# "INCOME TAX RATES STRUCTURE"

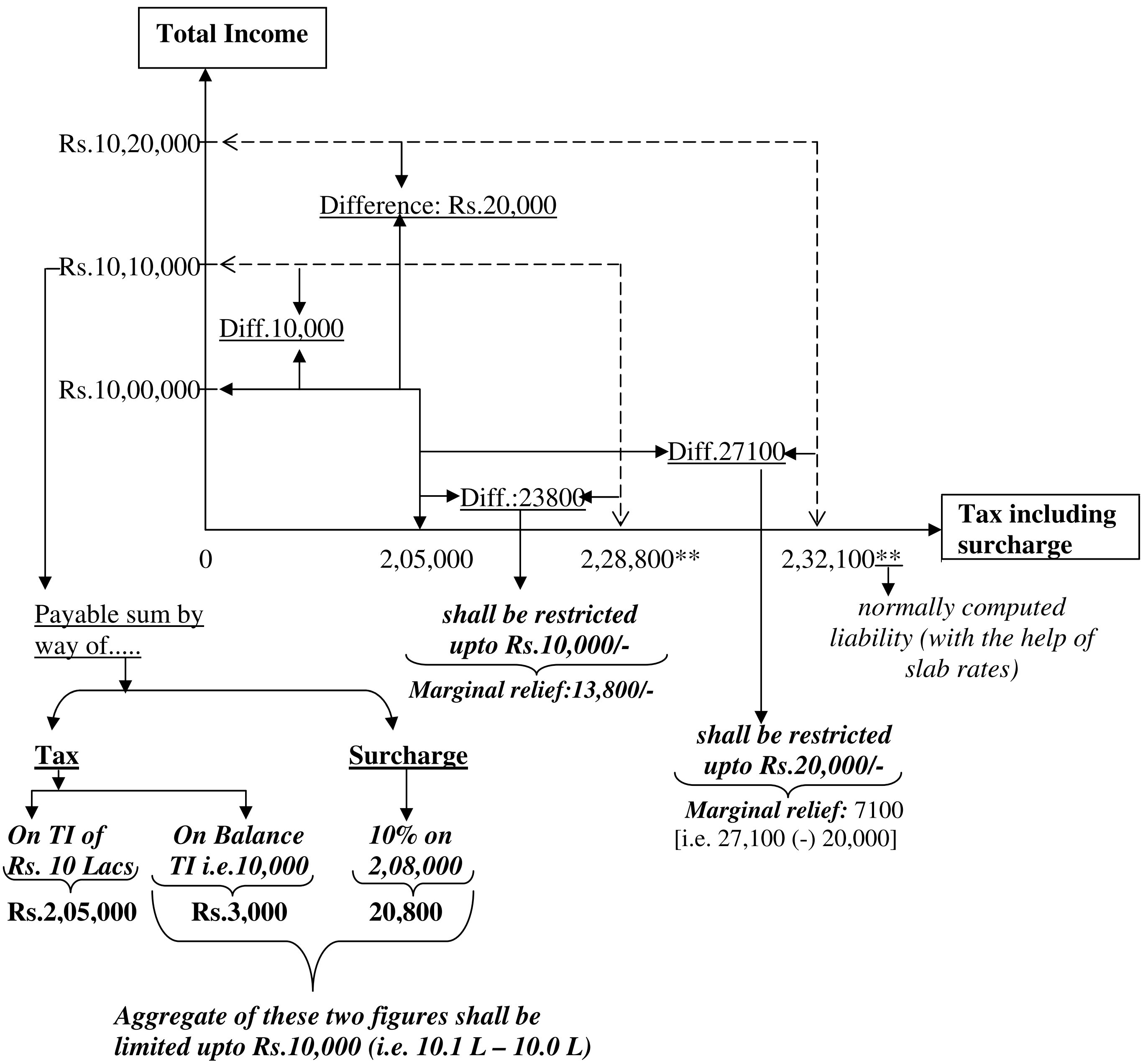
***(As per Finance Act, 2008)***

- ***Tax rates, Surcharge and Education cess,*** *as applicable for assessment year 2009-10, are summarized in the following table –*

<table>
<tr><th>Type of Assessee</th><th>Tax Rate</th><th>Surcharge</th><th>Education cess<br>(Including SHEC)</th></tr>
<tr><td>(1) Resident Women below the age of 65 years</td><td>Up to Rs 1,80,000/- : Nil<br>Rs 1,80,010 To 3,00,000/- : 10%<br>Rs 3,00,010 To 5,00,000/- : 20%<br>Above Rs 5,00,000/- : 30%</td><td rowspan="3">If Total Income…..<br>→ " Not exceed Rs. 10 Lacs" → " No Surcharge"<br>→ "Exceeds Rs. 10 lacs" → "10% Surcharge"</td><td rowspan="3">3%<br>on<br>(Tax + Surcharge)</td></tr>
<tr><td>(2) Resident Individuals who is the age of 65 years or more (i.e. Senior citizen)</td><td>Up to Rs 2,25,000/ : Nil<br>Rs. 2,25,010 to 3,00,000/- : 10%<br>Rs 3,00,010 To 5,00,000/- : 20%<br>Above Rs 5,00,000/- : 30%</td></tr>
<tr><td>(3) Other Individuals, HUF, AOP, BOI</td><td>Up to Rs 1,50,000/- : Nil<br>Rs. 1,50,010 To 3,00,000/-: 10%<br>Rs 3,00,010 To 5,00,000/- : 20%<br>Above Rs 5,00,000/- : 30%</td></tr>
<tr><td>(4) Artificial Judicial Person</td><td>--- Same as given in 3rd Point------</td><td>10%<br>( ir-respective of Amt. of TI )</td><td>3% on<br>(Tax + Surcharge)</td></tr>
<tr><td>(5) Firms</td><td>30%</td><td>10%<br>[Only where TI > 1 CRORE]</td><td>3% on<br>(Tax + Surcharge)</td></tr>
<tr><td>(6) <u>Companies:-</u><br>(i) Domestic company<br><br>(ii) Foreign company</td><td>30%<br><br>40%</td><td>10%<br>[Only where TI > 1 CRORE]<br><br>2.5%<br>[Only where TI > 1 CRORE]</td><td>3% on<br>(Tax + Surcharge)<br><br>3% on<br>(Tax + Surcharge)</td></tr>
<tr><td>(7) Co-operative Societies</td><td>Up to Rs 10,000/- : 10%<br>Rs. 10,001 To 20,000/- : 20%<br>Above Rs 20,000/- : 30%</td><td>No Surcharge</td><td>3% on Tax</td></tr>
<tr><td>(8) Local Authorities</td><td>30%</td><td>No Surcharge</td><td>3% on Tax</td></tr>
</table>

---

***ILLUSTRATIVE APPROACH:-***




**RELEVANT NOTES:-**

- ✓ ***Same approach as discussed above will be adopted in case of firms and domestic companies with a single difference that is Base figure of Total Income of Rs.10,00,000 shall be replaced with the Base figure of Total Income of Rs.1,00,00,000/-***
- ► *This substitution will also be made in case of foreign companies, but in case of foreign companies rate of surcharge will be 2.5% (instead of 10%).*

**(2)** **Amendment of section 2(1A):** ***Meaning of Agriculture Income** - **SCOPE WIDENED: -***

*With a view to give finality on judicial controversial issue that* ***"whether income from nurseries constitutes agriculture income or not"****, Recently definition of Agriculture income has been amended* ***to include income from nurseries.***

***After the Amendment-***

- Any income derived from
- *Saplings or seedlings*
- Grown in nursery
- Shall be deemed to be agriculture income.

**EXPLANATORY REMARKS:-**

**(i)** **Normally, Agriculture income is defined as income derived from land which is situated in India and is used for agricultural purposes, and it is exempt u/s 10(1).**

**But aforesaid income from nursery shall be treated as agriculture income ir-respective of whether the basic operations have been carried out on land, and will also be exempt u/s 10(1).**

**(ii)** **This exemption is available only in respect of income derived from seedling or saplings "grown" in a nursery and trading income shall not be covered here.**

**(iii)** **Due to exemption u/s 10(1), Expenses related from eligible exempted income from nursery or loss arising from such activity will not get any tax treatment.**

**MEANING –**

➔ ***Sapling:*** *A young tree.*

➔ ***Seedling:*** *A young plant newly grown /developed from a seed.*

**(3)** **Amendment of section 2(15):** ***Definition of Charitable Purpose:-***

***Prior to Amendment –***

"Charitable purpose" includes *relief of the poor, education, medical relief, and* ***the advancement of any other object of general public utility.***

► ***For this amendment,*** it was the observation of Lawmaker that *various entities operating on commercial lines are claiming exemption on the ground that they are engaged in the advancement of an object of general public utility, hence they are charitable institutions. But this claim, which is made in respect of an activity carried out on commercial lines, is contrary to the intention for exemption provisions of Legislature.*

***Therefore, under the amended version –***

The advancement of any other object of general public utility "shall not be a charitable purpose-

- *If it involves the carrying on of.*
  - *any activity in the nature of trade , commerce or business, or*
  - *any activity of rendering of any service in relation to any trade, commerce or business ,*

– *for a fee or cess or any other consideration , irrespective of the nature of use or application of the income from such activity , or the retention of such income, by the concerned entity.*

---

**(4) Insertion of section 10(26AAA): *Exemption to a Sikkimese Individual:-***

***With a view to give a special incentive to a Sikkimese Individual*** *this clause has been inserted which provides that –*

- **Following incomes, which accrues or arises to a Sikkimese individual shall be exempt from income tax.**

***(a) income from any source in the state of Sikkim ; or***

***(b) income by way of dividend or interest on securities***

- **But this exemption will not be available to a Sikkimese woman who, on or after 1-4-2008, marries a non Sikkimese individual.**

> *For the purpose of the above clause Sikkimese shall mean-*
>
> *(i) An individual , whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (Register of Sikkim Subject") immediately before the 26th April ,1975; or*
>
> *(ii) An individual, whose name is included in the Register of Sikkim Subject, by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August , 1990 and Order of even number dated the 8th april,1991; or*
>
> *(iii) Any other individual , whose name does not appear in the Register of Sikkim Subjects but it is established beyond doubt that the name of such individual's father or husband or paternal grandfather or brother from the same father has been recorded in that register .*

---

**(5) Insertion of section 10 (26AAB): *Exemption of income of agriculture produce market committee:-***

*This new clause provides that –*

– ***Any income of an agricultural produce market committee or Board constituted under any law for the time being in force***

– ***for the purpose of regulating the marketing of agricultural produce,***

– ***shall be exempt.***

---

**(6) Amendment of section 10(29A): *Exemption of income of coir board:-***

***This new clause provides that any income accruing or arising to the Coir Board established under the Coir Industry Act 1953, shall be exempt from tax.***

---

**(7) *"TAX IMPLICATION OF TRANSACTION IN REVERSE MORTGAGE"***

➔ ***Scheme in nutshell: -*** *Conceptually, Reverse Mortgage Scheme involves the following:*

✓ Senior Citizen borrower mortgages the self-occupied residential house property to a lender

- ✓ The lender makes periodic/lump sum payments to the borrower during the latter's lifetime.
- ✓ The borrower is not required to service the loan during his lifetime and therefore does not make monthly repayments of principal and interest to the lender.
- ✓ On the borrower's death or on the borrower leaving the house property permanently, the loan is repaid along with accumulated interest, through sale of the house property.
- ✓ The borrower / heir(s) can also repay or prepay the loan with accumulated interest and have the mortgage released without resorting to sale of the property.

***Insertion made by Finance Act, 2008:-***

*(a) Section 47 (xa) has been inserted to provide that* ***section 45 shall not apply to any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government.***

*(b) Section 10(43) has been inserted to provide that* ***loan amounts received, whether in lump sum or in instalment, under reverse mortgage shall not be included in total income.***

*ANALYSIS* –

***The amendments clarify that there is no capital gain upon creation of mortgage and no taxable income upon receipt of the loan amounts. A borrower will be liable to income-tax (in the nature of tax on capital gains) only at the point of alienation of the mortgaged property by the mortgagee (i.e. lender) for the purposes of recovering the loan. He will of course, get benefit of indexation at that point of time and will also be entitled to roll over benefit under sections 54, etc.***

**Illustration-**

Suppose Mr. A borrows Rs.4 lakhs under reverse mortgage scheme. Eventually he sells the property for Rs.14 lakhs and pays to the bank Rs.9 lakhs along with interest. The indexed cost of acquisition is Rs.4 lakhs.

***In this case:***

(a) Mr. A will not be taxed upon mortgage of the house and receipt of Rs. 4 lakhs as loan;

(b) Mr. A will be taxed on capital gains of Rs.10 lakhs (sale consideration of Rs.14 lakhs less indexed cost of acquisition Rs.4 lakhs) upon the sale of the property.

---

**(8) Amendment of section 10A & 10B :** ***Extension Of Tax Holiday By One Year For Undertakings In FTZ, SEZ etc. & 100% EOU:-***

**Prior to Amendment –**

► Deduction u/s 10A and 10B can be claimed up to A.Y. 2009-10 (Not there after).

***But under the amended version –***

► *Deadline (for claiming deduction) is being extended by one more Assessment Year and accordingly the deductions u/s 10A & 10B would be available up to and including Assessment Year 2010-11 (instead of Assessment Year 2009-10).*

---

**(9) Amendment of section 35:** ***Deduction of Scientific Research Expenditure:-***

*Recently a new clause (iia) in section 35(1) has been inserted to allow weighted deduction of 125% of the amount paid by a person if the following conditions are satisfied:-*

- **(i)** ***the amount is paid to a company;***
- **(ii)** ***the amount is to be used by the company for scientific research;***
- **(iii)** ***the company is registered in India;***
- **(iv)** ***the company has scientific research and development as its main object;***
- **(v)** ***the company is for the time being approved by the prescribed authority in the prescribed manner; and***
- **(vi)** ***the company fulfils such other conditions as may be prescribed.***

*But with a view to avoid multiple claims for deduction,* the Act has provided that a company approved under the provisions of section 35(1)(iia) will not be entitled to claim weighted deduction of 150% under section 35(2AB). However, deduction to the extent of 100% of the sum spent as revenue expenditure on scientific research which is available under section 35 (1)(i) will continue to be allowed .

***Other relevant points:-***

- ✓ *There is no requirement that the scientific research carried on by such company should be related to the business of the donor.*
- ✓ *Any person whether company or not, can avail of the deduction under the above clause by making payment to any company approved for this purpose.*

---

**(10) Amendment of section 35D:** ***Amortisation of Preliminary Expenses:-***

This section provides for deduction of preliminary expenses to the extent of 1/5 of such expenditure for five successive previous years.

***Prior to Amendment:-***

The preliminary expenses must relate either to the period before the commencement of the business or thereafter. But, if preliminary expenses relates to a period after the commencement of the business, such expenses are only allowed if they are in relation to the extension of an *industrial* undertaking or the setting up of a new *industrial* unit.

***After the Amendment:-***

- ***With a view to give benefit of amortisation of post commencement preliminary expenses to all sectors,***
  - *The words "Industrial undertaking" with the word "Undertaking" and*
  - *The words "Industrial Unit" with the word "Unit"*
- ***substituted.***

---

**(11) Amendment of Section 36, Section 40(a)(ib), & Section 88E:** ***Treatment of Securities Transaction Tax (STT):-***

**Prior to Amendment:-**

The amount of STT paid was disallowable, u/s 40(a) (ib), in computing the income under the head "PGBP", but a rebate u/s 88E was allowed in respect of such amount of STT paid.

**After the Amendment:-**

- ***No rebate u/s 88E shall be allowed to the assessee.***
- *A new clause (xv) has been inserted in section 36(1) which provides that-*
  - ***the amount of STT paid during the year***
  - ***in respect of taxable securities transactions entered into the course of business***
  - ***shall be allowed as deduction***
  - ***subject to the condition that such income from taxable securities transactions is included under the head "PGBP".***
- **Resultantly, Under the amended version – Section 40(a)(ib) which provides that STT is not allowable expenses, has been omitted.**

**EFFECT OF AMENDMENT:-**

In old situation, if the assessee had incurred losses, u/s 88, the entire STT lapsed, since there was no question of rebate in case of loss situation.

*But now under the amended version –* the assessee will be eligible to carry forward STT, included in the loss.

---

**(12) Insertion of section 36(1) (xvi): *Deduction of Commodities Transaction Tax:-***

*A new clause (xvi) has been inserted in section 36(1) which provides that-*

- ***Any amount of commodities transaction tax (CTT) paid by the assessee during the year***
- ***in respect of taxable commodities transaction entered into the course of business***
- ***shall be allowed as deduction***
- ***subject to the condition that such income from taxable commodities transaction is included under the head profits and gain of business or profession.***

---

**(13) Amendment of section 40(a)(ia): *Disallowance of deduction in respect of payments for which TDS is not paid:-***

**Prior to Amendment –**

Any interest, commission or brokerage, rent, royalty, fees for professional services, fees for technical services, any amount payable to a resident contractor or sub-contractor shall not be allowed as a deduction in computing the income chargeable under the head "profits and gains of business or profession"

- *Where in respect of such sum tax is deductible under the chapter of TDS and such tax has not been deducted;*

*OR*

- *Where in respect of such sum tax is deducted but not paid during the previous year or in the subsequent year before the expiry of the time prescribed under section 200(1).*

- But where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted in the previous year but paid in any subsequent year after the expiry of the time prescribed under section 200(1), such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

**After the Amendment** *(with retrospective effect from A.Y. 2005-06):-*

*Recently Lawmaker, having intention to provide for more liberal time frame for payment of TDS, amended the above provision* ***for a particular situation*** *which is as follows –*

- In case of aforesaid expenses where the tax was deductible, and
- was so deducted during the last month of the previous year and after deduction such tax
- has not been paid on or before due date specified in section 139(1),
- *such expenses shall* ***not*** *be allowed as deduction in the year in which such expenses are incurred.*

***But, where in respect of any such sum tax has been deducted during the last month of the previous year but paid after the due date specified u/s 139(1) such sum shall be allowed as a deduction in computing the previous year, in which such tax has been paid.***

**EXPLANATORY REMARK:-**

*It may carefully be noted here that this amendment deals with only the tax deduction of the month of March, if such TDS is deposited on or before the due date of ROI as given u/s 139(1), deduction of related expenses shall be allowable in the previous year in which these are incurred.*

*Now it must be clear here that this amendment does not deal with the tax deduction of first eleven months of the previous year, it means if tax has been deducted upto the end of the month of february (i.e. during April to February) – it must be deposited upto the end of the said previous year, Only then deduction of related expenses shall be allowed if such TDS is paid after the end of the said previous year – deduction of related expenses shall be allowed as deduction in the previous year in which such TDS has been paid.*

---

**(14) Amendment of section 40A(3):** ***Disallowance in respect of cash payments:-***

***Prior to Amendment:-***

(a) Any expenditure incurred in respect of which payment is made in a sum exceeding Rs. 20,000 otherwise than by an account payee cheque or an account payee draft shall not be allowed as deduction.

(b) This section was also provide for deeming a payment as profits and gains of business or profession if the expenditure is incurred in a particular year and the payment is made in any subsequent year in a sum exceeding Rs. 20,000 otherwise than by account payee cheque or account payee draft.

***After the Amendment:-***

***With a view to increase the efficacy of this provision and to overcome the splitting of payments to the same person made during a day,*** *Legislature has amended this provision.*

***Under the amended version –***

- ***For the purpose of above referred both clauses [i.e. (a) & (b)],***
- ***aggregate payments to the same person made during a day***
- ***shall be considered.***

*Meaning there by* – ***Limit (i.e. Rs.20,000 /-) shall be compared with aggregate payments made during a day to the same person and upon the basis of which decision of disallowance shall be taken up.***

---

**(15) Amendment of Section 43(6):** ***Written Down Value:-***

*Recently, following new explanation 6 has been inserted and shall be deemed to have been inserted with effect from 1st day of April, 2003 –*

**Explanation 6:**

***Where an assessee was not required to compute his total income for the purposes of this Act for any previous year or years preceding the previous year relevant to the assessment year under consideration,—***

***(a) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;***

***(b) the total amount of depreciation on such asset, provided in the books of account of the assessee in respect of such previous year or years preceding the previous year relevant to the assessment year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and***

***(c) the depreciation actually allowed under clause (b) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.***

---

**(16) Amendment of section 44AB:** ***Due date for obtaining Tax Audit Report:-***

*W.e.f. assessment year 2008-09 the above specified date for obtaining and furnishing the tax audit report shall be* ***30th September of the relevant assessment year*** *instead of 31st October.*

---

**(17) Insertion of section 47(xa):** ***Transaction not regarded as transfer:-***

***After this insertion –***

- *Any transfer by way of conversion of bonds referred to in section 115AC (1)(a)*
- *into shares or debentures of* ***ANY*** *company,*
- ***shall not be regarded as transfer for capital gain purpose.***

---

**(18) Amendment of section 49(2A):** ***Deemed cost of Acquisition:-***

- Where the capital asset being a ***share or debenture of any company***
- became the property of the assessee
- *in consideration of transfer referred to in clause (xa) of section 47,*

– the **cost of Acquisition** of the such asset
– ***shall be deemed to be that part of cost of bonds in relation to which such asset is acquired by the assessee.***

---

**(19) Amendment of section 80C:** ***Deduction for saving - SCOPE ENLARGED:-***

***The following investments made by the assessee, during the previous year, shall also be eligible for deduction under section 80C within the overall ceiling of Rs. 1,00,000:-***

**(i) Deposit in an account under the Senior Citizens Savings Scheme Rules, 2004; and**

**(ii) Five year time deposit in an account under post office Time Deposit Rules, 1981.**

***PREMATURE WITHDRAWAL:-***

***If an assessee withdraws any amount deposited in the said investments before the expiry of period of five years from the date of deposit, the following consequences shall follow:***

- *The amount so withdrawn shall be deemed to be the income of the assessee of the previous year in which the amount is so withdrawn and shall be liable to tax in the assessment year relevant to such previous year.*
- *The amount of interest included in the amount so withdrawn shall also be treated as income of the previous year in which such withdrawal is made. However if any such interest withdrawn was already offered for tax in any other earlier year it shall not be liable to tax on withdrawal.*
- *If on the death of the assessee the nominee or legal heir of the assessee receives such amount it shall not be taxable in the hands of the legal heir or nominee. However any amount of interest included in such amount received by the nominee or legal heir, which was never offered for tax before in any of the previous year, shall be deemed to be taxable income of the previous year in which it is received.*

**(20) Amendment of section 80D:** ***Deduction for Health Insurance Premium:-***

***Prior to Amendment:***

A deduction of Rs.15,000 was allowed to an assessee being –

– An individual for the healthcare insurance of self, wife or husband, dependent parents or dependent children, or
– A Hindu undivided family, for the healthcare insurance of any member of the family.

► *If the assessee or any other member of the family is a senior citizen, the deduction allowed, for the healthcare insurance, was up to Rs.20,000.*

***After the Amendment:***

***With a view to encourage individual assessees to supplement the efforts of their parents in getting themselves medically insured,*** this section has been amended.

***Under the amended version –***

► Where the assessee is an individual, the deduction allowed shall be the aggregate of the following , namely;-

(i) The whole of the amount paid to effect or to keep in force an insurance on the health of the assessee of his spouse and dependent children as does not exceed in aggregate Rs.15, 000. And

(ii) The whole of the amount paid to effect or to keep in force insurance on the health of the parent or parents ***(whether dependent or not)*** of the assessee as does not exceed in aggregate Rs.15000.

- ✓ *Where the assessee is a Hindu undivided family,* the deduction allowed shall be the whole of the amount paid to effect or to keep in force an insurance on the health of any member of that Hindu undivided family as does not exceed in aggregate Rs.15,000.
- ✓ *Where the above sum (whether in case of individual or HUF) is paid to effect or keep in force an insurance on the health of any person specified therein, and who is a senior citizen,* ***an additional deduction of Rs.5,000 shall be allowed .***

---

**(21) Amendment of section 80 IB: *Deduction For Profits And Gains Derived From Commercial Production Or Refining Of Mineral Oil:-***

**Prior to Amendment:**

100% deduction of profits and gains derived from commercial production or refining of mineral oil was available for a consecutive period of seven Assessment years.

**After the Amendment:**

► *Recently a new proviso has been inserted which provides that* -

- **No deduction under this sub section shall be allowed to an undertaking**
- **engaged refining of mineral oil if it begins refining on or after 1-4-2004**
- ***unless such undertaking fulfils all the following conditions, namely*-**

*(i) It is wholly owned by a public sector company or any other company in which a public sector company or companies hold at least 49% of the voting rights.*

*(ii) It is notified by the Central Government in this behalf on or before 31-5-2008, and*

*(iii) It begins refining not later than 31-3-2012.*

---

**(22) Insertion in section 80-IB: *Deduction for profits and gains of business of operating and maintaining hospitals anywhere in India other than the excluded area:-***

***With a view to encouraging investment in hospitals,*** *a new subsection (11C) has been inserted which provides that –*

- ***The amount of deduction in the case of an undertaking deriving profits***
- ***from the business of operating and maintaining a hospital***
- ***located anywhere in India, other than the excluded area,***
- ***shall be 100 % of the profits and gains derived from such business***
- ***for a period of five consecutive assessment years, beginning with the initial assessment year, if —***

*(i) the hospital is constructed and has started or starts functioning at any time during the*

*period beginning on the 1/4/ 2008 and ending on the 31/3/2013;*

*(ii) the hospital has at least one hundred beds for patients;*

*(iii) the construction of the hospital is in accordance with the regulations or bye-laws of the local authority; and*

*(iv) the assessee furnishes along with the return of income, a report of audit in such form and containing such particulars, as may be prescribed, and duly signed and verified by a C.A. certifying that the deduction has been correctly claimed.*

***Excluded Area Means:-***

*An area comprising —*

- ✓ *Urban agglomeration of Greater Mumbai, Delhi, Kolkata, Chennai, Hyderabad Bangalore, Ahmedabad;*
- ✓ *District of Faridabad, Gurgaon, Gautam Budh Nagar, Ghaziabad, Gandhinagar, and;*
- ✓ *City of Secunderabad;*

---

**(23) Amendment of Section 80-ID: *Deduction for profits and gains derived from business of hotels located in specified districts having a world heritage site : -***

***With a view to encourage the tourism in certain world heritage sites in India,*** *Recently a new clause has been inserted in this section which provides 100% deduction in respect of profits and gains from the business of hotel,*

***Provided that following conditions are satisfied –***

*(i) Hotel must have been located in a specified district having a World Heritage Site. It must be a hotel of two-star, three-star or four-star category as clarified by the Central Government.*

*(ii) The hotel must have been constructed and has started or starts functioning at any time during the period 1-4-2008 to 31-3-2013.*

*(iii) Other existing conditions already specified in this section (e.g. No transfer of second hand P&M, etc.) shall be applicable to the said hotels.*

***WORLD HERITAGE SITE:-***

| *Name of State* | *Name of Districts* |
|---|---|
| **(1) Madhya Pradesh** | ***Bhopal, Raisen, Chhatarpur*** |
| **(2) Rajasthan** | ***Bharatpur*** |
| **(3) Uttar Pradesh** | ***Agra*** |
| **(4) Maharashtra** | ***Jalgaon, Aurangabad*** |
| **(5) Orissa** | ***Puri*** |
| **(6) Tamilnadu** | ***Nilgiri, Thanjavur, Kancheepuram*** |
| **(7) Bihar** | ***Gaya*** |
| **(8) Gujarat)** | ***Panchmahal*** |
| **(9) Karnataka** | ***Bellary*** |
| **(10) Uttarakhand** | ***Chamoli*** |

| | |
|---|---|
| **(11) Assam** | ***Kamrup, Goalpara, Nagaon*** |
| **(12) Goa** | ***North Goa, South Goa*** |
| **(13) West Bengal** | ***Darjeeling, South 24 Parganas (including areas falling within the Kolkata urban agglomeration on the basis of 2001 census).*** |

---

**(24) Amendment of Section 111A & Section 115AD: *Taxation of Short Term Capital Gain:-***

***Prior to Amendment:***

These sections were provide for concessional tax rate (i.e. 10%) on STCG arising from the transfer of equity share in a company or a unit of an equity oriented fund *where such transaction is chargeable to STT.*

***Under the amended version:-***

- ✓ **This Act has increased this rate of tax on such STCG from 10% to 15%.**

---

**(25) Amendment of Section 115JB: *Book Profit:-***

***With a view to avoid ambiguity on deferred tax and Dividend distribution tax,*** *this Act has made two amendments in this section with retrospective effect from A.Y. 2001-02 which are as follows –*

**(i) DEFERRED TAX:**

- Insertion of new clause (h) in Explanation 1:

  ***Book profit shall be increased by the amount of deferred tax and the provision therefore, if debited to profit and loss account.***

- Insertion of new clause (viii) in Explanation 1:

  ***The profits as per the profit and loss account shall be reduced by the amount of deferred tax if any such amount is credited to the profits and loss account.***

**(ii) INCOME TAX:**

- *With the insertion of a new Explanation 2 it is clarified that –*

  **The amount of income tax shall include,-**

  ***(i) Tax on distributed profits u/s 115-O or distributed income u/s 115 R;***

  ***(ii) Any interest charged under this Act;***

  ***(iii) Surcharge , if any, as levied by the provision of the Central Acts from time to time;***

  ***(iv) Education Cess on income tax, if any , as levied by the Central Acts from time to time ; and***

  ***(v) Secondary and higher education Cess on income tax if any as levied by the Central Acts from time to time.***

---

**(26) Amendment of section 115-O: *Dividend Distribution Tax:-***

***Under the existing provisions –***

*Domestic Company is liable to pay tax @ 15% on any amount declared, distributed or paid to its shareholders by way of dividends.*

***RECENT AMENDMENT:***

***With a view to mitigate the cascading effect of Dividend distribution tax upto one level,*** *it has been provided by this act that dividend liable for Dividend distribution tax shall be reduced by the amount of dividend received by the domestic company from its subsidiary, provided that following conditions are satisfied –*

***(1) The subsidiary has paid tax under section 115-0 on such dividend, and***

***(2) The domestic company is not a subsidiary of any other company.***

- **It is also provided that the same amount of dividend shall not be taken into account for such reduction, more than once.**
- *For the purpose of this section*, **a company shall be subsidiary of another company,** ***if such other company holds more than half in nominal value of the equity share capital of the company.***

---

**(27) Amendment of section 115WB(2):** ***Deemed Fringe Benefits:-***

***Under the amended scenario – following changes have been made: –***

*(1)* ***Provision of hospitality [Section 115WB(2)(B)] :–***

*Any expenditure on or payment through pre paid electronic meal card shall be excluded from the hospitality expenditure for calculation of the value of fringe benefit provided.*

- ***such prepaid electronic meal card is not transferable ;***
- ***it is usable only at eating joints or outlets; and***
- ***it fulfils such condition as may be prescribed.***

*(2)* ***Employee's welfare [Section 115WB(2)(E)]:-***

*The following expenditure shall not be considered as expenditure for "employees welfare" for the purpose of calculation of the value of fringe benefits-*

***(a) Expenditure incurred or payment made to provide crèche facility for the children of the employee.***

***(b) Expenditure to sponsor a sportsman, being an employee.***

***(c) Expenditure to organize sports events for employees.***

*(3)* ***Maintenance of guest house [Section 115WB(2)(K)]:-***

***Any expenditure on or payment made for maintenance of any accommodation in the nature of guest house shall not be included for valuation of fringe benefits.***

*(4)* ***Festival celebration [Section 115WC(1)] :-***

***Sec.115WC (1) has been amended to provide that value of fringe benefits on account of expenditure on festival celebration shall be 20% as against the existing rate of 50%.***

---

**(28) Amendment of section 115WD and section 139 (1) (w.r.e.f A.Y. 2008-09):** ***Due date for filing***

***of Return and fringe benefits:-***

***The due date for filing of return of fringe benefits and ROI is pre-poned from 31st day of October of the assessment year to 30th day of September of the assessment yea****r* *in case of following categories of assessees -*

**(i) a company or**

**(ii) a person (other than a company ) whose accounts are required to be audited under the act or under any other law for the time being in force.**

---

**(29) Insertion of section 115WKB:** ***Deemed payment of tax by employee:-***

*(1) Where an employer has paid any fringe benefit tax*

- *with respect to allotment or transfer of specified security or sweat equity shares, referred to in section 115WB(1) (d), and*
- *has recovered such tax subsequently from an employee,*
- *it shall be deemed that the fringe benefit tax so recovered is the tax paid by such employee in relation to the value of the fringe benefit provided to him only to the extent to which the amount thereof relates to the value of the fringe benefit provided to such employee, as determined under section 115WC(1)(ba).*

*(2) Notwithstanding anything contained in any other provisions of this Act,*

- *where the fringe benefit tax recovered from the employee is deemed to be the tax paid by such employee under sub-section (1),*
- *such employee shall, under this Act, not be entitled to claim —*
  - *(i) any refund out of such payment of tax; or*
  - *(ii) any credit of such payment of tax against tax liability on other income or against any other tax liability.*

---

**(30) Amendment of section 142(2C):** ***Granting of Suo-motu power to the Assessing Officer to extend the time for furnishing of special Audit Report:-***

► *Section 142(2A) to (2D) deal with power of Assessing officer to order a special audit.*

► Section 142 (2C) specifies the period within which the audit report is to be furnished. the proviso** said sub- section empowers the A ssessing officer to extend this period of furnishing of audit report. Further, it is also provided that the aggregate of originally fixed period and the period (s) so extended shall not exceed 180 days from the date of issuance of direction of special audit. ***But such extension could be made only when an application was made in this behalf by the assessee and there were good and sufficient reasons for such extension.***

*The said proviso** as now been amended with effect from 1-4-2008 relevant to assessment year 2008-09* ***to also allow the Assessing officer to suo-motu extend this period of furnishing of audit report .***

*Hence while the Assessing officer shall continue to have power to grant extension on an* *application made in this behalf by the assessee and when there are good and sufficient reasons for such extension he can also grant such extension on his own.*

---

**(31) Amendment of Section 143(1) and Section 115WE(1):** ***Summary Assessment:-***

***Under the existing system* – *Scope of summery assessment is limited, only to checking as to whether taxes have been correctly paid on the income returned. It does not contain any provision allowing prima-facie adjustments or for correcting arithmetical mistakes or internal inconsistencies.***

- *With a view to remove this lacking, Lawmaker has amended the provisions of Summary Assessment.*
- *New provisions of section 143(1) provides that –*

**Where a return has been made under section 139, or in response to a notice under section 142(1),** such return shall be processed in the following manner-

(a) *The total income of an assessee shall be computed after making the following adjustments to the total income in the return-*

***(1) any arithmetical error in the return or***

***(2) an incorrect claim if such incorrect claim is apparent from any information in the return.***

*"An incorrect claim apparent from any information in the return" shall mean* ***such claim on the basis of an entry in the return -***

***(i) of an item, which is consistent with another entry of the same or some other item in such return;***

***(ii) in respect of which information required to be furnished to substantiate such entry, has not been furnished under this Act; or***

***(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or radio or fraction.***

*(b) The tax & interest shall be computed on the basis of total income computed under clause (a).*

*(c) The sum payable by or the amount of refund due to the assessee shall be determined after making above adjustments and after deducting TDS/TCS, any advance tax paid or any relief allowable under section 90, 90A or 91, any rebate if allowed under section 88E, any tax paid on self assessment and any amount paid otherwise by way of tax or interest.*

*(d) An intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by or the amount of refund due to, the assessee under clause (c).*

*(e) The amount to refund due to the assessee in pursuance of the determination under clause (c) shall be granted to the assessee.*

*(f) Intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax or interest is payable by, or no refund due to the assessee.*

*(g) The acknowledgment of the return shall be deemed to be the intimation in a case where no adjustment has been made under point (a) above.*

► ***No intimation under sub-section shall be sent after the expiry of one year from the end of the financial year in which the return is made.***

***SUBSECTION (1A):-***

*For the purposes of processing of returns under sub-section (1), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under the said sub-section.*

***SUBSECTION (1B):-***

*Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A), the Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2009.*

***SUBSECTION (1C):-***

*Every notification issued under sub-section (1B), along with the scheme made under sub-section (1A), shall, as soon as may be after the notification is issued, be laid before each House of Parliament.*

***RELEVANT NOTE:-***

*Amendments on same lines have also been done in provisions of Summary Assessment relating to fringe benefits as given in section 115WE(1).*

---

**(32) Amendment of Section 143(2) and Section 115WE(2):** ***Service of Notice for Scrutiny Assessment:-***

**Under the existing Provisions –**

*The Notice for scrutiny assessment under section 143(3) shall be served on the assessee with in a period of 12 months from the end of the financial year in which the return is furnished.*

**Under the Amended version –**

***The notice under section 143 (2) shall be served on the assessee within a period of six months from the end of the financial year in which the return is furnished.***

***RELEVANT NOTE:-***

*Identical amendment has also been done in provisions of section 115WE (2) relating to time limit for service of notice for scrutiny assessment in case of fringe benefits.*

---

**(33) Insertion of section 292BB: Deemed validity of Notice served: -**

- *Where an assessee has -*
  - ***appeared in any proceeding related to an assessment or reassessment, or***
  - ***co operated in any inquiry related to an assessment or reassessment,***
- *It shall be deemed that any notice under any provision of this Act has been duly served upon him*

*in time in accordance with the relevant provision of the Act. Further, such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was,*

- ✓ *not served upon him; or*
- ✓ *not served upon him in time ; or*
- ✓ *served upon him in an improper manner.*

► **Non -applicability:-** ***The above provisions of section 292BB shall not apply where the assessee has raised such objection before the completion of such assessment or reassessment.***

---

**(34) Amendment of Section 147:** ***Power of Income Escaping Assessment:-***

***With a view to avoid litigation on validity of re-opening of assessment by Assessing Officer,*** *this section has been amended, and* ***After this Amendment:***

***The Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject-matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.***

---

**(35) Amendment of section 153:** ***Time limit for completion of assessment or re-assessment:-***

***Under the Amended version –***

*By inserting second proviso to explanation to section 153 it has been made clear that-*

- ***in a case where the proceedings before the settlement commission abates u/s 245 HA,***
- ***the period of limitation (i.e. time limit) available to the Assessing Officer for completion of assessment shall not be less than one year.***

*Meaning thereby,* if the period available is less than one year, it shall be deemed to be extended to one year, it shall be deemed to be extended to one year.

***In other words*** *– The minimum time period available to Assessing Officer is one year.*

---

**(36) Amendment of section 153 A, section 153 B and section 153:** ***Assessment in case of search – Revival of assessment and limitation period for such revived assessment:-***

**(1) SECTION 153 A:-**

***Under the existing provisions –***

Second proviso to this section provides that any assessment or reassessment relating to any of the assessment years falling within the period of six assessment years (as covered u/s 153A) pending as on the date of search / requisition *shall abate.*

***RECENT AMENDMENT:***

***With a view to remove the disputes on an issue which had arisen about the legal position of assessment/ reassessment (which had abated) on account of the annulment of assessment u/s 153A,*** *a new subsection (2) has been inserted which provides that* **–**

- If any proceeding initiated or any order of assessment or reassessment made under sub-sec. (1)
- has been annulled in appeal or any other legal proceeding, then,

- notwithstanding anything contained in sub-section (1) or section 153,
- the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1),
- shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner.

***Provided that such revival shall cease to have effect, if such order of annulment is set aside.***

**(2) SECTION 153(4):-**

***Under the amended version –***

*Time limit for completion of assessment / reassessment in respect of such revived assessment / reassessment shall be:-*

- ***one year from the end of the month of revival***

***OR***

- ***the period specified in section 153 (i.e. Normal time limit)***

***OR***

- ***the period laid down in section 153 B***

***Whichever is Later***

**(3) SECTION 153 B: -**

*Recently a new clause (vii) has been inserted in explanation to this section which deals with the case of setting aside of the annulment order. It provides that –*

- ***Where the annulment ceases,***
- ***in computation of the limitation period,***
- ***the period beginning from the date of the annulment of the proceedings or the assessment or reassessment up to the date of the receipt of the order setting aside the annulment***
- ***shall be excluded.***

***ILLUSTRATIVE APPROACH FOR EFFECTS OF THE AMENDMENTS:-***

*In case of Mr. X a search proceeding under section 132 is initiated on 10th April, 2007. The last of authorization related to this search is also issued during the financial year 2007-08. As on the date of the search, assessment for assessment year 2005-06 was pending.*

***In the given situation:-***

- ***in accordance with the provision of second proviso to section 153A(1), the assessment for assessment year 2005-06 shall abate ;***
- ***assessment or reassessment with respect to each of the six assessment year, i.e., from assessment year 2002-03 to assessment year 2007-08 shall be required to be made under section 153A(1) ; and***
- ***the time limit for completion of these assessments shall be 31st December, 2009 under clauses (a) of sub-section (1) of section 153 B.***

*Let us assume that the proceeding under section 153A is annulled in an appeal or legal proceeding by an order dated 3rd August, 2007 which is received by the Commissioner on 29th August, 2007.*

***In such a situation, -***

- ***the assessment with respect to any of the six assessment year (from assessment year 2002-03 to assessment year 2007-08), if already completed under first proviso to section 153A (1), shall***

***automatically become annulled due to this order ;***

- ***no order of assessment or reassessment with respect to any of the six assessment year (from assessment year 2002-03 to assessment year 2007-08) can be made under first proviso to section 153A(1) as the proceeding under section 153A have been annulled ;***
- ***the proceeding for assessment year 2005-06 which has been abated under second proviso to section 153A(1), shall revive under section153A(2) ; and***
- ***the order in respect of this assessment can be made at any time before 31st December, 2007 (normal time limit under section 153) or 31st August, 2008 [new time under sub-section (4) of section 153], whichever is later.***

*Let us now assume that this order of annulment has been set aside and such order has been received by the Commissioner on 31st February, 2008.*

***In such a situation, -***

- ✓ ***the assessment with respect to any of the six assessment year (from assessment year 2002-03 to assessment year 2007-08), if already completed under first proviso to section 153A(1), shall automatically get revived as the proceeding under section 153A has got revived ;***
- ✓ ***order of assessment or reassessment with respect to any of the six assessment year (from assessment year 2002-03 to assessment year 2007-08), if not already made, can now be made under first proviso to section 153A(1) as the proceeding under section 153A has got revived ;***
- ✓ ***the time limit for making such order of assessment of reassessment, which was 31st December, 2009 under clause (a) of sub-section (1) of section 153B, shall get extended by a period starting from 3rd August, 2007 and ending on 31st February, 2008 (i.e., six months) under the provision of new clause (vii) in Explanation occurring after sub-section (1) of section 153B ; and***
- ✓ ***the proceeding for assessment year 2005-06 which had got revived under new sub-section (2) of section 153A will again get abated due to the provision of its proviso. If assessment order has already been made with respect to this assessment proceeding, that assessment order will get annulled automatically".***

---

**(37)** ***Amendment of section 156 : Notice of demand :-***

*By inserting a proviso to section 156 it has been provided that* ***where any sum is determined to be payable by the assessee u/s143(1), the intimation under that sub-section shall be deemed to be notice of demand for the purposes of this section.***

---

**(38)** ***Amendment of section 193: TDS on interest on securities : -***

**Under the amended version –**

*A new exclusion has been added in proviso to section 193 which provides that –*

***"No TDS shall be required on any interest payable on any security issued by a company,***

***where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made there under".***

**(39) Amendment of section 194 C:** ***TDS on payment to contractors or sub-contractors :-***

***Under the existing provisions –***

*This section did not specifically require an AOP/BOI to deduct tax at source.*

***Under the amended scenario –***

***With a view to remove the leakage of revenue,*** *this section has now been amended with effect from 1-6-2008 to provide that-*

- ***An AOP or BOI, whether incorporated or not,***
- ***shall be liable to deduct income-tax at source under section 194C(1),***
- ***provided the total sales, gross receipts from the business carried on by it exceeds the monetary limit specified in section 44AB (relating to tax audit) during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor.***

---

**(40) Amendment of section 195:** ***TDS on payment to non-residents : -***

***Under the existing provision –***

*Section 195 (1) requires any person responsible for paying any interest or any other sum chargeable to tax (except income under the head salaries) to a non-resident or to a foreign co. , to deduct tax at source at the rates in force.*

***Under the amended version –*** *it has been provided that –*

***The person responsible for deduction of income tax [i.e. covered under subsection (1)] shall furnish the information relating to payment of any sum to a non-resident or to a foreign company in a form or manner to be prescribed by the Board.***

---

**(41) Amendment of section 199:** ***Credit for tax deducted: -***

***With a view to give power to the Board in relation of allowing credit of TDS,*** *this section has been substituted w.e.f. 1-4-08 in the following manner –*

***(1) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made.***

***(2) Any sum referred to in sub-section (1A) of section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.***

***(3) The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-***

***section (1) and sub-section (2) and also the assessment year for which such credit may be given.***

| |
|---|
| ***Relevant Note:*** ***Identical amendment has been made in section 206C (4) relating to credit for tax collected at source (TCS).*** |

**(42)** **Amendment of section 201:** ***consequence of failure to deduct or pay tax (TDS):-***

***Prior to Amendment –***

A person is deemed to be an assessee-in-default if there is a failure to deduct tax at source or for failure to deposit such TDS. The persons covered under the ambit of section 201 are:

(i) Person referred to in section 200 ;

(ii) The principal officer and the company of which he is the principal officer in the cases referred to in section 194 [relating to deduction of tax at source on dividends].

- *Section 200(1) provides that any person deducting any tax at source in accordance with the provisions of Chapter of TDS shall pay the sum so deducted to the Central Government or as the Board directs within the prescribed time.*
- ***Since section 200 applies to persons deducting tax, and since it has been used in section 201, a view has been expressed that the provisions of section 201(1) do not cover failure to deduct tax at source.***

***In order to counter this view,*** *section 201(1) has been substituted with effect from 1-6-2002 to clarify that –*

***Where a person, including the principal officer of a company,***

***(i) who is required to deduct any sum in accordance with the provisions of the Act ; or***

***(ii) referred to in section 192(1A) being an employer,***

***does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required by or under Act, he shall be deemed to an assessee in default u/ s 201.***

---

**(43)** **Amendment of Section 203 & Section 206C:** ***Dematerialisation of TDS and TCS certificates:-***

***Pending stablisation of system, the following provisions would become effective from 1/4/2010 instead of 1/4/2008 -***

- *Section 203(3) of the Act providing that a payer need not issue a certificate of TDS ;*
- *First proviso to section 206C (5) providing that a person responsible for collecting tax at source need not issue a certificate of TCS.*

---

**(44)** **Amendment of section 251:** ***Powers of CIT (A):-***

***Under the amended version –*** *a new clause (aa) has been inserted in section 251(1) which provides for the powers on case of an appeal against an order of assessment, pursuant to abatement of the proceedings before the Settlement Commission u/s 245HA. It provides for the following powers:*

✓ ***While disposing of the appeal, he can consider -***

***(i) all the material and other information produced by the assessee before the Settlement Commission ;***

***(ii) results of the inquiry held or evidence recorded by the Settlement Commission ; and***

***(iii) such other material as may be brought on his record.***

- ✓ **Based on the above, he may confirm, reduce, enhance or annul the assessment.**

---

**(45) Amendment of section 254:** ***Power of ITAT to grant stay of demand : -***

***Prior to Amendment:-***

- ➢ *The ITAT, during the pendency of appeal before it, can grant the stay of demand.*
- ➢ *The ITAT may, on application of the assessee and on being satisfied that the delay in disposing of the appeal is not attributable to the assessee, further extend the period of stay originally allowed.*
- ➢ *But the aggregate of period originally allowed and the period so extended shall not exceed 365 days.*
- ✓ *If such appeal is not so disposed with in this period, the order of stay shall stand vacated after the expiry of such period. (Third Proviso)*

> ***LIBERAL VIEW OF JUDICIARY ON THIS LEGAL POSITION:-***
>
> *In the case of Narang Overseas (P) Ltd., Bom.-HC has held that* ***the Tribunal has the inherent power to grant stay when an appeal is pending before it and the third proviso does not curtail its power to extend the period of stay beyond 365 days on sufficient cause and if delay in deciding the appeal is not attributable to the appellant.***

- ❖ ***In order to neutralize the aforesaid judgment,*** *section 254 has been amended and* ***under the amended version the aggregate of the period originally allowed and the period or periods so extended or allowed shall not, in any case, exceed 365 days, even if the delay in disposing of the appeal is not attributable to the assessee.***

---

**(46) Insertion of section 271(1B):** ***Deemed satisfaction for initiation of penalty :-***

***Under the existing system –***

*Provision relating to penalty u/s 271(1)(c) is designed / framed in the following manner –*

> "If the Assessing Officer or the Commissioner (Appeals) or the Commissioner, in the course of any proceedings under this Act, is ***satisfied*** that any person …………….....
>
> he may direct that such person shall pay be way of penalty…………………..".

***Prior to amendment there was judicial controversy on the issue that "whether Assessing Officer is required to record his satisfaction before issue of penalty notice?"***

*With a view to clarifying the intention, a new subsection (1B) has been inserted which provides that –*

- ***Where any amount is added or disallowed***
- ***in computing the total income or loss of an assessee***

- ***in any order of assessment or reassessment and***
- ***the said order contains a direction for initiation of penalty proceedings under clause (c) of sub-section (1),***
- ***such an order of assessment or reassessment shall be deemed to constitute satisfaction of the Assessing Officer for initiation of the penalty proceedings under said clause (c).***

---

**(47) Insertion of section 273 AA and section 278 AB:** ***Power of CIT to grant immunity from penalty & prosecution when settlement proceedings are abate:-***

***Since already amended scheme of settlement of cases provides for abatement of proceedings before the settlement commission in certain circumstances,*** *Legislature feels it necessary that it should be reasonable to empower the CIT to grant immunity from penalty & prosecution in such cases which are abated.*

► *With this intention, following insertion have been made –*

**(1) SECTION 273 AA :** ***Immunity from penalty :-***

***Requirements for applicability:-***

*(i) The application for the immunity must be made by the assessee (person whose case has been abated under section 245HA) to the CIT.*

*(ii) If penalty was levied before or during the pendency of settlement proceedings, then the assessee can approach the CIT for immunity at any time.*

*(iii) If no penalty was levied till the time of abatement of proceedings before Settlement Commission, then the assessee must make an application for immunity before the imposition of penalty by the Income tax authority.*

***Exercising of power:-***

- ✓ *Immunity can be granted by the CIT on his satisfaction.*
- ✓ *The satisfaction is required to be that the assessee has cooperated in the proceedings after abatement and has made a full and true disclosure of his income and the manner in which such income has been derived.*
- ✓ *Immunity can be subject to such conditions as the CIT may think to impose.*

***Withdrawal of Immunity:-***

- ◆ *The immunity granted shall stand withdrawn, if such assessee fails to comply with any condition subject to which the immunity was granted.*
- ◆ *The immunity granted may be withdrawn by the CIT, if he is satisfied that the assessee had, in the course of proceedings, after abatement, concealed any particulars from the Income-tax authority or had given false evidence.*

**(2) SECTION 278 AB :** ***Immunity from prosecution :-***

***Requirements for applicability:-***

*(i)* *The application for the immunity must be made by the assessee (person whose case has been abated u/s 245HA) to the CIT before institution of the prosecution proceedings after abatement.*

*(ii)* *If prosecution proceedings were instituted before or during the pendency of settlement proceedings, then the assessee can approach the CIT for immunity any time. However if the assessee has received any notice etc. from the Income tax authority for institution of prosecution, then he must apply to the CIT for immunity, before actual institution of prosecution.*

***Exercising of power by CIT:-***

- ✓ *Immunity can be granted by the CIT on his satisfaction.*
- ✓ *The satisfaction is required to be that the assessee has cooperated in the proceedings after abatement and has made a full and true disclosure of his income and the manner in which such income has been derived.*
- ✓ *Where application for settlement under section 245C has been made before 1-6-2007, the CIT can also grant immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act.*
- ✓ *Immunity can be subject to such conditions as the CIT may think to impose.*

***Withdrawal of Immunity:-***

- ◆ *The immunity granted shall stand withdrawn, if such assessee fails to comply with any condition subject to which the immunity was granted.*
- ◆ *The immunity granted may be withdrawn by the CIT, if he is satisfied that the assessee had, in the course of proceedings, after abatement, concealed any particulars from the Income-tax authority or had given false evidence.*

---

**(48) Insertion of section 282 A: *Authentication of notices and other documents:-***

► *This new section provides that-*

***Every notice or other document to be issued, served or given, for the purposes of the Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.***

*For this purpose, a designated income-tax authority shall mean any income-tax authority authorized by the Board to issue, serve or give such notice or other document.*

**REASON FOR AMENDMENT:-**

*The purpose of this amendment has been explained in the Memorandum explaining the provisions of the Finance Bill, 2008 as follows:*

*"Centralized processing of return and centralized issuance of notices using information technology is critical to quality taxpayers' service. In order to successfully implement these schemes, it is necessary to dispense with the signature of the officer and to use a common seal. The introduction of such common seal in respect of the issue of notices, intimations, etc., would be significant step in minimizing taxpayers interface with the Department. Further, it will*

*considerably reduce the discretion of the individual officers and will result in better accountability and compliance".*

---