AMENDMENTS BROUGHT IN BY THE FINANCE ACT, 2012”

1. Rates of income-tax for assessment year 2013-14

Rates of Income Tax

(A) 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.

(B) In the case of every co-operative society

(1) Upto Rs. 10,000	10%
(2) Rs. 10,010 to Rs. 20,000	20%
(3) Above Rs. 20,000	30%

No surcharge shall be levied in the case of a co-operative society.

‘Education Cess’ @ 2% and SHEC @ 1% on income tax shall be chargeable.

(C) In the case of any firm (including limited liability partnership) – 30%

No surcharge shall be levied in the case of a firm

'Education Cess'@ 2% and SHEC @ 1% on income tax shall be chargeable.

(D) In the case of every local authority – 30%

No surcharge shall be levied in the case of a local authority.

'Education Cess'@ 2% and SHEC @ 1% on income tax shall be chargeable.

(E) 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 Rs.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.

Marginal relief only in case of a company assessee

Marginal relief: Marginal relief shall be available and the total amount payable as income-tax and surcharge on total income exceeding Rs. 1 crore shall not exceed the total amount payable as income-tax on a total income of Rs. 1 crore by more than the amount of income that exceeds Rs. 1 crore.

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2. Amendment in definitions

Definition of "income" amended [Sub-clause (xvi) to section 2(24)] [W.e.f. A.Y. 2013-14]

- ❖ *share premium in excess of fair market value* to be treated as income of the closely held company, the following sub-clause (xvi) has been
- ❖ any consideration received for issue of shares as exceeds the fair market value of the shares referred to in section 56(2) (viib) shall be included in income.

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3. Amendments relating to Income Exempt from Tax

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

- ❖ **S**ection 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%)

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

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2. 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.

3. 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

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4.Amendments relating to Charitable Trust

1.Assessment of charitable organization in case commercial receipts exceed the specified threshold of Rs. 25,00,000 [Section 10(23C) (iv) and (v) and Section 13] [W.r.e.f. A.Y. 2009-10]

The second proviso to section 2(15) provides that in case where the activity of any trust or institution is the nature of advancement of any other object of general public utility, and it involves carrying on of any activity in the nature of trade, commerce or business; but the aggregate value of receipts from the commercial activities does not exceed Rs. 25,00,000 in the previous year, then the purpose of such institution shall be considered as charitable, and accordingly, the benefits of exemption shall be available to it.

Thus, a charitable trust or institution pursuing advancement of object of general public utility may be charitable trust in one year and not a charitable trust in another year depending on whether its aggregate commercial receipts exceed Rs. 25,00,000 or not

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Seventeenth proviso has been inserted to section 10(23C) to provide that exemption shall not be allowed for the previous year in which commercial receipts of charitable trust or institution referred to section 10(23C)(iv) or (v) exceed Rs. 25,00,000 whether or not approval has been withdrawn or rescinded in respect of such trust.

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Further, 3rd proviso has been inserted in section 143(3) to provide that first and second proviso to section 143(3) shall not be applicable where in any previous year commercial receipt of such trust exceed Rs.

25,00,000. In other words, Assessing Officer shall not give exemption to such trust covered under section 10(23C)(iv) or (v) even if approval has not been withdrawn or rescinded.

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5.Amendments relating to Income from Business and Profession

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

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.

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2. **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.

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3. **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.

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

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

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6. 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.

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7. Payment to relative and close associates to be treated as specified domestic transaction and should be done at arm's length price [Proviso to section 40A(2)(a)]

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8. 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.

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9. Due date of furnishing audit report in case of international transactions/specified domestic transactions [Explanation to section 44AB] [w.r.e.f. A.Y. 2012-13]

(i) 30th November of the relevant assessment year in case the assessee has undertaken any international transaction as per section 92B or specified domestic transaction as per newly inserted section 92BA and

(ii) 30th September of the relevant assessment year in case of any other assessee.

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10. Presumptive taxation not to apply to professions etc. [Section 44AD] [W.r.e.f. A.Y. 2011-12]

Section 44AD to provide that presumptive scheme is not applicable to:

(i) a person carrying on profession as referred to in section 44AA(1);

(ii) a person earning income in the nature of commission or brokerage income; or

(iii)a person carrying on any agency business.

Further, in line with section 44AB, for the purposes of presumptive taxation under section 44AD, the threshold limit of total turnover or gross receipts has been increased from Rs. 60,00,000 to Rs. 1 crore.

Amendments relating to Capital Gains

1. Cost of acquisition in case of certain transfers [Section 49(1)] [W.r.e.f.A.Y. 1999-2000]

Section 49(1) has been amended to provide that in case of conversion of firm or sole proprietorship into a company which is not regarded as a transfer as per section 47(xiii) or 47 (xiiib) or 47 (xiv) respectively, the cost of acquisition of asset in the hands of the company would be the same as that in the hands of the firm or LLP or the sole proprietary concern, as the case may be.

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

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"

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3. 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.

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4. 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]

A new section 54GB has been inserted so as to provide rollover relief from long term capital gains tax to an individual or an HUF on sale of a residential property (house or plot of land) proportionate to the net consideration so invested in the equity of a new start-up SME company in the manufacturing sector which is utilized by the company for the purchase of new plant and machinery.

1. As per section 54GB, any capital gain arising to an individual or HUF from the transfer of a long-term capital asset being a residential property (a house or plot of land) shall be exempt proportionate to the net consideration price so invested in the subscription of equity shares of a eligible company before the due date of furnishing the return of income under section 139(1).

2. Essential conditions to be satisfied: The above exemption shall be allowed if the following conditions are satisfied:

1. There should be a long-term gain from the transfer of a residential property (i.e. a house or plot of land).
2. Such long-term capital gain should arise to an individual or HUF,
3. The amount of net consideration should be utilized by the individual or HUF before the due date of furnishing of return of income under section 139(1), for subscription in equity shares of a eligible company (hereinafter referred to as company). If the full amount of net consideration is not utilized for subscription in equity shares, the exemption shall be allowed proportionate to the amount so invested.
4. The amount of subscription as share capital is to be utilized by the company for the purchase of new asset (eligible plant and machinery) within a period of one year from the date of subscription in the equity shares.

5. The equity shares of the company or the new asset acquired by the company should not be sold or otherwise transferred by the individual / HUF or the company as the case may be with in a period of 5 years from the date of their acquisition.
6. The exemption will be available in case of any transfer of residential property made on or before 31.3.2017.

.3. Consequence if equity shares or new asset is transferred within a period of 5 years from the date of its acquisition:

(a) If the equity shares acquired by the individual or HUF are sold or otherwise transferred within a period of 5 years from the date of its acquisition, the capital gain shall arise as under:

(i) the capital gain arising from the transfer of equity shares shall be taxable in the previous year in which such shares are transferred, which can be short-term or long-term depending upon the period of holding.

AND

(ii) the amount of capital gain arising from the transfer of residential property not charged under section 45(1) earlier shall be deemed to be the long-term capital gain of the previous year in which such shares are sold or otherwise transferred and hence taxable.

(b) Similarly, if the new asset (eligible plant and machinery) is sold or otherwise transferred by the company within a period of 5 years from the date of its acquisition, the capital gain shall arise as under:

(i) the capital gain, if any arising from the transfer of such asset will be taxable in the hands of company, which will be short-term as asset is a depreciable asset forming part of block of asset.

AND

(ii) the amount of capital gain which was exempt under section 45(1) earlier shall be taxable as long-term capital gain in the hands of such individual or HUF in the previous year in which such asset (eligible plant and machinery) is sold or otherwise transferred.

4. Capital gain scheme also applicable: If the amount of net consideration which has been received by the company for the issue of equity shares by the individual or HUF is not utilized by the company for the purchase of a new asset (eligible plant and machinery) before the due date of furnishing the return of income under section 139, the unutilized amount should be deposited before the said due date under a deposit scheme, notified by the Central Government in this behalf and the return furnished by the assessee shall be accompanied by proof of such deposit having been made.

The amount so utilized and the amount so deposited in the deposit scheme shall be deemed to be the cost of a new asset (eligible plant and machinery)

5. Consequences if the amount deposited in deposit scheme is not utilized for purchase of new asset: Where the amount so deposited in deposit scheme is not utilized, wholly or partly for the purchase of new asset within a period of one year from the date of subscription in equity shares by the individual or HUF, then the difference between:

(a) the exemption allowed under section 54GB earlier;

AND

(b) the exemption that should have been allowed based on the amount actually utilized, in the purchase of new asset (eligible plant and machinery)

Shall be taxable as long-term capital gain in the hands of individual or HUF in which the period of one year from the date of subscription in equity share by the assessee expires and the company shall be entitled to withdraw such amount in accordance with the scheme.

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5. 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

1. Exemption of any sum or property received by a HUF from its members [Explanation to section 56(2)(vii)] [W.r.e.f. 1.10.2009]

The definition of relative as given in Explanation to section 56(2)(vii) is only in relation to an individual and not in relation to a HUF.

The above Explanation has been amended so as to provide that any sum or property received without consideration or inadequate consideration by an HUF from its members would also be excluded from taxation.

It may, however, be noted here that as per section 64(2), if a member of the HUF converts, etc. his separate property into the property belonging to the family otherwise than for adequate consideration, the income derived from the converted property shall be deemed to arise to the individual and not the family.

2. 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]

Measure to prevent generation and circulation of unaccounted money

1. **Cash credits under section 68 of the Act [First and second proviso to section 68] [W.e.f. A.Y. 2013-14]**

Judicial pronouncements, while recognizing that the pernicious practice of conversion of unaccounted money through masquerade of investment in the share capital of a company needs to be prevented, have advised a balance to be maintained regarding onus of proof to be placed on the company. The Courts have drawn a distinction and emphasized that in case of private placement of shares the legal regime should be different from that which is followed in case of a company seeking share capital from the public at large.

In the case of closely held companies, investments are made by known persons. Therefore, a higher onus is required to be placed on such companies besides the general onus to establish identify and credit worthiness of creditor and genuineness of transaction. This additional onus, needs to be placed on such companies to also prove the source of money in the hands of such shareholder or persons making payment towards issue of shares before such sum is accepted as genuine credit. If the company fails to discharge the additional onus, the sum shall be treated as income of the company and added to its income.

Section 68 of the Act has been amended by inserting two provisos so as to provide that the nature and source of any sum credited, as share application money, share capital, share premium etc., in the books of a closely held company shall be treated as explained only if the source of funds is also explained by the asessee company in the hands of the resident shareholder and such explanation in the opinion of the Assessing Officer is found to be satisfactory.

However, even in the case of closely held companies, this additional onus of satisfactorily explaining the source in the hands of the shareholder, would not apply if the shareholder is a well regulated entity, i.e. a venture capital fund, venture capital company registered with the securities exchange board of India (SEBI).

Amendments relating to Deduction from Gross Total Income

1. **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.

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2. 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.

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3. 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.

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4. 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.

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5. 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:

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.

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.

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6. Extension of sunset date for tax holiday for power sector [Section 80-IA(4)(iv)] [W.e.f.A.Y.2013-14]

Section 80-IA(4)(iv)(a), (b) and (c) have been amended to extend the terminal date for a further period of one year, i.e., up to 31.3.2013 in case of electricity undertakings.

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7. Transactions under section 80-IA(8) and section 80-IA(10) to be treated as specified domestic transactions and should be done at arm's length price

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8. 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);

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.

Special rate of tax

1. **Taxation of a non-resident entertainer, sports person etc. [Section 115BBA and Section 194E] [W.e.f.A.Y.2013-14]**

Section 115BBA has been amended to provide that income arising to a non-citizen, non-resident entertainer (such as theatre, radio or television artists and musicians) from performance in India shall be taxable at the rate of 20% of gross receipts.

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(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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Sec 139(1) Other than Co / Firm	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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Self Assessment Tax [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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Sec 143(3): Scrutiny Assessment- Time Limit:

Assessment u/s 143(3) should be completed **within 21 months from the end of relevant assessment year.** 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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Sec 143(1D): It is inserted from 1/7/2012 to provide as under:

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).

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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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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Sec 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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<u>Amendment made by FA 2012 w.r.e.f. any year upto 31/3/2012</u>

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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<u>Notice u/s 148-</u>

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

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.

<u>Amendment by FA 2012:</u> 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.

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<u>Time limit for completion of assessment</u>

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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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)

(ii) **Time limit for completion of fresh assessment [S. 153(2A)]:**
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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Penalty procedure in search cases initiated on or after 01.06.2007 [271AAA]- deleted from 1/7/2012

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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:

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 yea**r**

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.

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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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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- compulsory acquisition	Exemption- Rs. 1 lac Rs. 2 lac from 1/7/12		
Interest paid / payable to a NR/foreign co. [Sec 194 LC]	Exemption - Nil	Tax rate- 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.

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

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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<u>153B:- Time limit for completion of block assessment</u>

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

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