds **Rs. 10,000**/-, then he is liable for payment of advance tax. No Advance tax will be payable if the assessee opts presumptive basis of taxation u/s 44AD / AE.

Resident Senior citizen are exempted from payment of advance tax from AY 2013-14 if not having income under "Business & profession" head.

From FY 12-13: It is amended that only TDS actually deducted will be considered to determine advance tax liability. TDS required to be deducted but not actually deducted will not be taken into account from 1/4/12.

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Amendment from AY 13-14

Credit available u/s 115JD (AMT-Alternate Minimum Tax) will also be taken into account for computing interest u/s 234A/B/C in line with existing provisions of credit u/s 115JAA.

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193	**Interest on Securities**	(a) 2,500/- (From 1/7/12: Rs 5000/-) (b) 10,000/- if intt on 8% saving bonds.
194E	**NR Sportsman / Sports Association** **Any NR entertainer also from 1/7/12**	10% 20% from 1/7/12

From 1/7/12: Tax will be deducted u/s 194J on remuneration paid/payable to a director which is not in the nature of salary @ 10%. No threshold limit of Rs. 30000/- will be applicable.

194LA	Rs. 1 lac Rs. 2 lac from 1/7/12

Interest paid / payable to a NR/foreign co. [Sec 194 LC]	Nil	5%	Indian company is responsible for TDS if interest is paid/payable to a NR / foreign company in case interest is paid/payable at approved rate and related to money borrowed from 1/7/12 to 30/6/15 in foreign currency from a source outside India under a loan agreement or by way of issue of long term infrastructure bonds as approved by CG.

Amendment in section 195 by FA 2012 w.r.e.f. 1/4/1962

At present TDS u/s 195 is applicable in case a person makes payment / give credit to a NR or a foreign company and if in the hands of recipient, such income is taxable in India. From 1/7/12: it is amended that TDS will be deducted u/s 195 whether deductor is Resident / NR. TDS will be made even if NR deductor does not have any place of business, residence, business connection or any other presence in India.

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AAR-Fees of Rs. 2500/- (Rs. 10000/- or as may be prescribed whichever is higher from 1/7/12)
Advance Ruling in case of invocation GAAR: Any person (Resident / Non Resident) may make an application to Advance Ruling for determining whether a proposed arrangement undertaken by him is an impermissible avoidance agreement under Chapter X-A or not.

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153B:- Time limit for completion of block assessment

The block assessment should be completed within 21 months from the end of the financial year in which last search warrant was executed. (extended to 24 months (2 years) from 1/7/12). As a result, time limit for completion of all pending assessments as on 1/7/12 will be extended upto 31/3/2013 whereas per old rules time limit was 31/12/2012.

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Wealth tax- RBI is excluded from applicability of wealth tax by FA 2012 w.r.e.f. AY 57-58

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