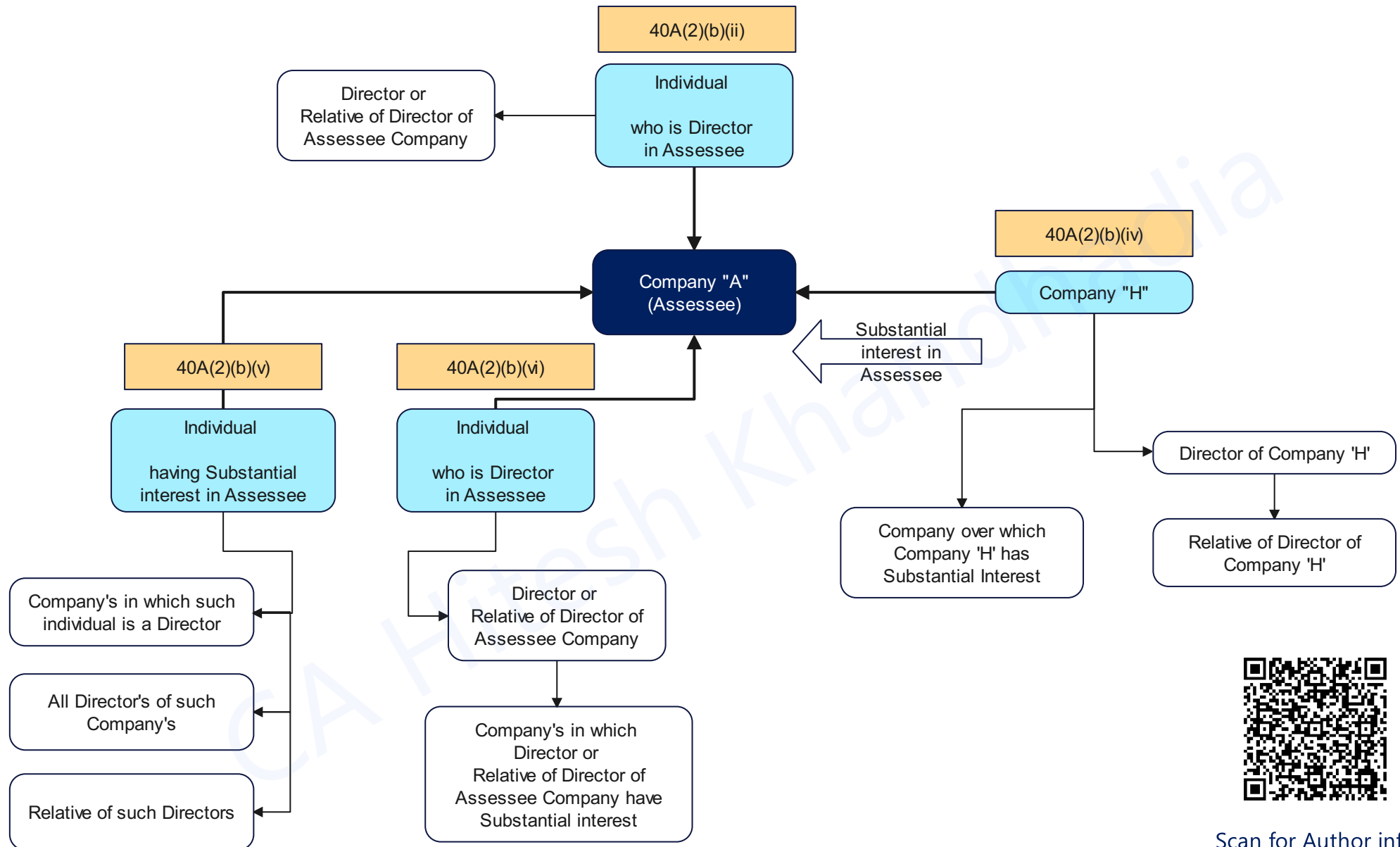


Pictorial presentation of related parties as per Sec. 40A(2)(b) for a Company Assessee



Income Tax Department

Section - 40A, Income-tax Act, 1961-2022



Expenses or payments not deductible in certain circumstances.

40A. (1) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other provision of this Act relating to the computation of income under the head "Profits and gains of business or profession".

(2)(a) Where the assessee incurs any expenditure in respect of which payment has been or is to be made to any person referred to in clause (b) of this sub-section, and the Assessing Officer is of opinion that such expenditure is excessive or unreasonable having regard to the fair market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business or profession of the assessee or the benefit derived by or accruing to him therefrom, so much of the expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as a deduction :

Provided that for an assessment year commencing on or before the 1st day of April, 2016 no disallowance, on account of any expenditure being excessive or unreasonable having regard to the fair market value, shall be made in respect of a specified domestic transaction referred to in [section 92BA](#), if such transaction is at arm's length price as defined in clause (ii) of [section 92F](#).

(b) The persons referred to in clause (a) are the following, namely :—

- (i) where the assessee is an individual any relative of the assessee;
- (ii) where the assessee is a company, firm, association of persons or Hindu un-divided family any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member;
- (iii) any individual who has a substantial interest in the business or profession of the assessee, or any relative of such individual;
- (iv) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the assessee or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member or any other company carrying on business or profession in which the first mentioned company has substantial interest;
- (v) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the assessee; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;
- (vi) any person who carries on a business or profession,—
 - (A) where the assessee being an individual, or any relative of such assessee, has a substantial interest in the business or profession of that person; or
 - (B) where the assessee being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person.

Explanation.—For the purposes of this sub-section, a person shall be deemed to have a substantial interest in a business or profession, if,—

- (a) in a case where the business or profession is carried on by a company, such person is, at any time during the previous year, the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether or not they carry a right to participate in profits) carrying not less than twenty per cent of the voting power; and

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(b) in any other case, such person is, at any time during the previous year, beneficially entitled to not less than twenty per cent of the profits of such business or profession.

- (3) Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, or