# SUMMARY OF AMENDMENTS MADE BY FINANCE ACT 2016 APPLICABLE FOR MAY/Nov. 2017 Examination

# No change in basic exemption limit.

The basic exemption limit of Income Tax is Rs.2,50,000/- remains unchanged.

Rate of surcharge in case of individual, HUF, AOP, BOI or **Artificial Jurisdictional Person**, increased from 12% to 15% if the total income exceeds ***Rs. 1 crores***

☺ *Increase in the rebate from tax u/s 87A from existing Rs.2,000/- to Rs.5,000/- from the amount of income tax payable by resident individual whose total income does not exceed Rs. 5 lacs.*

In case of domestic company whose turnover or gross receipts in the previous year 14-15 does not exceed *Rs.5 crores. Rate of tax reduced from 30% to 29%.*

# Section 115BA inserted from A.Y. 17-18 to tax domestic companies at 25%, at their option, if following conditions are satisfied:-

- Company has been setup and registered on or after 01.03.2016
- It is engaged in the business of manufacture or production of article or thing
- It has not claimed any benefit u/s 10AA, benefit of accelerated/additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JJAA; and
- Option is furnished in the prescribed manner before the due date of furnishing of income.

Section 115BBDA : From A.Y. 2017-18 Dividend shall be taxed @10% in hands of individuals, HUFs and firms who is resident and receiving dividend in excess of ***Rs.10 lakhs*** during the Previous year from domestic company

→NO expenses to be deducted from such dividend income

→ Dividend upto 10 lakhs shall continue to be exempt

# TCS on sale of vehicles, goods or services

206C proposed to be amended to provide that seller shall collect tax @1% on

(A) SALE OF MOTOR VEHICLE OF THE VALUE EXCEEDING RS.10 LACS

(B) SALE OF ANY GOODS (OTHER THAN BULLION AND JEWELLERY) OR PROVIDING OF ANY SERVICE IN CASH EXCEEDING RS. 2 LACS.

However NO TCS on the amount for which TDS has been done

# BUYBACK TAX .

*Existing section 115QA provides for levy of additional income tax @20% on domestic company on distributed income on buy back of unlisted shares. Distributed income has been defined to mean the consideration paid by the company on buy back of shares as reduced by the amount which was received by the company for issue of such shares.*

| (1) | (2) | (3) | (4) |
|---|---|---|---|
| Section | Particulars | Rate of tax | Effective rate of tax |
| 115-O | Tax on distributed income of domestic companies by way of dividend | 15% | 17.304% |
| 115QA | Tax on distributed income of domestic company for buyback of shares | 20% | 23.072% |

# Subsidy or Grant which are not included in the definition of income u/s 2(24)

→Subsidy or grant or reimbursement taken into account for determination of actual cost of depreciable asset.

→Subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by a Central Govt, or State Govt., as the case may be.

Set-off of losses not permissible against unexplained income, investments, money etc. chargeable under sections 68/69/69A/69B/69C/69D [Section 115BBE] w.e.f A.Y.2017-18

# Residence And Scope Of Total Income

- No income deemed to accrue or arise in India to a foreign mining company through or from the activities which are confined to display of uncut and unasserted diamonds in a Special Notified Zone [Explanation 1 to section 9(1 )(i)]
- In the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unassorted diamonds in any special zone notified by the Central Government in the Official Gazette in this behalf.

Section 6(3) was substituted by the Finance Act, 2015 with effect from A.Y.2016-17 to provide that a company would be resident in India in any previous year, if-
a) it is an Indian company; or
b) its place of effective management, in that year, is in India .

*Explanation to section 6(3) defines "place of effective management" to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.*

**The applicability of POEM has been deferred by one year , i.e.from A.Y.2016-17 to A.Y.2017-18.**

## Basis for determining the period of stay in India for an Indian citizen, being a member of the crew of a foreign bound ship leaving India *(Notification No. 70/2015, dated 17.8.2015]*

- *Explanation 2* has been inserted to section 6(1) to provide that in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the prescribed manner and subject to the prescribed conditions.

- According to Rule 126, in case of an individual, being a citizen of India and a member of the crew of a ship, the period or periods of stay in India shall, in respect of an eligible voyage, not include the period commencing from the date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage and ending on the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage.

# Incomes Which Do not Form Part Of Total Income

## Exemption under section 10(34) not to apply to dividend chargeable to tax in accordance with section 115BBDA a proviso to section 10(34) has been added

- Section 115BBDA has been inserted to provide that any income by way of aggregate dividend in excess of Rs. 10 lakh shall be chargeable to tax in the case of an individual, Hindu undivided family (HUF) or a firm who is resident in India, at the rate of 10%.

- No deduction in respect of any expenditure or allowance or set-off of loss shall be allowed to the assessee in computing the income by way of dividends.

## Exemption of income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil there from to any person resident in India [Sec. 10(48A)]

- An underground storage facility is being set up by the Indian Strategic Petroleum Reserves Limited for storage of crude oil as part of strategic reserves Mainting such reserve is in interest of nation.
- The Government is considering meeting a significant portion of the financial burden through participation of private players including foreign national oil companies (NOCs) and multinational companies (MNCs).
- However, the activities of storage of crude oil by such foreign companies and its sale in India would result in business connection and hence, such income would be deemed to accrue or arise in India.
- For achieving tax neutrality to encourage the NOCs & MNCs to store their crude oil in India and to build up strategic oil reserves, clause (48A) has been inserted in section 10 to exempt any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil there from to any person resident in India.

## Exemption of interest on deposit certificates issued under the Gold Monetization Scheme, 2015 [Section 10(15)(vi)]

- Interest on Gold Deposit Bonds issued under Gold Deposit Scheme, 1999 notified by the Central Government.
- These bonds are also excluded from the definition of capital asset under section 2(14) and therefore, transfer of such bonds is exempt from capital gains tax.

Payment from NPS Trust to an employee on closure of his account or on his opting out of the pension scheme exempt to the extent of 40% of such payment [Section 10(12A)]

:-)

If nominee, on death of the assessee received then whole amount shall be exempt from tax in hands of nominee

# Income from House Property

☺

**Extension of period for completion of construction from 3 years to 5 years, for claiming higher deduction of upto Rs 2 lakh in respect of interest on capital borrowed for construction of self-occupied house property.**

# Special provision for arrears of rent and unrealized rent received subsequently [New Section 25A]

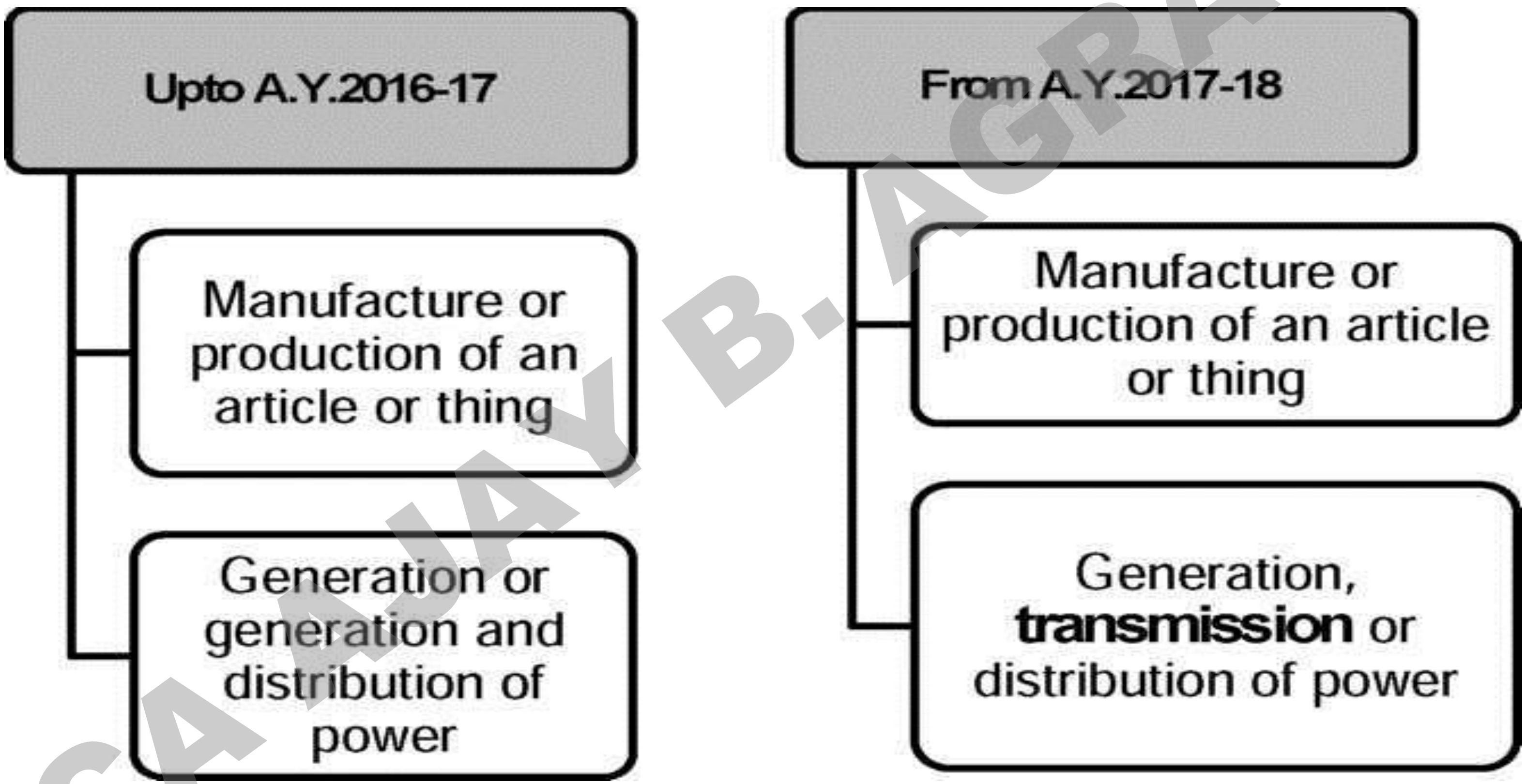
Section 25A substitutes erstwhile sections 25A, 25AA and 25B.

- ☺ Now 30% deduction shall be available even on unrealised rent recovered

# Profits and Gains of Business or Profession

- Clause (va) of section 28 has been amended to bring the non-compete fee received/receivable (which are recurring in nature) in relation to not carrying out any profession, within the scope of profits and gains of business or profession. ☹
- *Receipts for transfer of right to carry on any profession, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession.*
- Section 55 has also been amended to provide that, for the purposes of sections 48 and 49, the cost of acquisition and cost of improvement in relation to a capital asset, being right to carry on any profession, shall also be taken as Nil.
- However, in the case of acquisition of such asset by the assessee by purchase from a previous owner, the amount of purchase price would be the cost of acquisition for the purpose of section 48 and 49.

# Assessees engaged in the business of transmission of power eligible for additional depreciation [Section 32(1 )(iia)]



Deduction under section 32AC to be available in the year of installation in respect of actual cost of new plant and machinery acquired in the P.Y.2015-16 and P.Y.2016-17, if the actual cost of such new plant and machinery acquired in the relevant previous year exceeds Rs. 25 crores, even if the new plant and machinery has not been installed in the relevant previous year but has been installed on or before 31.3.2017 ☺

Assessment Year 2017-18 is last year for claiming deduction u/s 32AC ☹

# Tax treatment for spectrum fee [ section 35ABA]

- The Government has newly introduced spectrum fee for auction of airwaves.
- Any capital expenditure incurred for acquisition of any right to use spectrum for telecommunication services either before the commencement of the business or thereafter at any time during any previous year and for which payment has actually been made (actual payment of expenditure or payable in the prescribed manner) to obtain a right to use spectrum.

# NBFCs eligible for claim of deduction for provision for bad and doubtful debts [Section 36(1)(viia)] ☺

Lower of the below shall be allowed

a) Actual provision for bad and doubtful debts: or
b) 5% of total income (before making any deduction under section 36(1 )(viia) and Chapter VI-A) in the case of NBFCs also whichever is lower

[Section 43B] ☹

Sum payable to Indian Railways for use of railway assets **allowable** as deduction in the year in which the liability to pay such sum is incurred, only if payment is made on or before the due date of filing of return

- Increase in threshold limit of gross receipts/turnover under section 44AD of a business to be eligible for opting the presumptive taxation scheme.
- Increase in threshold limit of eligible business from Rs.1 crore to Rs.2 crore.
- Salary, interest, remuneration paid to partner as per section 40(b) not deductible.
- Advance tax to be paid on or before 15th March of the financial year.
- In case of non-offering of income as per section 44AD for five continuous years, eligible assessee cannot opt for section 44AD for the next five AYs after the assessment year of first non-option

# Presumptive Taxation Scheme for assessees engaged in eligible profession [Section 44ADA]

→Section 44ADA has been inserted in the Income-tax Act, 1961 providing a presumptive taxation scheme for estimating the income of an assessee

→ Who is engaged in any profession referred to in section 44AA(1) such as legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette; and

→ Whose total gross receipts does not exceed fifty lakh rupees in a previous year.

→ The assessee will be deemed to have been allowed the deductions under section 30 to 38.

# Disallowance in respect of Non-payment of equalisation levy Section 40(a)(ib) w.e.f 1.6.16 ☹

The consideration paid or payable shall not be allowed as deduction if the following conditions are fulfilled –

a) There is a consideration paid or payable by a resident
b) Consideration is paid or payable for specified service
c) Specified service is such that equalisation levy is deductible under the provision chapter VIII
d) Such levy –i) has not been deducted or

   ii) after deduction it is not been paid on or before the due date of filing the return

   However , if paid after due date then it shall be allowed in year of payment.

# Section 44AB Tax Audit

| Specified Profession | Assessee covered under section 44AD | Other than Speced Profession not covered in section 44AD |
|---|---|---|
| IF GR > Rs. 50 lakhs during the P.Y. | If T.O./GR > Rs. 200 lakhs during the P.Y. | If T.O./GR > Rs. 100 lakhs during the P.Y |
| OR<br>Assessee is covered under section 44ADA but –<br>a) Income offered is less than 50% of gross receipt &<br>b) Total income exceeds Basic exemption limit | OR<br>Assessee is covered under section 44AD but<br>a) Income offered is less than 8% &<br>b) Total income exceeds Basic exemption limit | |

# Capital Gains

**Section 2(14) Excludes ☺**

**Deposit Certifcate issued under Gold Monetisation Scheme 2015 notifed by C.G.**

- →As it is not a capital asset no capital gain shall attract on redemption / transfer
- → If Gold is received from bank on redemption the market value of gold on redemption shall be the cost of acquistion & date of acquisition shall be date of acquistion of gold

# PERIOD OF HOLDING OF UNLISTED SHARES TO QUALIFY AS A LONG-TERM CAPITAL ASSET TO BE REDUCED FROM "MORE THAN 36 MONTHS" TO "MORE THAN 24 MONTHS" [SECTION 2(42A)]

☺

- →All types of shares are covered i.e. even preference shares are covered
- →Shares of even private limited company are covered
- →Relevant amendment made in section 112 , 54EC , 54EE & 54F

[Section 47(xiiib)]

Total value of assets of a private company or unlisted company not to exceed Rs. 5 crore in any of the three preceding previous years for exemption of transfer of capital asset or intangible asset on conversion of such company into LLP

# Transfer of units by unit holders on consolidation of plans within a mutual fund scheme not to be regarded as transfer [Section 47(xix)]

- → Exemption for consolidation of mutual fund schemes:
- →The plan within a scheme of a mutual fund which merges under the process of consolidation of the plans within a scheme of mutual fund in accordance with the SEBI (Mutual Funds) Regulations, 1996 made under SEBI Act, 1992.
- →Consolidation of mutual fund plans within a scheme as per SEBI guidelines.
- →The plan with which the consolidating plan merges or which is formed as a result of such merger.
- →Exemption of transfer of units in the consolidation of Plans within a Mutual Fund scheme:

## Redemption by an individual of sovereign gold bonds issued by RBI not to constitute transfer for the purpose of levy of capital gains tax [Sec.47(viic)] ☺

- Redemption by an individual of sovereign gold bonds (SGBs) not to constitute transfer.
- Benefit of indexation available on LTCG on transfer of SGBs [Third proviso to section 48] for those who are not eligible for exemption

Cost of acquisition of asset, whose fair market value has been taken into account for the Income Declaration Scheme, 2016 [Section 49(5)]

**Cost of Acquistion shall be the value of asset offered under IDS**

Stamp duty value on the date of agreement may be adopted as full value of consideration of immovable property, being land or building or both, if whole or part of the consideration has been paid by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property [Section 50C]

- **Section50C**

Transfer of **capital asset**, being land or building or both.

Stamp duty value on the **date of agreement** may be adopted as consideration

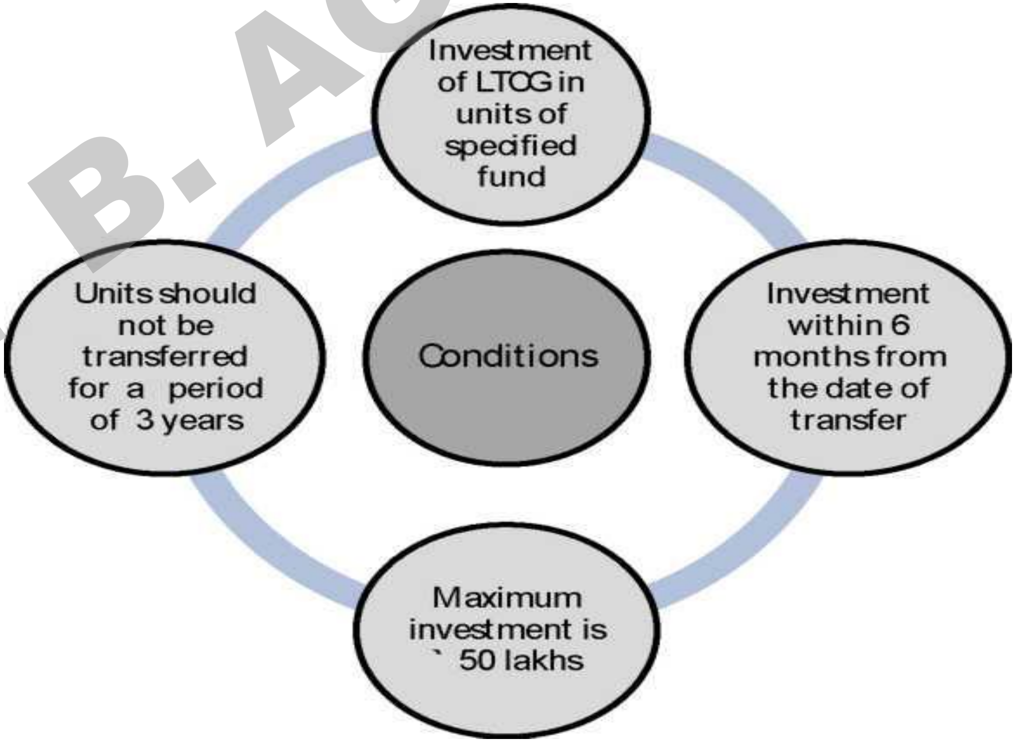
Whole or part of consideration should be paid by A/c payee cheque/bank draft or BCS through a bank A/c on or before the date of agreement

# Exemption of long-term capital gains on investment in notified units of specified fund [Section 54EE] ☺

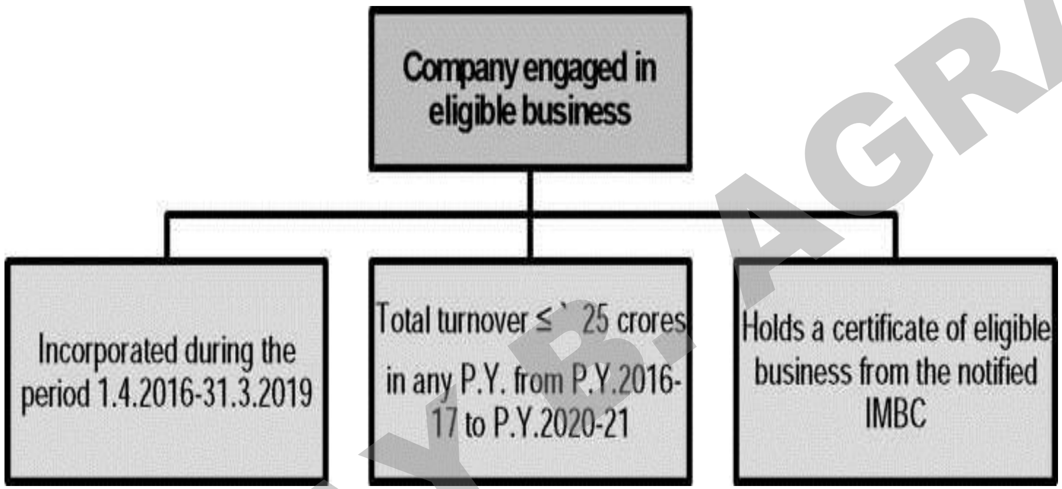
## Time limit for investment

A) The investment has to be made within 6 months after the date of transfer.

B) Ceiling limit for investment in units of the specified fund Max. 50 Lakhs.



Exemption of long-term capital gains on sale of residential property, where net consideration on sale is invested in shares of an eligible start-up [Section 54GB]
Effective from: A.Y.2017-18




Meaning of Eligible Business –

business in which –

innovation,Development, Deployment, Commercializatio. of new products,/ processes or services. driven by technology or, intellectual property.

## Conditions for claiming exemption on transfer of Residential Property

→ The net consideration is invested in subscription of equity shares of a company which qualifies to be an eligible start-up on or before the due date of filing return of income under section 139(1);

→The individual or HUF holds more than 50% shares of the company or 50% voting rights after the subscription in shares by such individual or HUF; and

→ Such company utilises the amount invested in shares to purchase new plant and machinery within one year from the date of subscription in equity shares.

→

## Long-term capital gains on shares of private companies to be subject to concessional rate of tax@10 % in the hands of non-corporate non-residents and foreign companies [Section 112(1)(c)]

- Section 112(1)(c) prescribes a concessional tax rate of 10% (without indexation benefit) for long-term capital gain arising from transfer of unlisted securities in the hands of non-corporate non-residents and foreign companies.

# Method of determination of period of holding of capital assets in certain cases *[Notification No. 18/2016, dated 17-03-2016]*

- The CBDT has inserted new Rule *8*AA in the Income-tax Rules, 1962 to provide for method of determination of period of holding of capital assets, other than the capital assets mentioned in clause (i) of the *Explanation 1* to section 2(42A).
- Specifically, in the case of a capital asset, being a share or debenture of a company, which becomes the property of the assessee in the circumstances mentioned in section 47(x), *there shall be included the period for which the bond, debenture, debenture-stock or deposit* certificate, as the case may be, was held by the assessee prior to the conversion. The said rule shall come into force with effect from 01-04-2016.

# Income From Other Sources

- Shares received by an individual or HUF as a consequence of demerger or amalgamation of a company or a business reorganization of a co-operative bank not to be subject to tax by virtue of section 56(2)(vii)

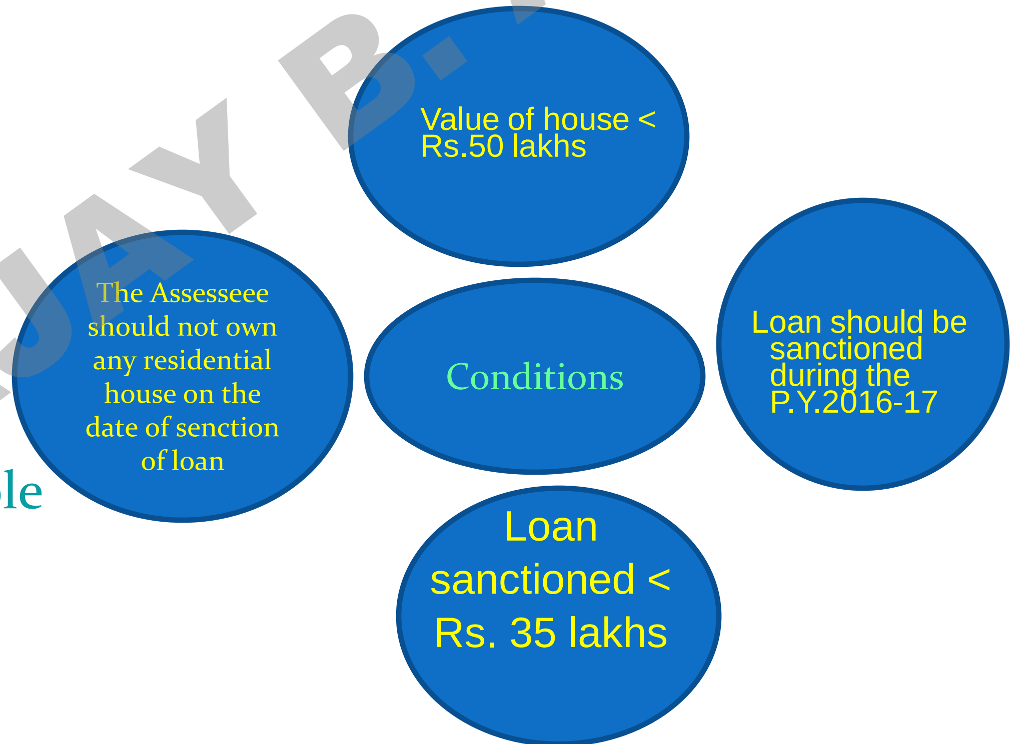
# Set-off and Carry forward and Set-Off Of Losses.

Filing of return of loss on or before the due date under section 139(1) mandatory for carry forward of loss from specified business under section 73A [Section 80] ☹

→Related amendment in section: 139(3).

# Deductions from Gross Total Income

- **Additional deduction for interest on loan borrowed for acquisition of self-occupied house property by an individual [Section 80EE] ☺**




The maximum Deduction allowable is Rs. 50,000.

# Monetary limit for maximum deduction under section 80GG increased

- The deduction is allowable up to the least of the three limits -
- 25% of total income;
- Rent paid - 10% of total income;
- RS 2,000 per month. Revised to **Rs 5000 pm.☺**

# Tax incentives for new start-ups [Section 80-IAC]

A) **Quantum of deduction: 100% for 3 out of 5 pys**

B) **Conditions**

a) It is not formed by splitting up, or the reconstruction, of a business already in existence.

b) It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

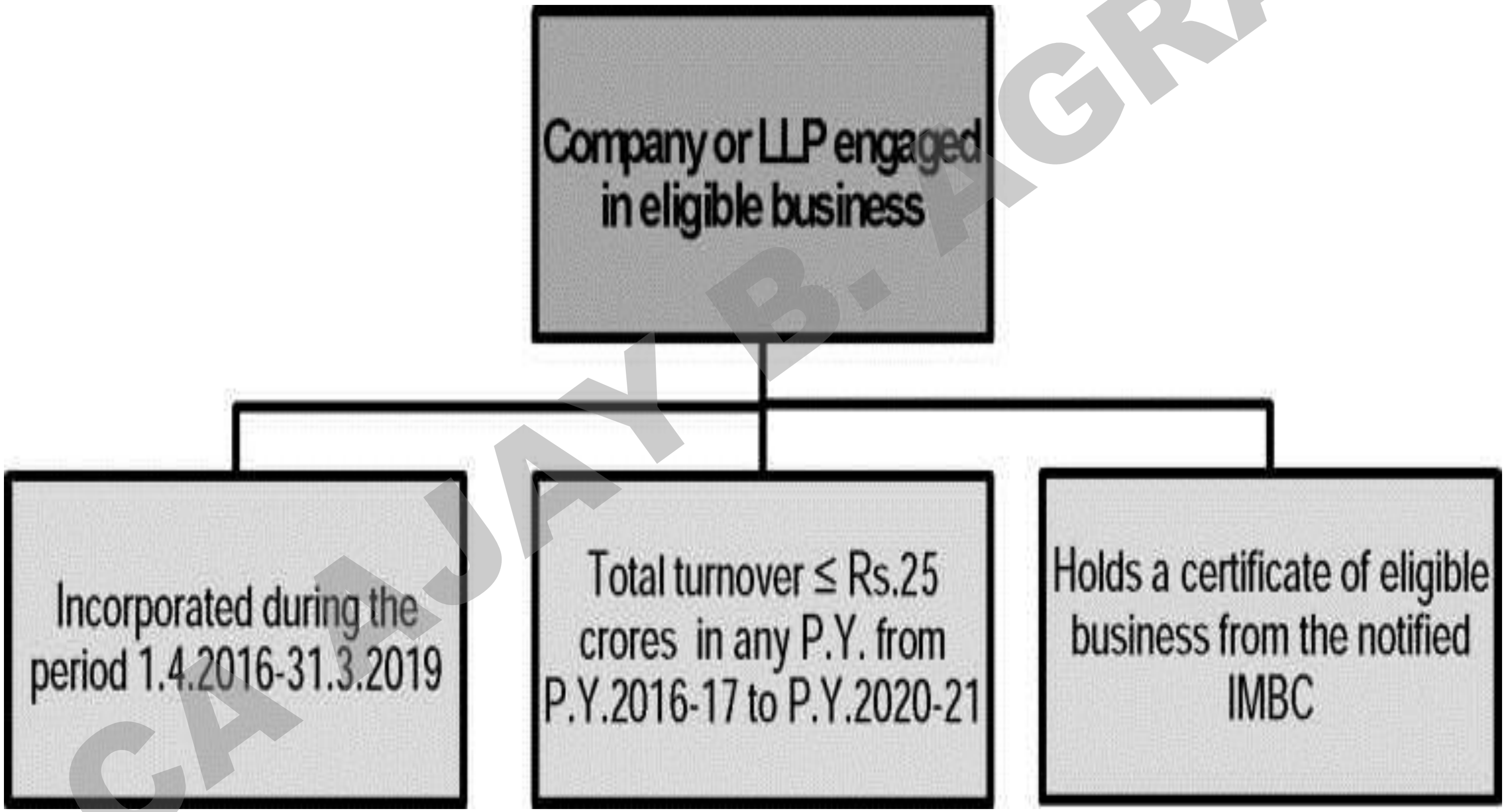
c) Eligible business to be considered as the only source of income.

d) Audit of Accounts.

C) **Other Points**

- Transfer of goods/services between eligible business and other business of the assessee.
- Deduction not to exceed profits of eligible business.

# Meaning of eligible start-up:



# Deduction in respect of employment of new employees [New Section 80JJAA] Effective from: A.Y. 2017-18 ☺

- Quantum of deduction:
- amount equal to 30% of additional employee cost incurred in the course of such business in the previous year, would be allowed for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

The business should not be formed by splitting up, or the reconstruction, of an existing business

The business is not acquired by the assessee by way of transfer from any other person or as a result of any business reorganization.

The report of the accountant, giving the prescribed particulars has to be furnished along with ROI

# Exclusions from the definition

*1) Any employee whose total * emoluments are more than  Rs. 25,000 per month; or*

*2) Any employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme.*

*3) Any employee employed for a period of less than 240 days during the previous year.*

*4) Any employee who does not participate in the recognized provident fund.*

* Following shall not be included in monthly emoluments

Any contribution paid or payable by the employer to any pension fund or provident fund.

Any lump-sum payment paid or payable to an employee at the time of termination of his service.

# Assessment Procedure

## Sixth Proviso to Section 139(1)

Every person, being an individual or HUF or an AOP or a BOI, whether incorporated or not or any artificial juridical person, earns income by way of long-term capital gains in the previous year, which is exempt under section 10(38), and income of such person without giving effect to section 10(38) exceeds the basic exemption limit, then also such person shall be liable to mandatorily file return of income for the previous year on or before the due date.

## Reduction of time limit for filing belated return Section 139(4)

☹

**Any person who has not furnished a return within the time allowed to him under section 139(1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. Thus, belated return can be filed only in case a person has not furnished his return within the time allowed under section 139(1).**

# 139(5) Belated return can be revised now

☺

→ If any person, having furnished a return under section 139(1) or belated return under section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

→ An enabling provision for revision of belated return has been introduced. However, a return furnished in pursuance of a notice issued under section 142(1) cannot be revised

# Explanation to Section 139(9)

☺

**Return not to be deemed to Defective is Self Assesssment Tax is not paid before furnishing of return .**

## Scope of permissible adjustments while processing a return under section 143(1)(a) expanded:

**Now following shall also be done while processing of Return**

- Disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return.
- Disallowance of deduction u/s 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or 80-IE, if return is filed beyond due date u/s 139.
- Addition of income appearing in Form 26AS or Form 16A/16 which has not been included in computing the total income in the return.

*Before making any such adjustments, in the interest of natural justice, an intimation has to be given to the assessee requiring him to respond to such adjustments. Such intimation may be in writing or through electronic mode.*

*The response received, if any, has to be duly considered before effecting any adjustment. However, if no response is received within 30 days of issue of such intimation, the processing shall be carried out incorporating the adjustments.*

## Mandatory processing of return of income before issuance of assessment order [Sec 143(1D)]

- Section 143(1D) has now been substituted to provide that the processing of a return is not necessary before the expiry of the one year from the end of the financial year in which the return is made, where notice has been issued to the assessee under section 143(2).

- However, the return has to be processed before the issuance of an order under section 143(3).

# Time limits for completion of assessment, reassessment and recompilation [Section 153] w.e.f. 1.06.2016

Since digitization of processes within the Department has enhanced its efficiency in handling workload, the time limit has been accordingly reduced, so that the assessment proceedings are finalized more expeditiously.

# The time limit for assessment or reassessment under section 153B w.e.f 1.6.2016

- *21 months from the end of the financial year in which the last of the authorizations for search under section 132 or for requisition under section 132A was executed.*

**First Proviso to Section 153B(1) In case of a person assessed under section 153C**

- *21 months from the end of the financial year in which the last of the authorizations for search under section 132 or for requisition under section 132A was executed;*
- *9 months* from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over to the jurisdictional Assessing Officer under section 153C

# APPEALS & REVISION

- **Provision for filing of appeal by the Assessing Officer (A.O.) against the order of DRP done away with [Section 253] w.e.f. 1.6.2016.**

| Before Amendment | After Amendment |
|---|---|
| Section 253(3A) provides that every appeal under section 253(2A) shall be filed within 60 days of the date on which the order sought to be appealed against is passed by the Assessing Officer in pursuance of the directions of the DRP under section 144C(5) . | In order to minimize litigation, sub-sections (2A) and (3A) of section 253 have been omitted. Thus, the provision for filing of appeal by the Assessing Officer against the order of the DRP has been done away with.<br>w.e.f. 01.6.2016 No Appeal can be filed by A.O. against the order of DRP |

## Reduction in time limit for rectification of mistake apparent from the record by the Appellate Tribunal [Section 254(2)]

| Before Amendment | After Amendment |
|---|---|
| Section 254(2) provides that the that the Appellate Tribunal may rectify any mistake apparent from record in its order any time within four year from date of order | Appellate Tribunal may rectify any mistake apparent from record in its order any time within six months from the end of the month in which the order was passed. |

## Raising the total income limit of the cases that may be decided by single member bench of Appellate Tribunal [Section 255(3)]

- A single member bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer in the said case does not exceed.

15 Lakhs (earlier)

Now 50 lakhs

# Circular No. 21/2015, dated 10-12-2015

- The CBDT has, through this circular, revised the monetary limits for filing of appeals by the Department with the objective of reducing litigation as a part of its initiatives to reduce grievances of the tax payers
- Accordingly, henceforth, appeals/ SLPs shall not be filed in cases where the **tax effect** does not exceed the monetary limits given hereunder.

| **Appeals in income-tax matters** | **Monetary limit (Rs )** |
|---|---|
| Before Appellate Tribunal | 10,00,000 |
| Before High Court | 20,00,000 |
| Before Supreme Court | 25,00,000 |

- *It is also clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case*

# Penalties

- **Section 270A : Penalty leviable for under-reporting of income and mis-reporting of income [w.e.f A.Y. 2017-18]**

→ Section 270A(1) empowers the Assessing Officer, Commissioner (Appeals) or the Principal Commissioner or Commissioner to direct levy of penalty, during the course of proceedings under the Income-tax Act, 1961, if a person has under reported his income. Such penalty shall be imposed by an order in writing by such authority.

→ The penal provisions under section 271 shall not apply in relation to A.Y.2017-18 and onwards.

# Cases of under reporting of income

1) Return of Income has been filed
2) No return has been filed
3) Reassessment
4) Return is filed and assessment , re-assessment is done base on 115JB/JC
5) NO return is files and assessment , reassessment is done base on 115JB/JC.
6) Reassessment as per provision of 115JB/JC

## Following cases not included within the scope of under-reported income under section 270A [Sec 270A(6)]: i.e. in following case there shall be no penalty imposed ☺

1) The amount of income in respect of which the assessee offers an explanation.
2) The amount of under-reported income determined on the basis of an estimate.
3) The amount of under-reported income determined on the basis of an estimate.
4) The amount of under-reported income represented by any addition made in conformity with the arm's length price determined by the Transfer Pricing Officer.
5) The amount of undisclosed income on account of a search operation.

## Penalty leviable

| Section 270A(7) | Section 270A(8) |
|---|---|
| Under reporting of income | Where under reporting of income results from * misreporting of income by any person. |
| 50% of tax payable on under-reported | 200% of tax payable on such under-reported income |

*Cases of misreporting for which penalty of 200% is leviable*

a) misrepresentation or suppression of facts;

b) failure to record investments in books of account;

c) claim of expenditure not substantiated by any evidence;

d) recording of any false entry in books of account;

e) failure to record any receipt in books of account having a bearing on total income & failure to report any international transaction or deemed international transaction or specified domestic transaction under Chapter X.

*Note: For above misreporting there is no immunity granted u/s 270AA (discussed as below)*

## *[Section 270 AA ]* Immunity from imposition of penalty & prosecution

- An assessee may make an application to the Assessing Officer for grant of immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C or section 276CC, if he
- ***pays the tax and interest payable as per order &***
- ***does not prefer an appeal against such assessment order***

→ ***The application is made within one month from end of the month in which the assessment or reassessment is received***

→ ***A.O. shall pass the order within one month from end of the month in application is received which shall be final.***

→ ***Once the application for immunity is accepted assessment order is final***

# Time limit for passing an order for waiver of interest and penalty [Sections 220(2A),273A, 273AA] w.e.f 1.6.2016 ☺

| Before 1.6.2016 | w.e.f. 1.6.2016 |
| --- | --- |
| No time limit has been provided within which orders under section 220 or sections 273A or 273AA have to be passed. Further, there is no requirement under these provisions that the assessee be given an opportunity of being heard in case such application is rejected by an authority | An order accepting or rejecting application of an assessee in full or part has to be passed within a period of 12 months from end of the month in which application is made . Where order is passed order rejecting the application of the assessee, either in full or in part, under section 220 or 273A, 273AA shall be passed without giving the assessee an opportunity of being heard |

**In respect of applications pending as on 1st June, 2016, order undersaid sections has to be passed on or before 31st May, 2017**

**Levy of penalty in search cases where assessee does not admit such income in the course of search nor discloses the same in the return of income for the specified previous year filed on or before the specified date [Section 271AAB(1)(c)]: In such case the penalty shall be ☹**

| *Upto A.Y. 2016-17* | *From A.Y. 2017-18* |
|---|---|
| ***30% To 90% of undisclosed income*** | ***60% of undisclosed income*** |

# Threshold limit (Rs) ☺

| Section | NATURE OF PAYMENT | Upto 31.5.2016 | From 1.6.2016 |
|---|---|---|---|
| 192A | Payment of accumulated balance due to an employee participating in RPF | 30,000 | 50,000 |
| 194BB | Winnings from horse races | 5,000 | 10,000 |
| 194C | Payment to contractors | 75,000 | 1,00,000 |
| 194D | Insurance Commission | 20,000 | 15,000 |
| 194G | Commission on sale of lottery tickets | 1,000 | 15,000 |
| 194H | Commission or Brokerage | 5,000 | 15,000 |
| 194LA | Payment of compensation or enhanced compensation on compulsory acquisition of immovable property (other than on agriculture land) | 2,00,000 | 2,50,000 |

# Reduction in rate of tax to be deducted at source in respect of certain payments: ☺

| Section | Nature of payment | Upto 31.05.2016 | From 01.06.2016 |
|---|---|---|---|
| 194DA | Payment in respect of life insurance policy | 2% | 1% |
| 194EE | Payments in respect of deposits under National Savings Scheme | 20% | 10% |
| 194G | Commission on sale of lottery tickets | 10% | 5% |
| 194H | Commission or brokerage | 10% | 5% |

# Concessional Taxation Regime for royalty income in respect of patent developed and registered in India [Section 115BBF] ☺

→ **Who is eligible**

a) A person resident in India ;
b) who is the true and first inventor of the invention ; and
c) whose name is entered on the patent register as the patentee in accordance with Patents Act, 1970.

→ **Condition** : **At least 75% of the expenditure should be incurred in India by the eligible assessee for any invention in respect of which patent is granted under the Patents Act, 1970.**

→ **Concessional rate of Tax** : R**oyalty shall be taxable at the rate of 10% (plus applicable surcharge and cess).**

The tax shall be on gross amount i.e. no deduction for any expenditure or allowance in respect of such royalty income shall be allowed under the Act.

- The provision of section 115BBF is optional , assessee has to exercise the option for taxation of income by way of royalty in respect of a patent developed and registered in India on or before the due date
- The assessee offers the income for taxation for any of the five assessment years relevant to the previous year succeeding the previous year not in accordance with section 115BBF(1), then the assessee shall not be eligible to claim the benefit of section 115BBF for five assessment years subsequent to the assessment year relevant to the previous year in which such income has not been offered to tax in accordance with section 115BBF(1).
- **Section 115BBF would not be subject to MAT under section 115JB**

# DIRECT TAXES

## BY CA AJAY B AGRAWAL

## FOR CA FINAL MAY/NOV 2017 Examination

| Nature | Date | Timing | Duration | Fees |
|---|---|---|---|---|
| Virtual | 01.02.2017 | 5.30-9.00 PM | 30 lectures | 4000 |
| Live | 15.02.2017 | 7.00-10.30 AM | 30 lectures | 5000 |
| Virtual | 01.03.2017 | 11.00 - 2.30 PM | 30 lectures | 4000 |
| PEN DRIVE | 15.02.2017 | onwards available | 30 lectures | 5000 |

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