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LAST MINUTE REVISION MATERIAL FOR C.A. FINAL STUDENTS

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LMR PART A – SUPPLEMENT 2 (ALREADY CIRCULATED IN CLASS)
NOTES ON AMENDMENT FOR THE ASSESSMENT YEAR 2007-2008

FA 2006 NO 1

AMENDMENT TO SECTION 14A

14A is amended to provide that the Assessing Officer shall determine the amount of expenditure incurred in relation to such income which does not form part of the total income, in accordance with such method as may be laid down by the Central Board of Direct Taxes by rules, if the Assessing Officer having regard to the accounts of the assessee, is not satisfied with the correctness of the claim of the assessee in respect of expenditure in relation to income which does not form part of the total income. Sub-section (3) is also inserted to provide that provisions of sub-section (2) shall also apply in relation to a case where an assessee claims that no expenditure has been incurred by him in relation to income which does not form part of the total income.

AMENDMENT TO SECTION 40(A)

Explanation 1 is inserted to clarify that for the purposes of sub-clause (*ii*), any sum paid on account of any rate or tax levied includes and shall be deemed to have always included any sum eligible for relief of tax under section 90 or, as the case may be, deduction from the Indian income-tax payable under section 91.

AMENDMENT TO SECTION 43B

New *Explanation 3C* is inserted to clarify that if any sum payable by the assessee as interest on any loan or borrowing is converted into a loan or borrowing, the interest so converted, shall not be deemed as actual payment.

SECTION 90A

Newly inserted section 90A provides that any specified association in India may enter into an agreement with any specified association in a specified territory outside India and the Central Government may, by notification in the Official Gazette, make the necessary provisions for adopting and implementing such agreement for grant of double taxation relief, for avoidance of double taxation, for exchange of information for the prevention of evasion or avoidance of income-tax or for recovery of income-tax. Further it is provided that in relation to any assessee to whom the agreement referred to in the said section applies, the provisions of the Income-tax Act shall apply to the extent they are more beneficial to that assessee. It also provided that any term used but not defined in the Income-tax Act or in the said agreement shall have the same meaning as assigned to it in the notification issued by the Central Government, unless the context requires otherwise and it is not inconsistent with the provisions of the Income-tax Act or the said agreement. The expression 'specified association' is defined to mean any notified institution, association or body, whether incorporated or not, functioning under any law for the time being in force in India or the laws of the specified territory outside India. The expression 'specified territory' is defined to mean any area outside India notified by the Central Government for the purposes of the said section.

AMENDMENT TO SECTION 92C

The existing provisions contained in section 92C provides for computation of arm's length price. This section, *inter alia,* provides that the arm's length price in relation to an international transaction shall be determined by (*a*) comparable uncontrolled price method; or (*b*) resale price method; or (*c*) cost plus method; or (*d*) profit split method; or (*e*) transactional net margin method; or (*f*) any other method which may be prescribed by the Central Board of Direct Taxes. One of these methods shall be the most appropriate method which shall be applied for computation of arm's length price in the manner as may be specified by the rules to be made by the Central Board of Direct Taxes in this behalf. The Assessing Officer can determine the arm's length price in the case referred to in that section. The first proviso to sub-section (4) of section 92C provides that no deduction under section 10A or section 10B or under Chapter VI-A shall be allowed in respect of the amount of income by which the total income of the assessee is enhanced after computation of income under this sub-section.

Proviso to section 92C(4) is amended to provide that no deduction under section 10AA relating to special provisions in respect of newly established units in Special Economic Zones shall be allowed under the first proviso to sub-section (4) of section 92C.

NEW SECTION 115BBC

A new section 115BBC, is inserted, relating to anonymous donations to be taxed in certain cases. The newly inserted section provides that on any income comprising of any anonymous donation received by any assessee on behalf of any university or other educational institution referred to in sub-clause (*iiiad*) or sub-clause (*vi*) or any hospital or other institution referred to in sub-clause (*iiiae*) or sub-clause (*via*) or any fund or institution referred to in sub-clause (*iv*) or any trust or institution referred to in sub-clause (*v*) of clause (*23C*) of section 10 or any trust or institution referred to in section 11, included in the total income of such assessee, income-tax shall be payable at the rate of thirty per cent.

A new sub-section 13(7) is inserted to, *inter alia,* provide that nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof, any anonymous donation referred to in the new section 115BBC on which tax is payable in accordance with the provisions of that section.

AMENDMENT TO 115JAA

Sub-sections (2) and (3) of section 115JB are amended to provide that the amount of tax credit determined, in relation to certain companies to which the provisions of section 115JB apply, shall be carried forward and set off in accordance with the provisions of sub-section (4) and sub-section (5) of the said section but such carry forward shall not be allowed beyond the seventh assessment year, instead of fifth assessment year, immediately succeeding the assessment year in which tax credit becomes allowable under the said section 115JAA.

AMENDMENT TO SECTION 115JB.

Sub-section (1) of section 115JB is amended to provide that if the income-tax payable on the total income as computed under the Income-tax Act in respect of any previous year relevant to the assessment year commencing on or after 1st April, 2007 is less than ten per cent, of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be ten per cent, of such book profit.

Clause (*f*) of the *Explanation* occurring after sub-section (2) of section 115JB is amended to provide that the book profit shall be increased by the amount or amounts of expenditure relatable to any income to which section 10 [excluding the income referred to in clause (*38*) thereof] applies.

Clause (*ii*) of the said *Explanation* is amended to provide that the amount of income to which any of the provisions of section 10 [excluding the income referred to in clause (*38*) thereof] apply, shall be reduced from the book profit for the purposes of calculation of income-tax payable under the aforesaid section.

A new clause (*g*) in the *Explanation* inserted to provide that the book profit shall be increased by the amount of depreciation debited to the profit and loss account.

New clause (*iia*) is inserted in the *Explanation* occurring after sub-section (2) of section 115JB to provide that the amount of depreciation claimed in the profit and loss account, excluding the claim of depreciation on account of revaluation of assets, shall be reduced from the book profit for the purposes of calculation of income-tax payable under the aforesaid section.

New clause (*iib*) is inserted in *Explanation* occurring after sub-section (2) of section 115JB to provide that the amount withdrawn from revaluation reserve and credited to the profit and loss account to the extent it does not exceed the amount of depreciation on account of revaluation of assets referred to in new clause (*iia*), shall be reduced from the book profit for the purposes of calculation of income-tax payable under the aforesaid section.

AMENDMENT TO DIVIDEND TAX.

The word 'open-ended' is omitted from clause (*b*) of the proviso to sub-section (2) of the section 115R to provide that all equity oriented funds shall not be liable to pay additional income-tax instead of only open-ended equity oriented funds.

For open ended equity fund investible funds from fifty per cent, to sixty-five per cent, of the total proceeds of such fund.

AMENDMENT TO SECTION 120

An *Explanation* to sub-section (1) of section 120 is inserted to clarify that any income-tax authority, being an authority higher in rank, may, if so directed by the Board under that section, exercise the powers and perform the functions of the income-tax authority lower in rank and any such direction issued shall be deemed to be a direction issued by the Board under the said sub-section (1).

AMENDMENT TO SECTION 139(1) PROVISIO 1

No return shall be required to be furnished under the first proviso to sub-section (1) of section 139 for the assessment year 2006-07 and subsequent assessment years.

AMENDMENT TO SECTION 139(9)

Clause (*c*) is amended to include collection of tax at source and provide that the return of income if not accompanied by proof of tax, if any, claimed to have been collected at source shall be regarded as defective. It is further provided that return of income shall not be regarded defective if the certificate under section 206C is not furnished by the collector to the collectee and such certificate is produced within a period of two years specified under sub-section (14) of section 155.

AMENDMENT TO SECTION 139A

A new sub-section (1B) is inserted in section 139A to provide that for the purpose of collecting any information which may be useful for or relevant to the purposes of this Act, the Central Government may by notification specify any class or classes of persons, and such persons shall within the prescribed time apply to the Assessing Officer for allotment of a permanent account number.

Sub-section (2) is amended to provide that the Assessing Officer may, having regard to the nature of transactions as may be specified by the rules made by the Central Board of Direct Taxes, also allot a permanent account number to any other person (whether any tax is payable by him or not), in accordance with the procedure as may be specified by such rules.

Clause (*iv*) in sub-section (5B) and clause (*iii*) in sub-section (5D) of section 139A are inserted to provide that every person deducting tax or collecting tax shall quote the permanent account number of the deductee or person in respect of whose income, tax is collected in all quarterly statements furnished in accordance with the provisions of sub-section (3) of section 200 or, as the case may be, sub-section (3) of section 206C which provide for furnishing of quarterly statement.

The scope of sub-sections (5C) and (5D) are extended to substitute the reference to 'seller' by the words 'person responsible for collecting tax' in sub-section (5C) and by the word 'person' in sub-section (5D).

TAX RETURN PREPARERS

New section 139B relating to scheme for submission of returns through Tax Return Preparers is inserted.

Newly inserted section, *inter alia,* provides that for the purpose of enabling any specified class or classes of persons in preparing and furnishing returns of income, the Board may, without prejudice to the provisions of section 139, frame a Scheme, by notification in the Official Gazette, providing that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the Scheme.

It is further provided that every Tax Return Preparer shall assist the persons furnishing the return of income in such manner as may be specified in the Scheme framed under this section and affix his signature on such return.

It is also provided that a Tax Return Preparer shall be an individual (not being a person referred to in clause (*ii*) or clause (*iv*) of sub-section (2) of section 288 or an employee of the specified class or classes of persons) who has been authorized to act as a Tax Return Preparer under the Scheme framed under this section.

The Central Board of Direct Taxes is also empowered to frame the Scheme providing (*i*) the manner in which the Tax Return Preparers shall be authorised under the Scheme; (*ii*) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Tax Return Preparer; (*iii*) the code of conduct for the Tax Return Preparers; (*iv*) the duties and obligations of the Tax Return Preparers; (*v*) the manner in which the authorization may be withdrawn; (*vi*) any other matter which is required to be or may be specified. Every such Scheme shall be laid, as soon as may be after it is framed, before each House of Parliament.

SELF ASSESSMENT TAX

Section 140A is amended to allow relief of tax under section 90 or section 90A, deduction of tax from the Indian income-tax payable under section 91 and credit available to be set off in accordance with the provisions of section 115JAA for the purposes of computation of interest under sections 234A, 234B and 234C. Consequently, relief of tax under section 90 or section 90A, deduction of tax from the Indian income-tax payable under section 91 and credit available to be set off in accordance with the provisions of section 115JAA will also be taken into account under section 140A for the purposes of computing tax payable, and interest chargeable under sections 234A and 234B, before furnishing the return of income.

AMENDMENT TO 142(1) (I)

Clause (*i*) is amended to provide that where a person has not made a return of income before the end of the relevant assessment year, the Assessing Officer may serve a notice under this sub-section on him after the end of the relevant assessment year, requiring him to furnish return of income.

AMENDMENT TO RE-ASSESSMENT PROCEDURE

A proviso to sub-section (1) is inserted to provide that where a return has been furnished during the period from 1st October, 1991 to 30th September, 2005 in response to a notice served under this section and subsequently a notice has been served under sub-section (2) of section 143 after the expiry of twelve months specified in the proviso to sub-section (2) of section 143 as it stood immediately before the amendment of said sub-section by the Finance Act, 2002, but before the expiry of the time-limit for making the assessment, reassessment or re-computation as specified in sub-section (2) of section 153, such notice shall be deemed to be a valid notice.

A second proviso in sub-section (1) is also inserted to provide that where a return has been furnished during the period from 1st October, 1991 to 30th September, 2005 in response to a notice served under this section and subsequently a notice has been served under clause (*ii*) of sub-section (2) of section 143 after the expiry of twelve months specified in the proviso to clause (*ii*) of sub-section (2) of section 143, but before the expiry of the time-limit for making the assessment, reassessment or re-computation as specified in sub-section (2) of section 153, such notice shall be deemed to be a valid notice.

An *Explanation* in sub-section (1) is inserted to clarify that nothing contained in the first proviso or the second proviso shall apply to any return which has been furnished on or after 1st October, 2005 in response to a notice served under the said section.

TIME LIMIT FOR SEARCH AND SEIZURE ASSESSMENT

Section 153 is amended to revise the time-limits specified in the said section for completion of assessments and re-assessments. The revised time-limits shall be the time-limits specified under the aforesaid section, as reduced by three months.

Section 153B is amended to revise the time-limits specified in the said section for completion of assessment or reassessment in case of search or requisition. The revised time-limits shall be the time-limits specified under the aforesaid section, as reduced by three months.

AMENDMENT OF 155 DEEMED MISTAKE

Section 155(14) is amended to enable the Assessing Officer to amend the order of assessment or any intimation or deemed intimation under sub-section (1) of section 143 under the aforementioned conditions where credit for tax collected is not given on the ground that the certificate furnished under section 206C was not filed with the return. The amendment is consequential in nature.

AMENDMENTS TO TDS

Section 199

Section 199(3) is amended to extend the said date up to 1st April, 2008 to provide that the credit for the amount of tax deducted and paid to the Central Government shall be allowed without the production of a certificate of deduction of tax in respect of tax deducted and paid on or after 1st April, 2008. On or after that date credit for the amount of tax deducted shall be allowed on the basis of the amount of the tax deducted and specified in the statement referred to in section 203AA.

Section 203

Section 203(3) is amended to extend the said date up to 1st April, 2008 so as to provide that in a case where tax has been deducted or paid on or after 1st April, 2008, there shall be no requirement to furnish the certificate of deduction of tax at source to the person on whose income, tax is deducted.

Section 203AA
Section 203AA is amended to extend the said date up to 1st April, 2008 so as to provide that the annual statement of taxes will be prepared and delivered for the taxes deducted or paid on or after 1st April, 2008.

Section 201
Sub-section (1A) of section 201 is amended to provide that the person, the principal officer and the company referred to in sub-section (1) of the aforesaid section and liable to pay interest under the said sub-section (1A) shall pay the said interest before furnishing the quarterly statement for each quarter in accordance with the provisions of sub-section (3) of section 200.

Section 203A
Clause (*ba*) is inserted in section 203A(2) to provide that every person deducting tax or collecting tax shall quote the 'tax deduction account number' or 'tax collection account number' or 'tax deduction and collection account number' of the deductee or collectee in all quarterly statements furnished in accordance with the provisions of sub-section (3) of section 200 or, as the case may be, sub-section (3) of section 206C. This amendment is consequential in nature.

Section 206
Section 206(1) is amended to do away with the requirement of furnishing of the annual return of tax deducted at source on or after the 1st day of April, 2005.

Section 206C(4) is amended to extend the date to 1st April, 2008 to provide that a certificate of collection of tax is not required to be produced along with the return of income for claiming credit for tax collected at source in the assessment in respect of the taxes collected on or after 1st April, 2008 and there will be no requirement of furnishing a certificate by the collector in respect of taxes collected on or after 1st April, 2008.

Second proviso to section 206C(5) is amended to provide that the annual statement of taxes will be prepared and delivered in respect of taxes collected on or after 1st April, 2008.

Sub-section (5A) of section 206C is amended to do away with the requirement of furnishing the annual return of tax collected at source on or after the 1st day of April, 2005.

A new sub-section (6A) is inserted in section 206C to deem any person responsible for collecting tax in accordance with the provisions of the said section as assessee in default if such person does not collect the whole or any part of the tax or fails to pay such tax after having collected the tax; and to provide that no penalty shall be charged under section 221 from such person unless the Assessing Officer is satisfied that the person has without good and sufficient reasons failed to collect or pay the tax.

Sub-section (7) of section 206C is amended so as to provide that the person responsible for collection of tax and liable to pay interest under the said sub-section (7) shall pay the said interest before furnishing the quarterly statement for each quarter in accordance with the provisions of sub-section (3) of that section.

AMENDMENT TO 234A, B, C

Section 234A is amended to provide for (*a*) reduction of tax credit allowed to be set off under section 115JAA from the tax on the total income and (*b*) reduction of the amount of relief of tax allowed under sections 90 and 90A and (*c*) deduction, from the Indian income-tax payable, allowed under section 91, from the tax on the total income; and to provide that interest is to be charged on the amount of the tax on the total income as determined under sub-section (1) of section 143, and where a regular assessment is made, on the total income determined under the regular assessment.

AMENDMENT TO 246A

Under the existing provisions contained in section 246A, an assessee aggrieved by any of the orders specified in that section may appeal. Section 246A(1) is amended to include a reference of section 271CA in section 246A also for the said purpose. The amendment is consequential in nature.

AMENDMENT TO 271CA

Newly inserted section 271CA provides for imposition of penalty on any person who fails to collect tax at source in contravention of the provisions of Chapter XVII-BB. Such penalty shall be a sum equal to the amount of tax which he failed to collect at source.

AMENDMENT TO PENALTY CHAPTER

Newly inserted section 271CA provides for imposition of penalty on any person who fails to collect tax at source in contravention of the provisions of Chapter XVII-BB. Such penalty shall be a sum equal to the amount of tax which he failed to collect at source.

Section 272A is amended to provide that the amount of penalty for failure to file statements under sub-section (3) of section 200 and under the proviso to sub-section (3) of section 206C shall not exceed the amount of tax deductible or collectible, as the case may be. This amendment is of consequential nature.

A new sub-section (1A) is inserted in section 272BB to provide that, if a person who is required to quote his 'tax deduction account number' or 'tax collection account number' or 'tax deduction and collection account number' in the challans, certificates, statements or other documents referred to in sub-section (2) of section 203A, quotes a number which is false and which he either knows or believes to be false or does not believe to be true, such person shall pay by way of penalty a sum of ten thousand rupees.

Section 273B is amended to include a reference of section 271CA also for the said purpose.

Section 273B is also amended to include a reference to sub-section (1A) of section 272BB to provide that no penalty shall be imposed if there is a reasonable cause for any failure. This amendment is consequential in nature.

AMENDMENTS TO FBT

Please refer to our class room discussion

EXEMPTION TO CAPITAL GAINS FOR SPECIAL ECONOMIC ZONE

	Particulars	**SECTION 54GA**
1	Who is the assessee qualfying for benefit ?	Any
2	What should be the asset transferred ?	Building, Land, Plant and Machinery forming part of Industrial Undertaking in Urban Area.
3	What is the holding period of Transferred asset ?	- -
4	Any other condition	Shifting to Special Economic Zone.
5	Where should assessee invest Monies ?	Similar assets in special economic zone.
6	What is time Limit for Acquisition ?	1 year before or 3 years after
7	What is time Limit for Construction ?	1 year before or 3 years after
8	What is the amount of Investment ?	Capital Gains
9	What is holding period of new asset ?	3 years from date of acquisition
10	What if there is violation in holding period ?	Cost Less (Same as 54G working done in class room)
11	Which will be the year of consequence ?	- -
12	Is 54H applicable ?	No
13	Is CG scheme 1988 applicable ?	Yes

FA 2006 NO 2

CHANGES RELATING TO SECTION 10(23C)

Notifications to be issued or approval to be granted and rejection of application to be done within 12 months: Exemption notification issued before the date on which the Taxation Laws (Amendment) Bill, 2006 receive the assent the president to have effect for maximum three years. Audit of accounts made compulsory:

LIMIT FOR AUDIT OF CHARITABLE INSTITUTIONS RATIONALIZED [SECTION 12A]

Trusts and institutions covered under sections 11 and 12 to get their accounts audited Only when their total income, before giving effect to the provisions of section 11 and 12, Exceeds the maximum amounts which is not chargeable to tax (prior to this it was Rs. 50,000).

AMENDMENT OF SECTION 35(1)(II) / (III)

For claming weight deduction of 125% for donation to scientific research association, university, collage or other institutions for conducting scientific research, such association, university, etc. should be approved by way of notification by the Central Government.

AMENDMENT TO VARIOUS SECTION

35(1)(ii) approved university
35(1) (iii) approved institution
35(2AA) national laboratory
35AC eligible project
35CCA institution carrying out rural development
80GGA donation for scientific research / rural development.

Donation to certain institution shall not be denied mearly because approval granted is later withdrawn

AMENDMENT TO 40

Rent and royalty shall also be subject to the provisions of section 40(a)(*ia*). Further, the meaning of 'rent' has also been widened.
The meaning of rent has been changed for the purpose of TDS under section 194(1). Hence, rent will include hiring of machinery, plant, equipment, furniture and fittings besides land and building, whether let separately or jointly [Section 194-I]

AMENDMENT TO SECTION 40A(3)

Where the payment of an expenditure claimed as deduction exceeds Rs. 20,000, It should now be paid by way of account payee cheque drawn on a bank (instead of a crossed cheque) or account payee draft (instead of crossed draft).

AMENDMENTS IN PROVISIONS RELATING TO GIFTS FROM UNRELATED PERSONS [Section 56(2)(*vi*)]

W.e.f. assessment year 2007-08 dated 13/07/2006, clause (*v*) of section 56(2)(*v*) relating to gifts from unrelated persons has been substituted by a new clause. Besides gifts received from local authorities charitable and religious institutions registered under section 12AA and charitable trusts or institutions covered under section 10(23C) shall be exempt. Now, gifts received from one or more unrelated person during the previous year shall be included in the income if the aggregate of the gifts received exceeds Rs. 50,000.

AMENDMENT TO SECTION 139(4C)

Filling of return by educational and medical institutions whose gross receipts to not exceed Rs. 1 crore made mandatory

AMENDMENT TO SECTION 139(4D)

Scientific research institutions universities or educational institutes carrying on scientific research/social or statistical research are required to file return of income. This section is similar to 139(4A) in application.

Assessing officer cannot refuse exemption to the above institutions unless he recommends the withdrawal of approval to the authority concerned who granted approval and it is withdrawn by such authority [Second proviso to section 143(3)]

AMENDMENT TO 155 DEEMED RECTIFICATION OF MISTAKES

Payment received in convertible foreign exchange after the expiry of time prescribed under section 10B/10BA shall be eligible for rectification

AMENDMENT TO 194J

Tax to be deducted on royalty and on sum referred to in 28(*va*) (non compete charges) 28 if each of such amount exceeds Rs.20, 000

TAX TO BE ROUNDED OFF TO NEAREST RS. 10 INSTEAD OF RE. 1 [SECTION 288B]

Any amount payable ,and the amount of refund due, under the provisions of his Act shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five the amount shall be reduced to the next lower amount which is a multiple of ten.

APPEALS AND PENALTY

Order of penalty is now appeallable

Penalty order is to be revised to give effect to orders of appellate authorities. Time limit is 6 months from the end of the month in which such orders were received by CIT. For detailed discussion down load ppt presentations from our website with explanation in form of recorded sound.