Amendments made by the Finance Act, 2010 & other relevant amendments

INCOME TAX

RATE OF TAX A.Y. 2011-12

Rates of Tax in force

TOTAL INCOME	TAX
Upto Rs. 1,60,000	NIL
Next Rs. 3,40,000 i.e. Rs. 1,60,001 to Rs. 5,00,000	@ 10%
Next Rs. 3,00,000 i.e. Rs. 5,00,001 to Rs.8,00,000	@ 20%
Above Rs. 8,00,000	@ 30%

Senior Citizen

However for resident individual who is at least 65 years of age at any time during the Previous Year Income shall be exempted upto Rs. 2,40,000. Thereafter the aforesaid slab is to applied.

Resident Woman

For resident woman, not being a senior citizen income upto Rs. 1,90,000 shall be exempted. Thereafter the aforesaid slab is to applied.

Surcharge: **NIL**

Education Cess: **3% on the amount of Income Tax and surcharge [Including 1% SHEC]**

OTHER THAN INDIVIDUALS

ASSESSEE	RATE OF TAX	SURCHARGE	EDUCATION CESS
PARTNERSHIP FIRM	30% ON WHOLE OF TOTAL INCOME	NIL	3%
LOCAL AUTHORITY	30% ON WHOLE OF TOTAL INCOME	NIL	3%
CO-OPERATIVE SOCIETY	Upto Rs. 10,000 @ 10% 10,001 to 20,000 @20% If exceeds Rs. 20,000 @ 30%	NIL	3%
DOMESTIC COMPANY	30% ON WHOLE OF TOTAL INCOME	7.5% if Total Income exceeds Rs. 1 crore	3%
FOREIGN COMPANY	50% ON SPECIFIED ROYALTIES AND TECHNICAL SERVICES **AND** 40% ON THE BALANCE	2.5% if Total Income exceeds Rs. 1 crore.	3%
HUF, AOP, BOI, ARTIFICIAL JURIDICAL PERSON	Upto Rs. 160000: NIL 160001 to 500000 @ 10% 500001 to 800000 @ 20% Above 800000 @ 30%	NIL	3%

Section 288A: Total Income shall be rounded off to nearest multiples of Rs. 10
Section 288B: Tax Liability shall be rounded off to nearest multiples of Rs. 10

Salaries

1) Ceiling limit of gratuity has been increased from the earlier limit of Rs. 3,50,000 to Rs. 10,00,000 in both the cases of whether the employee covered under Gratuity Act or not.

(2) Notification No. 69/2010 dated 26-08-2010: w.e.f **1.9.2010** Interest credited to the Recognised Provident Fund is exempted to the extent of 8.5%. Up to 31.8.2010 the exempted limit was 9.5%.

Example: If interest @ 9.5% is credited in the RPF A/c. of the emplyeee for the year 2010-11,. then the amount of interest credited upto 31.08.2010 i.e 9.5% is wholly exempted. However, w.e.f 1.9.2010 interest @ 1% (i.e 9.5% - 8.5%) is taxable in the hands of the employee for the A.Y 2011-12.

(3) **Special allowances – Refer page 20.**

Prior to amendments: Allowance to an employee of transport company for meeting expenditure during his duty of running of such transport (provided he is not in receipt of daily allowance): 70 % of the allowance or 6000 p.m. whichever is lower.

The Central Govt. vide its Notification No. 85/2010 dated 22.11.2010, increase the monthly limit to Rs. 10,000 from Rs. 6,000 with retrospective effect from 1.09.2008.

Profit and gains from business or profession

(4) Expenditure on Scientific Research[Section 35] – Refer page no. 76 of study mat.

The term Scientific Research means any activity for the extension of knowledge in the fields of natural or applied sciences including agriculture, animal husbandry or fisheries. The provisions regarding deduction of Scientific Research are explained below:

(I) Donation/ Contribution to outsiders
Any amount contributed to :

(1) National Laboratory ; Indian Institute of technology or Research association or university, college or other institution which has its object the underatking of scientific research programme – *175% of the amont paid.* **[Section 35(ii)& section 35(2AA)]**

(2) Approved Indian company the main object of which is scientific research and development – *125% of the amount contributed.* **[Section 35(iia)]**

(3) ***Approved Research association,*** University or college or other institution which has its object the undertaking of research in social science or statistical research – *125% of the amount paid.* **[Sec. 35(iii)]**

1. However, 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 200% under section 35(2AB). However, deduction u/s 35(1)(i) will continue to be allowed.

2. The assessee shall not be denied deduction even if, after giving donation, the approval granted to the associations has been withdrawn.

(II) In House Research :

Particulars	Company Assessee + biotechnology/Manufacturing goods other than 11th Schedule + Agreement for Co-operative and audit with prescribed authority	Any other case (including approved Indian company which accept donation for scientific Research)
(A) Revenue expenditure (i) Current year expenses (all items)	**200% of expenditure incurred**	100% of expenditure incurred
(ii)Expenditure of last 3 years - Materials and Salary to Research personnel	100%, if approved by prescribed authority	100%, if approved by prescribed authority
- Other items	Not deductible	Not deductible
(B) Capital Expenditure For current year and also of last 3 years (approval not required) :		
Land	Not deductible	Not deductible
Building	100%	100%
Plant and Machinery and Other assets	**200% for current year and 100% for last 3 years**	100%

Notes: For your information.

1) Prior to amendment made by the Finace Act, 2010 Section 35(1)(iii) dos not include within its scope approved research association. Now after amendments, Section 35(1)(iii) includes an approved research association which has its object the undertaking of research in social science or statistical research

2) Further, prior to amendments section 10(21) grant exemption in respect of the income of a research association approved u/s. 35(1)(ii) only, Now section 10(21) has been amended to extend the scope of exemption to cover research association approved u/s. 35(1)(iii) also.

3) Conseqently, section 80GGA has been amended to provides deduction for donation made to such approved research association.

4) Conseqently, research association approved u/s. 35(1)(iii) would be required to file their return of income u/s. 139(4C), if their total income before giving effect to section 10, exceeds the basic exemption limit.

(5) Section 35DDA: Amortisation of expenditure incurred under Voluntary retirement scheme

If a company eligible for deduction u/s. 35DDA in respect of expenditure incurred under Voluntary Retirement Scheme (one-fifth of such expenditure allowable over a period of five years) is converted into a LLP and such conversion satisfies the conditions laid down in section 47(xiiib), then the LLP would be eligible for such deduction from the year in which the transfer took place.

Example: VRS expenditure by the predecessor company during the previous year 2008-09 is Rs. 50 lakh. The company has been allowed deduction of Rs. 10 lakh each for the P.Y. 2008-09 and P.Y. 2009-10 under section 35DDA.
Explain the tax treatment of in the hands of the LLP, the conversion has tken place on 1-4-2010, the conversion fulfills all the conditions specified in section 47(xiiib).

Ans: The LLP would be eligible for deduction of Rs. 10 lakh each for P.Y. 2010-11, P.Y. 2011-12 and P.Y. 2012-13 under section 35DDA.

(6) Time limit for depositing tax deducted during the entire year extended upto the due date of filing return of income to ensure compliance with the statutory requirement to avoid disallowance of expenditure under section 40(a)(ia) – w.r.e.f from A.Y 2009-10 by the Finance Act, 2010.

▶ **RESIDENT [Sec. 40(a)(ia)]**

Resident	When should the tax be deposited
April 10 - March 2011	1. **TDS Provision – 7th of next month / ~~31st May~~.** 30th April. 2. **Business Profession – Within due date of Return filing**

▶ **NON-RESIDENT [Sec. 40(a)(i)]**

(1) If tax is deducted and deposited in same financial year then deduction allowed in same financial year.

(2) If tax is deducted in 2010-11 and deposited in 2011-12 within due date of TDS payment then deduction allowed in 2010-11. Otherwise in year of deposit of TDS.

Resident	When should the tax be deposited
April 10-Feb 11	(i) To avoid tax penalty under TDS provision 7th of next month. (ii) For allowability of deduction within 31st march
March 2011	Deduction allowed only if paid with TDS due date otherwise next year.

(7) SECTION 44AD: SPECIAL PROVISION FOR COMPUTING PROFITS AND GAINS OF BUSINESS ON PRESUMPTIVE BASIS : (Refer page no. 98 of study mat.)

1. The Scheme shall be applicable to individuals, HUFs and partnership firm excluding Limited liability partnership firm. It shall also not applicable to an assessee who is avilaing deduction under sections 10A, 10AA, 10B, 10BA, or deduction under any provisions of chapter VIA under the heading 'C.- Deduction in respect of certain incomes" in the relevant Assessment Year.

2. Section 44AD provides that an assessee engaged in any business (excluding a business already covered u/s. 44AE) may opt for the presumptive taxation scheme if his Gross Turnover/Gross Receipts do not exceed Rs. 60 Lacs. In case the Gross Turnover/Receipts exceed Rs. 60 lacs then the assessee shall have to opt for the normal provisions.

3. The income from the above mentioned business will be estimated at 8 percent of the gross receipts. A taxpayer can voluntarily declare a higher income in his return.

4. All deductions under sections 30 to 38 including depreciation shall be deemed to have been already allowed and no further deduction will be allowed under this sections.

5. However, in the case of a firm, deduction in respect of salary and interest to partners under section 40(b) shall be given. Depreciation in respect of the said assets for the said business shall be deemed to have been allowed and WDV of the asset shall be computed accordingly.

6. An assessee opting for the above scheme shall be exempted from payment of advance tax related to such business under the current provisions of the Income tax Act.

7. An assessee who files the return, estimating income at 8 % of gross receipts, or a higher income, is neither required to maintain books of account U/s 44AA, nor required to get his accounts audited U/s 44AB.

8. Where an assessee claims his income to be lower than the deemed profits and gains, then he must maintain books of account and other documents under section 44AA and the assessee gets his accounts audited under section 44AB.

(8) Business of plying, hiring or leasing goods carriages [Sec 44AE]

The scheme is similar to that of Section 44AD.

The Finance Act(No.2) 2009, w.e.f A.Y 2011-12 increase the presumtive income as follows:
Incase of heavy goods vehicle from Rs. 3500 to Rs. 5000.
Incase of other than heavy goods vehicle Rs. 3150 to Rs. 4500.
The amended provisions read as follows:

(9) Audit of accounts of certain person [Sec.44AB]: Refer page 102 of study mat.

In order to reduce compliance burden of small businesses and professionals, the Finance Act, 2010 has increased the threshold limit of turnover and gross receipts for tax audit **from Rs. 40,00,000 to Rs. 60,00,000** in the case of persons carrying on business and **from Rs. 10,00,000 to Rs. 15, 00 ,000** in the case of persons carrying on profession.

(10) SECTION 35AD: DEDUCTION IN RESPECT OF EXPENDITURE ON SPECIFIED BUSINESS
REFER PAGE No. 112.

▶ SPECIFIED BUSINESS-
Deduction under section 35AD is available only in the case of a "specified business" given below –

▶ SPECIFIED BUSINESS-
Deduction under section 35AD is available only in the case of a "specified business" given below –

	Specified business	*Who should own the business*	*Approval (if any)*	*Date of commencement Of business*
1)	Setting up and operating a cold chain facility	Any person	Not required	On or after 1-4-2009
2)	Setting up and operating a warehousing facility for storage of agricultural produce.	Any person	Not required	On or after 1-4-2009
3)	Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network. (ONGC)	An Indian company or a consortium of Indian companies or an authority/Board/ corporation established under any Central or State Act	Should be approved by Petroleum and Natural Gas Regulatory Board and notified by the Central Govt.	•On or after 1-4-2007 in the case of laying and operating a cross-country natural gas pipeline net-work for distribution or storage •In other cases, on or after 1-4-2009
4)	**Building and operating anywhere in India a new hotel of two star or above category**	Any person		On or after 1/4/2010
5)	**Building and operating anywhere in India a new hospital with at least 100 beds for patients**	Any person		On or after 1/4/2010
6)	**Developing and operating a housing project for slum redevelopment and rehabilitation in accordance with scheme framed by Government**	Any person		On or after 1/4/2010

All capital exp. are deduction under this 6 business from income

The ~~busin~~ loss ~~or~~ ~~setoff~~ among ~~at~~ any of the 6 business ~~itself~~ is setoff among itself for unlimited time limit.

"Cold chain facility" means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce.

▶ **QUANTUM OF DEDUCTION**- 100 per cent of capital expenditure incurred wholly and exclusively for the purpose of specified business carried on by an assessee is deductible in the previous year in which the expenditure is incurred. However, this is subject to the following two propositions –

(i) Expenditure incurred on the acquisition of any land or goodwill or financial instrument is not eligible for any deduction under section 35AD.

(ii) Expenditure incurred prior to the commencement of operation, wholly and exclusively, for the purpose of any specified business, shall be allowed as deduction during the previous year in which the assessee commences the operation of his specified business, if the amount is capitalized in the books of account of the assessee on the date of commencement of operation.

Additional Deduction: If operation of the business of laying and operating a cross-country natural gas distribution network is commenced during 1-4-2007 and 31-3-2010, the capital expenditure (not being for acquiring land or goodwill or financial instrument) incurred before 1-4-2010 (to the extent not allowed as deduction under any section earlier) will be allowed as additional deduction under section 35AD for the assessment year 2011-12.

▶ **CONSEQUENCES OF CLAIMING DEDUCTION U/S. 35AD-**

The following consequences should be noted –

(a) Where in respect of the specified business the assessee has claimed deduction then no deduction shall be allowed in respect of such business under the provisions of Chapter VIA under the heading "C-Deduction in respect of some income" for the same or any other assessment year.

(b) No deduction in respect of the expenditure in respect of which deduction has been claimed shall be allowed to the assessee under any other provisions of the Income-tax Act.

2 (c) Any sum received or receivable on account of any capital asset, in respect of which deduction has been allowed u/s 35AD, being demolished, destroyed, discarded or transferred shall be treated as income of the assessee and chargeable to income-tax under the head "Profits and gains of business or profession". ***[Insertion of clause (vii) to section 28]***

3 (d) Any loss computed in respect of the specified business shall not be set off except against profits and gains, if any, of any other specified business. To the extent the loss is unabsorbed; the same will be carried forward for set off against profits and gains from any specified business in the following assessment year and so on. ***[Insertion of Section 73A]***

(e) ***Explanation 13 inserted to section 43***: As per Explanation 13 the actual cost of any capital asset on which deduction has been allowed or is allowable to the assessee under section 35AD, shall be treated as 'nil', -

(a) in the case of such assessee; and

(b) in any other case if the capital asset is acquired or received, -

(i) by way of gift or will or an irrevocable trust;

(ii) on any distribution on liquidation of the company; and

(iii) by such mode of transfer as is referred to in clause (i), (iv), (v), (vi), (vib), (xiii) and (xiv) of section

Consequences

(1). If claimed deduction u/s 35AD we dont get deduction u/s 80IA to 80IE.

Capital Gains

Amendments related to LLP

(11) Exempted Transfer u/s. 47(xiiib): *Refer page no. 119.*

Any transfer of a capital asset by a private limited company or unlisted public company to a limited liability partnership or any transfer of shares held in the company by a shareholder as a result of conversion of company into a LLP shall be exempted provided the following conditions are satisfied:

transfer

(i) all the assets and liabilities of the company relating to the business immediately before the succession shall become the assets and liabilities of the LLP

(ii) all the shareholders of the company immediately before the conversion succession become the partners of the LLP and their capital contribution and Profit sharing ratio in the LLP are in the same proportion as their shareholding in the company on the date of conversion ;

(iii) the shareholders of the company do not receive any consideration or benefit directly or indirectly, in any form or manner other than by way of share in profit and capital contribution in LLP ; and

(iv)the aggregate of the Profit sharing ratio of the shareholders of the company in LLP is not less than 50 per cent at any time for a period of five years from the date of the conversion ;

(v) the total sales, turnover or gross receipts in business of the company in any of the three previous years preceding the previous year in which conversion takes place does not exceed Rs. 60 lakhs

(vi) no amount is paid directly or indirectly to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of 3 years from the date of conversion.

***(12)* Withdrawal of exemption: Section 47A(4):** If subsequent to the transfer, any of the above conditions are not complied with, the capital gains not charged u/s. 45 would be deemed to be chargeable to tax in the previous year in which the conditions are not complied with, in the hands of the LLP or the shareholder of the predecessor company, as the case may be.

(13) Depreciation [Section 32(1)]: Refer page 106.
The depreciation shall be apportioned between the predecessor company and the successor LLP in the ratio of the number days for which the assets were used by them.

It is to be noted that the aggregate depreciation allowable to the predecessor company and successor LLP shall not exceed, in any previous year, the depreciation calculated at the prescribed rates as if the conversion had not taken place.

(14) Actual cost of block of assets [Explnation 2C to Sec. 43(6)]: Refer page 106.

In case of conversion of company into LLP referred to in 47(xiiib)	**The actual cost of the block of assets for LLP shall be WDV of the block of the assets of the company on the date of conversion**

(15) Actual cost should be taken as NIL, if the capital asset became the property of the LLP as a result of conversion of a company into an LLP, and deduction has been allowed or is allowable in respect of such asset u/s. 35AD. [Explanation 13 to section 43(1)].

(16) Cost of capital asset to LLP shall be the cost to be previous owner [Section 49(1)]

The cost of asset in the hands of the LLP in the case of conversion of a private limited company or an unlisted company shall be the cost to the previous owner. It would be further increased by the cost of improvement of the asset incurred by the predecessor company or the successor LLP.

(17) Cost of acquisition in certain cases – refer page no. 126.

Section 49(2AAA): If a shareholder of a company receives rights in a partnership firm as consideration for transfer of shares on conversion of a company into a LLP, then the cost of acquisition of the capital asset being rights of a partner referred to in section 42 of the LLP Act, 2008 shall be deemed to be the cost of acquisition to him of the shares in the predecessor company, immediately before the conversion.

(18) Carried forward & Set off of losses: Refer page 170.
Section 72A(6A): The successor LLP would be allowed to carry forward and set off the business loss and unabsorbed depreciation of the predecessor company.

However, if the entity fails to fulfill any of the conditions mentioned in section 47(xiiib) (iii), the benefit of set off of business loss/unabsorbed depreciation availed by the LLP would be taxable in the hand of the LLP under the head " profit and gains of business or profession" in the previous year in which the LLP fails to fulfill any of the conditions.

(19) COST INFLATION INDEX:

2010-11	**711**

Income from Other Sources

(20) SECTION 56(2)(vii): Any Sum of money or any property received without or for an Inadeqate consideration by an Individual or HUF

Where an individual or H.U.F. receives in any previous year from any person or persons on or after 1st day of October,2009;-

a) any sum of money without consideration, the aggregate value of which exceeds Rs. 50,000 the whole of the aggregate value of such sum shall be treated as income of the individual or HUF.

b) any immovable property without consideration, the stamp duty value of which exceeds Rs. 50,000 , the stamp duty value of such property the shall be treated as income of the individual or HUF.

~~ii) for a consideration which is less than the stamp duty value of the property by an amount exceeding Rs. 50,000 the stamp duty value of such property as exceeds such consideration shall be treated as income of the individual or HUF.~~

c) any property other than immovable property

i) without consideration, the aggregate fair market value of which exceeds Rs. 50,000 the whole of the aggregate fair market value of such property shall be treated as income of the individual or HUF.;

ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding Rs. 50,000 the aggregate fair market value of such property as exceeds such consideration shall be treated as income of the individual or HUF.

Provided that where the stamp duty value of immovable property as referred in sub clause (b) is disputed by the assessee on grounds mentioned in section 50C(2) the Assessing officer may refer the valuation of such property to a valuation officer, and the provision of section 50C and section 155(15) shall as far as may be, apply in relation to stamp duty value of such property for the purpose of sub clause (b) as they apply for valuation of capital assets under that section 50.

$\boxed{\text{Imp. most}}$ → topics self adjustment of excess service tax paid, when service is not provided.

Provided further that this clause shall not apply to any sum of money received or any property received—
(a) from any relative; or
(b) on the occasion of the marriage of the individual; or
(c) under a will or by way of inheritance; or
(d) in contemplation of death of the payer.
(e) from a local authority
(f) from any fund, foundation, university, other educational institution, hospital, medical institution, any trust or institution referred to in Section 10 (23C)
(g) from a charitable institute registered U/s 12AA.

Explanation.—For the purposes of this clause,
"relative" means—
(i)spouse of the individual; (ii) brother or sister of the individual; (iii) brother or sister of the spouse of the individual; (iv)brother or sister of either of the parents of the individual; (v)any lineal ascendant or descendant of the individual; (vi) any lineal ascendant or descendant of the spouse of the individual; (vii) spouse of the persons referred to in clauses (ii) to (vi).

"property" means – ***The following CAPITAL ASSETS of the assessee –***

i) immovable property being land or building or both; ii) shares and securities; iii) jewellery; iv) archaeological collections ; v) drawings ; vi) paintings ; vii) sculptures; or viii) any work of art; or ***ix) (Bullion –w.e.f 1/6/2010)***
4(1 kg. of gold)

Note: By virtue of insertation of the word 'Capital Assets', section 56(2)(vii) shall not be invoked, in case the above mentioned assets is held as **stock in trade or Agricultral land in rural India.**

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(21) SECTION 56(2)(viia): Receipts of shares of a closely held company by a firm or a closely held company without or for an inadequate consideration.

where a firm or a company not being a company in which the public are substantially interested, receives, in any previous year, from any person or persons, on or after the 1st day of June, 2010, any property, being shares of a company not being a company in which the public are substantially interested,—

FMV

(i) without consideration, the aggregate fair market value of which exceeds Rs. 50,000, the whole of the aggregate fair market value of such property shall be taxable;

(ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding Rs. 50,000, the aggregate fair market value of such property as exceeds such consideration shall be taxable:

Provided that this clause shall not apply to any such property received by way of a transaction not regarded as transfer under -

Section 47 (via)/ (vic)-i.e, Transfer of shares of an Indian Company in case of amalgamation/demerger between two foreign company.

Section 47 (vid)/ (vii)- Amalgamation/ Demerger between two Indian Co.

Section (vicb) – Business re-organization between two co-operative banks.

Explanation.—For the purposes of this clause, "fair market value" of a property, being shares of a company not being a company in which the public are substantially interested, shall have the meaning assigned to it in the Explanation to clause (vii);'.

Other consequential amendments:

(1) The definition of income u/s. 2(24) would now include any sum of money or value od property referred to in section 56(2)(vii) or section 56(2)(viia).

(2) Section 49(4) has been amended to provide that where the capital gain arises from the transfer of such property which has been subject to tax u/s. 56(2)(vii) or Section 56(2)(viia), the cost of acquisition of such shares will be the value which has been taken into account and has been subjected to tax under the provisions of section 56(2)(viia).

For your Knowledge :

Section 56(2)(vii) vis-à-vis Section 56(2)(viia)

1) This section is applicable only if the receipent is an Individual or HUF.	1) This section is applicable only if the receipent is a Firm or Closely held company i.e, a company in which public are not substantially interested
2) This provisions is applicable w.e.f 1-10-2009. however, in case of bullion this provision is applicable w.e.f 1-6-2010.	2) This provision is applicable w.e.f 1-6-2010.
3) Here property covers shares and securites of any company (whether closely held company or otherwise) as well as other specified assets also.	3) Here property includes only shares of a closely held company i.e, a company in which public are not substantially interested. Further, it is to be noted that securities are not covered here.
4) Here property means specified "capital assets" as per meaning assigned in section 2(14). Therefore, if such specified property is held as stock in trade by the receipent or in case of transfer of agricultural land in rural India then the provisons of section 56(2)(vii) does not applied.	4) Here property does not mean capital assets. Therfore even if shares of a closely held company is held as stock in trade by the receipent, there is no bar in application of section 56(2)(viia).

Illustration: Compute taxable amount u/s. 56(2)(vii) or u/s. 56(2)(viia) in the following cases

a) Debenture of Rs. 1,00,000 of "M/s. A. Pvt. Ltd." received without consideration by a firm on or afrer 1-6-2010.

b) Shares of Rs. 1,00,000 of "M/s. A. Pvt. Ltd." received withot consideration by an Individual on 1-8-2010.

c) Shares of Rs. 2,00,000 of " M/s. B Ltd", a listed public company, received by a firm without consideration on or after 1-6-2010.

d) Shares of Rs. 2,00,000 of " M/s. C Ltd", in which public are not substantially interested, received by M/s. A Pvt Ltd. without consideration on or after 1-6-2010.

e) Shares of Rs. 1,00,000 of a closely held company received by a HUF without consideration on or after 1-6-2010, treating the same as stock in trade.

f) Shares of Rs. 1,00,000 of a closely held company received by a Firm without consideration on or after 1-6-2010, treating the same as stock in trade.

g) on 1-11-2010, an Individual took possession of a building booked by him on 1-11-2009 at Rs. 15 lakhs. The stamp duty value of the property as on 1/11/2010 is Rs. 25 lakhs.

Solution:

a) **Nothing taxable under other sources.** Since, Section 56(2)(viia) only applied to Shares of a closely held company and it does not applied to Securities. Further, section 56(2)(vii) also not applicable since the receipent is a Firm as it coveres only individuals or HUFs.

b) Rs. 1,00,000 is taxable u/s. 56(2)(vii) as Shares and securities is received by an Inidividual on or after 1-10-2009 aggregate of which exceeds Rs. 50,000. It is to be noted that section 56(2)(viia) is not applicable in this case as the receipent is an Individual.

closely held co = Pvt or unlisted co.

Ans (g) This is not taxable as it is a situation of purchase of immovable property for lower consideration

c) Nothing taxable under other sources. : Section 56(2)(vii) is not applicable since the receipent is a firm. Further, section 56(2)(viia) also not applicable since it applies only to shares of a company in which public are not substantially interested.

d) Rs. 2,00,000 is taxable u/s. 56(2)(viia) as shares of a closely held company is received by a company in which public are not substantially interested on or after 1-6-2010 withot consideration the aggregate of which exceeds Rs. 50,000.

e) Nothing is taxable under other sources.: Section 56(2)(viia) is not applicable since it is received by HUF. Further, Section 56(2)(vii) is also not applicable as the property is not an capital assets in the meaning assigned to section 2(14).

f) Rs. 2,00,000 is taxable u/s. 56(2)(viia). Since shares of a closely held company is received by a firm on or after 1-6-2010 without consideration the aggregate of which exceeds Rs. 50,000. It is to be noted that section 56(2)(viia) is applicable whether the receipent treated it as stock in trade or not.

g) Not taxable under other sources: Appreciation in the value of immovable property between the time of its booking and its actual registration is outside the scope of section 56(2)(vii).

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(22) RULE 11UA: DETERMINATION OF FAIR MARKET VALUE FOR THE PURPOSE OF SECTION 56(2)(vii)/(viia)

The fair market value of a property, other than immovable property, shall be determined in the following manner -

(A) VALUATION OF JEWELLERY, BULLION/ ARCHEOLOGICAL COLLECTIONS, DRAWINGS, PAINTINGS, SCULPTURES OR ANY WORK OF ART (HERE IN REFER AS ARTISTIC WORK)

↓

Received on the valuation date

↓

Purchased from a Registered dealer

↓

FMV = Invoice value

Any other mode

↓

Value > Rs. 50,000

↓

FMV= assessee may obtain the report of **registered valuer** in respect of the price it would fetch if sold in the open market on the valuation date.

Value ≤ Rs. 50,000

↓

FMV = Estimated to be the the price which would fetch if sold in the open market on the valuation date.

(B) VALUATION OF SHARES AND SECURITIES

↓

Quoted

Unquoted

↓

Equity Shares

Other than Equity shares

(i) VALUATION OF QUOTED SHARES AND SECURITIES.-

If the quoted shares and securities are received by way of transaction carried out -

(i) through any recognized stock exchange	the fair market value of such shares and securities shall be the transaction value as recorded in such stock exchange;
(ii) other than through any recognized stock exchange	the fair market value of such shares and securities shall be, (a) the lowest price of such shares and securities quoted on any recognized stock exchange on the valuation date, and (b) in cases where on the valuation date there is no trading in such shares and securities on any recognized stock exchange; the lowest price of such shares and securities on any recognized stock exchange on a date immediately preceding the valuation date when such shares and securities were traded on such stock exchange

(ii) VALUATION OF UNQUOTED EQUITY SHARES:

The fair market value of unquoted equity shares shall be the value, on the valuation date, of such unquoted equity shares as determined in the following manner namely;-

The fair market value of unquoted equity shares = $\frac{(A-L) \times (PV)}{(PE)}$

A = Book value of the assets in Balance Sheet
Less: Advance tax paid under the Income-tax Act
Less: Any amount shown in the balance sheet including the debit balance of the P&L A/c. or the P& L appropriation A/c. which does not represent the value of any asset.

L = Book value of liabilities shown in the Balance Sheet but not including the following amounts:-

(i) the paid-up capital in respect of equity shares;

(ii) the amount set apart for payment of dividends on preference shares and equity shares pending approval

(iii) reserves & P/L credit balance

(v) any amount representing provision for taxation, other than amount paid as advance tax to the extent of the excess over the tax payable with reference to the book profits

(vi) unascertained liabilities;

(vii) contingent liabilities other than arrears of prefernce dividends

PE = Total amount of paid up equity share capital as shown in Balance Sheet.

PV = The paid up value of such equity shares.

(iii) VALUATION OF UNQUOTED SHARES AND SECURITIES OTHER THAN EQUITY SHARES

The fair market value of shall be estimated to be price it would fetch if sold in the open market on the valuation date and the assessee may obtain a report from a merchant banker or an accountant in respect of such valuation.'.

Note: "Valuation date" – means the date on which the respective property is received. [Rule 11U(j)]

Set off & Carry forward of losses

(23) No time limit for c/f of losses in case of specified business refered in section 35AD.- Sec. 73A

(24) Accumulated losses and unabsorbed depreciation of the predecessor company allowed to be carried forward and set off by LLP [Section 72A(6A)] [w.e.f. A.Y. 2011-12]: : Already discussed under heading "Capital Gains".

Deduction under Chapter VIA

(25) Double deduction not allowed [Section 80A (7)] [w.e.f. A.Y. 2011-12]

Where a deduction under any provision of Chapter VIA under the heading "C"-Deductions in respect of certain incomes" is claimed and allowed in respect of profits of any of the specified business referred to in section 35AD for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year. Refer Pg 6

(26) Followings are the notified annuity plan u/s. 80C:

Deduction under section 80C is available in respect of any sum paid or deposited to effect or to keep in force a contract for such - –
(i) annuity plan of the Life Insurance Corporation
(ii) Tata AIG Easy Retire Annuity plan of the Tata AIG Life Insurance Company Limited
(iii) annuity plan of the ICICI Prudential Life Insurance Company Limited.

(27) SECTION 80CCD: CONTRIBUTION TO PENSION FUNDS OF EMPLOYEES: Refer page no. 176.

(1) Section 80CCD provides deduction to employees ***or any other assessee, being an individual (self –employed)*** in respect of contribution made by such employee, Employer and ***individual*** to a notified pension scheme of the whole of the amount so paid or deposited or 10% of his salary whichever is less in each such case – for employer's as well as employee's contribution.
For self employed – Max 10% of GTI.

(2) If the assessee or his nominee receives any amount such amount shall be included in the total income of the assessee or his nominee in the year of receipt.

Notes:

(1) For the purposes of this section, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.'

(2) No deduction shall be allowed u/s 80CCD in respect of amounts on which deduction has been claimed u/s 80C.

(3) For the purpose of the said section the assessee shall be deemed not to have received any amount in the previous year if such amount is used for purchasing an annuity plan in the same previous year.

[It is to be noted that the tax benefit u/s. 80CCD was hereto available to "employees" only but now by virtue of amendment made by the Finance Act, 2010 the benefit has been extended also to "self- employed" These amendments will take effect retrospectively from 1-4-2009]

(28) SECTION 80CCF: DEDUCTION FOR SUBSCRIPTION TO LONG TERM INFRASTRUCTURE BONDS

An individual or HUF shall be entitled to a deduction equal to amount invested in long term infrastructure bonds notified by Central Government or Rs. 20,000 whichever is less.

Note: This deduction will be over and above the existing overall limit of tax deduction on savings of upto Rs. 1,00,000 under section 80C, 80CCC and 80CCD of the Act.

Follwings are the notified long-term infrastructure bonds, subscription to which would qualify for deduction u/s. 80CCF.

long-term infrastructure bonds of –

(a) Industrial Finance Corporation of India,

(b) Life Insurance Corporation of India,

(c) Infrastructure Development Finance Company Limited

(d) a NBFC classified as an Infrastructure Finance Company by the RBI.

(e) India Infrastructure Finance Company Ltd.

(29 SECTION 80D: HEALTH INSURANCE PREMIUM OTHER THAN CASH: Refer page 178

The Central Government Health Scheme (CGHS) is a medical facility available to serving and retired Government servants. This facility is similar to the facilities available through health insurance policies.

Section 80D has been amended to allowed deduction in respect of any contribution made to CGHS by. The deduction will be limited to the current aggregate as mentioned in the section.

The provisions read as follows-

Description	Mediclaim Premium paid in respect of Self, Spouse & Dependent Children, ***contribution to Central Government Health Scheme***	Mediclaim Premium paid in respect of Parents, whether dependent or not	Total deduction u/s. 80D
No one attained the age of 65 years.	Rs. 15,000	Rs. 15,000	Rs.30,000
Assessee is less than 65 years of age and parent is a senior citizen	Rs. 15,000	Rs. 20,000	Rs.35,000
Both individual and the parent Attained the age of 65 years	Rs. 20,000	Rs. 20,000	Rs.40,000

Example: Mr. A, aged 40 years, paid medical insurance premium of Rs. 11, 000 during the P.Y. 2010-11 to insure his health as well as the health of his spouse and dependent children. He also paid medical insurance premium of Rs. 21, 000 during the year to insure the health of his father, aged 67 years, who is not dependent on him. He contributed Rs.4,500 to Central Government Health Scheme during the year. Compute the deduction allowable under section 80D for the A.Y. 2011-12.

Deduction allowable under section 80D for the A.Y. 2011-12

Particulars	Rs.	
(i) Medical insurance premium paid for self, spouse and dependent children	11, 000	
(ii) Contribution to CGHS	4, 500	
Resricted to Rs. 15,000		15,000
(iii) Mediclaim premium paid for father, who is over 65 years of age (Rs. 21, 000 but restricted to Rs. 20, 000, being the maximum allowable)		20, 000
Total Dedction allowed u/s. 80D		35, 000

(30)SECTION 80GGA: DONATION TO SCIENTIFIC RESEARCH ASSOCIATION: Referpage 183

Section 80GGA provides deduction in respect of payment to the following

(a) approved research association or to a University, college or other institution to be used for scientific research :
(b)approved research association, University, college or other institution to be used for research in social science or statistical research

(c)association or institution, which has as its object the undertaking of any programme of rural development, or training of persons for implementing programmes of rural development

(d)public sector company or a local authority or to an association or institution approved by the National Committee, for carrying out any eligible project or scheme

(e)any sum paid to a rural development fund

(f)any sum paid to the National Urban Poverty Eradication Fund.

No deduction under this section shall be allowed in the case of an assessee whose gross total incomeincludes income which is chargeable under the head "Profits and gains of business or profession". **The assessee shall not be denied deduction even if, after giving donation, the approval granted to the associations has been withdrawn.**

(31 Section 80P: Circular No. 6/2010 dated 20.09.2010 – It has been clarified that Regional Rural Banks are not eligible for deduction u/s. 80P.

TAX HOLIDAY

(32) Section 80IA: Clarification regarding definition of new infrastructure facility for the purpose of section 80-IA(4)

The CBDT has, vide this Circular, clarified that widening of an existing road by constructing additional lanes as a part of a highway project by an undertaking would be regarded as a new infrastructure facility for the purpose of section 80-IA(4)(i). However, simply relaying of an existing road would not be classifiable as a new infrastructure facility for this purpose.

(33)

NATURE OF BUSINESS	DEDUCTION	REMARKS
UNDERTAKING ENGAGED IN DEVELOPING AND BUILDING HOUSING PROJECTS [Sec. 80(IB)(10)]	100% of Profits from the project	1. The deduction is allowed to all the Assessees on account of housing projects on the size of land of minimum area of 1 acre approved by local authority before 31/3/2008. 2. The built up area of the residential unit should not exceed 1,000 sq ft for Delhi and Mumbai and 1,500 sq ft for other cities. *3.The project must be completed within 5 years from the end of financial year in which the housing project is approved on or after 1/4/2005.[* **Amendment made by the Finance Act, 2010]** *4. The built-up area of shops and other commercial establishments included in the housing project approved on or after 1.4.2005 should not exceed 3% of the aggregate built-up area of the housing project or 5,000 sq. ft., whichever is higher. [***Amendment made by the Finance Act, 2010]**

(10 BA) X deleted

		5. not allowed to allot more than one residential unit in the housing project to the same person, not being an individual, and where the person is an individual, no other residential unit in such housing project is allotted to any of the following person- i. spouse or minor child of such individual; ii. the HUF in which such individual is the karta; iii. any person representing such individual, the spouse or minor children of such individual or HUF in which such individual is the karta. Explanation: For the removal of doubt it is hereby declared that nothing contained in the this sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any person (including the Central or State Govt.) [w.r.e.f. 1-4-2001]

(33) SECTION 80ID: Hotel Industries

1. The deduction is available to assessees (a) engaged in the business of hotel of two, three or four star category located in specified area, if such hotel is constructed and has started functioning between **1/4/2007 to 31/7/2010** or (b) engaged in the business of building, owning and operating a convention centre if it is constructed between **1/4/2007 to 31/7/2010** or **(c)** engaged in the business of hotel of two, three or four star category located at a World heritage site, if such hotel is constructed and has started functioning between 1/4/2008 to 31/3/2013

2. The deduction shall be available at 100% of the profits from such business for first 5 consecutive years.

Note: w.e.f A.Y 2011-12, the terminal date has been extended from 31.3.2010 to 31.7.2010.

(34) Section 10AA

Under section 10AA(7) of the Income-tax Act, the exempted profit of a SEZ unit is the profit derived from the export of articles or things or services and same is required to be calculated as under:

$$\text{Profits of the business unit} \times \frac{\text{Export turnover of the eligible undertaking}}{\text{Total turnover of the business carried on by the eligible undertaking}}$$

The Finance Act, 2010 has now made this amendment effective retrospectively from A.Y.2006-07.

Charitable Trust

(35) Section 2(15): Charitable Trust

Section 2(15) defines Charitable trusts to include relief of the poor, education, medical relief, ***preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest*** and the advancement of any other object of general public utility.

However, 'the advancement of any other object of general public utility' shall not be a charitable purpose, if it involves the carrying on of-

(a) any activity in the nature of trade, commerce or business, or

(b) any activity of rendering 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 retention of such income, by the concerned entity and the **aggregate value of the receipts from such activities exceeds Rs. 10 lakhs in the previous year** ***[W.r.e.f A.Y 2009-10 by the finance Act, 2010]***

RESIDENCE AND SCOPE OF TOTAL INCOME

(36) Income by way of fees for technical services, interest and royalty, from services utilized in India would be deemed to accrue or arise in India in case of a nonresident and be included in his total income, whether or not such services were rendered in India **[Section 9]** ***(Effective retrospectively from 1st June, 1976)- The Finance Act, 2010.***

Tax Deduction at Source

(37) In order to adjust for inflation and also to reduce the compliance burden of deductors and taxpayers, the Act has raised the threshold limit for payments in sections 194B, 194BB, 194C, 194D, 194H, 194-I and 194J as under:

Section	**Nature of payment**	**Existing threshold limit(upto 30.6.2010)**	**New threshold limit (w.e.f 1-7-2010)**
194B	Winning for lottery or crossword puzzle	5,000 Per transaction	10,000 Per transaction
194BB	Winnings from horserace	2,500	5,000
194C	Payment to contractors:		
	→ For a Single Tarnsaction	20,000	30,000
	→ For aggregate of transactions during financial year	50,000 Per annum	75,000 P.a.
194D	Insurance commission	5,000	20,000
194H	Commission or Brokerage	2,500	5,000
194-I	Rent	1,20,000	1,80,000
194J	Fees for professional or technical services	20,000	30,000

(38) Increase in the rate of interest for delayed payment of TDS from 1% to 1.5% [Section 201(A)] [w.e.f. 1-7-2010]

Consequences of failure

FAILURE	INTEREST	PENALTY
Asessee in default u/s. 201(1): (a) For Failure to deduct tax at source	**U/s. 201(1A) interest is chargeable @ 1% p.m. or part of the month from the date on which tax was deductible to the date of on which tax is deducted.**	U/s 221 a maximum penalty of 100% of the amount of TDS may be levied
(b) For Failure to pay the tax after deduction.	**U/s. 201(1A) interest is charged @ 1.5% p.m. or part of the month from the date on which it was deducted till the date of payment.**	
Default in filing of returns	Nil	U/s 272A(2) 100 per day during which the default continues but not exceeding the amount of TDS

Nov, 09, PCC

Example: Compute Interest chargeable u/s. 201(1A) in the following cases -
On 1.6.2010, an amount of Rs. 50,000 was paid to Mr. A for professional services without deduction of tax at source. Subseqently another payment of Rs. 50,000 was due to Mr. A on 31.1.2011, from which tax @ 10% amounting to 10,000 on the entire amount of Rs. 1,00,000 was deducted. After deduction this tax was deposited only on 22.5.2011.

Solution: Interest u/s. 201(1A):

a) Tax deductible but not deducted – 1% on Rs. 5,000 for 8 months =	Rs. 400
b) Tax deducted but not deposited – 1.5% on Rs. 10,000 for 4 months =	Rs. 600
	Rs. 1000

(39) Requirement to furnish permanent account number [Sec. 206AA]

(1) Notwithstanding anything contained in any of the provisions of this Act, any person whose receipts are subject to deduction of tax at source i.e., the deductee, shall mandatorily furnish his PAN to the deductor falling which the deductor shall deduct tax at source at the higher of the following rates—

(i) at the rate specified in relevant provision of this Act ; or (TDS chapter)

(ii) at the rates or rates in force, or → (Salaries provision)

(iii) at the rate of 20%.

(2) TDS at the above mentioned rate will also apply in case where the tax payer files a declaration u/s 197A(i.e., in form 15G or 15H) but does not provide his PAN.

(3) No certificate u/s. 197 shall be granted unless the application contains the "PAN" of the applicant

(4) The deductee shall furnish his PAN to the deductor and both shall indicate the same in all the correspondence, bills, vouchers, and other documents which are sent to each other .
(5) Where the PAN. provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnish his PAN to the deductor and the provision subsection (1) shall apply accordingly.

(40)DS Certificates to be furnished even after 1st April, 2010 [Section 203]

(i) The scheme for dematerialisation of TDS certificates was to be implemented with effect from 1.4.2010. Accordingly, section 203(3) was introduced earlier which provided for waiving the requirement of furnishing TDS certificate in respect of tax deducted or paid on or after 1.4.2010.

(ii) Now, considering the importance of the document, i.e., TDS certificate, it has been provided that the deductor would continue to furnish TDS certificates to the deductee even after 1.4.2010. Accordingly, sub-section (3) of section 203 has been deleted. *(Effective from 1st April, 2010)*

(41) Notification No.41/2010 dated 31.05.2010: Substitution of Rules 30, 31 and 31A in the Income-tax Rules, 1962.

Rule 30 – Time and mode of payment to Government account of TDS or tax paid u/s. 192(1A)

<u>Due Date for depositing tax at source to the credit of Central Government</u>

↓

All sums deducted under this chapter

↓ **By an office of the Government** ↓ **By other than Government office**

On the same day	on or before 7 days from the end of the month in which the deduction is made or income-tax is due u/s. 192(1A)	on or before 30th April	on or before 7 days from the end of the month in which the deduction is made or income tax is due u/s. 192(1A)
where tax is paid without production of an income tax challan	where tax is paid accompanied by an income-tax challan	where the income or amount is credited or paid in the month of March.	In any other case

Quarterly payment of the tax deducted u/s. 192/ 194A/194D/194H:- (Special case)

In special cases, the Assessing Officer may, with the prior approval of the Joint Commissioner, permit quarterly payment of the tax deducted under section 192//194A/194D/194H.

Quarter ending	Due date
30th June	7th July
30th September	7th October
31st December	7th January
31st March	30th April

Rule 31 – Certificate of TDS to be furnished u/s. 203

TDS Certificate	Tax deducted or paid	to whom issued	Due date of issue on or before
Form 16	U/s. 192	shall be issued to the employee	Annualy - next 31st May
Form 16A	any other case (u/s. 193 to 196D)	deductee	Quarterly:

Quarter ending	Due date
30th June	30th July
30th September	30th October
31st December	30th January
31st March	30th May

Rule 31A – Statement of deduction of tax u/s. 200(3)

Every person responsible for deduction of tax shall deliver, or cause to be delivered, the following quarterly statements to the DGIT (Systems) or any person authorized by him, in accordance with section 200(3):

Due dates of Quarterly Returns

Quarter ending	Salary (Form No. 24Q) u/s. 192	*Payment other than salary to a resident (Form No.26Q). (u/s. 193 to 196D)	*Payment other than salary to a non-resident(Form No. 27Q). (u/s. 193 to 196D)
June 30	July 15	July 15	July 15
September 30	October 15	October 15	October 15
December 31	January 15	January 15	January 15
March 31	May 15	May 15	May 15.

* deductee being a non-resident not being a company or a foreign company or resident but not ordinarily resident.
* all deductee which are not covered under 24Q and 27Q.

RECENT AMENDMENTS IN SERVICE TAX

(1) Notification No. 14/2010-S.T., dated 27-2-2010: Service Tax extends to the Continental Shelf and Exclusive Economic Zone of India.

The Scope of Service tax law has been has extended to the following areas in the continental shelf and Exclusive Economic Zone of India for the following purposes –

Areas	*Purposes for which service tax law extended*
Whole of continental shelf and exclusive Economic Zone of India	Any service provided for all activities pertaining to construction of installations, structures and vessels for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof.
Installations, structures and vessels within the continental shelf and the exclusive economic zone of India ,constructed for the purposes of prospecting or extraction or production of mineral oil and natural gas.	Any service provided or to be provided by or to such installation, structure and vessels and for supply of any goods connected with the said activity.

(2) Definition of India for Import/Export India includes the installations, structures and vessels in the Continental Shelf and Exclusive Economic Zone of India, *for the purpose of prospecting or extraction or production of mineral oil ands natural gas and supply thereof.*

(3) Whether the followings are liable to service tax?

Any provision of services, facilities or advantages by a club or association to its members for a consideration.	Yes	***Explanation to section 65 provides that*** taxable Services provided by an unincorporated association/ body to its members are liable to service tax. Note: This provision is an exception to the principles of mutuality.
Certification of film by Central Board of Film Certification (CBFC)	No	Being a statutory function. ***[Notifn. No. 10/2009 ST dated 13/3/2009.]***
The assessee was given order by the District Collectors various districts for preparing identity cards for the electors for the purpose of election on behalf of the Election Commission of India.	No	***CCEx. V. C.S. Software Enterprises Ltd.(2008)10 STR 367(Tri.-Bang)*** - Photography for Voter Identity Card being a sovereign function not liable to Service tax.
Whether service tax is leviable on the underwriting commission received by the primary dealers for the auction of the Govt. Securities.	NO	***Circular No. 126/8/2010-ST,dated 10/8/2010.***

(4) Donations and grants-in-aid received by a Charitable Foundation imparting free livelihood training to the youth not liable to service tax – It has been clarified that there is no relationship other than universal humanitarian interest between the provider of donation/grant and the trainee. In such a situation, service tax is not leviable, since the donation or grant-in-aid is not linked to specific trainee or training.

(4) Explanation (c) to section 67: 'Gross amount charged' includes – (Refer Chapter Valuation)

(a) payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment and

(b) any amount credited or debited, as the case may be, to any account, whether called "Suspense account" or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.
"Associated Enterprise" has same meaning assigned u/s. 92C of the Income tax Act, 1961.

(5) Service Tax (Determination of Value) Rules, 2006

Rule 6: Cases in which the commission, costs, etc., will be included or excluded

Exclusions: Clause (e) inserted thereto - "the taxes levied by any Government on any passenger traveling by air, if shown separately on the ticket, or the invoice for such ticket, issued to the passenger". [w.e.f 27-2-2010]

(6) Exemption to services provided for transmission of electricity
[Notification No. 11/2010-S.T., dated 27-2-2010]

The taxable service provided to any person, by any other person for transmission of electricity, is exempt from service tax.

Circular No. 131/13/2010-ST dated 7.12.2010 – It has been clarified that supply of electricity meters for hire to the consumers is eligible for the above exemptions since it is an essential activity having direct and close nexus with transmission and distribution of electricity..

(7) Payment of service tax

E- Payment: Where an assessee has paid a total service tax of Rs.10,00,000 or more including the amount paid by utilization of CENVAT credit, in the proceeding financial year, he shall deposit the service tax liable to be paid by him electronically, through internet banking .[w.e.f 1-4-2010]

8) Special rates of Service Tax/Composition Scheme

Rule 6(7C): Optional composition scheme for Distributor or Selling agent of lotteries.

→ **Taxable service: Games of chance service**

→ **Who can take the benefit:** The distributor or selling agents rendering the taxable service of promotion, marketing or organizing/ assisting in organizing lottery.

→ **Effective rate**

Where the guaranteed lottery prize pay out is > 80% -	**Rs. 6000/- on** every or part of Rs. 10 lakh of aggregate face vale of lottery tickets printed by the organizing state for a draw.
Where the guaranteed lottery prize pay out is < 80% -	**Rs. 9000/- on** every or part of Rs. 10 lakh of aggregate face vale of lottery tickets printed by the organizing state for a draw.

Points to be Noted:

a) in case of online lottery, the aggregate face value of the lottery tickets will be the aggregate value of ticket sold.

b) The distributor or selling agent will have to exercise such option within a period of one month of the beginning of each financial year. However, for financial year 2010-11, the distributor or selling agent will have to exercise the option by 7.11.2010.

c) The option once exercised cannot be withdrawn during the remaining part of the financial year.

d) **Exemption from service tax to the person marketing lottery tickets:**
Persons marketing the lottery tickets, other than the authorised distributors or selling agent, to authorised distributor or selling agent who have opted for composition scheme under rule 6(7C), have been exempted from service tax.

However, no exemption shall be available when such person markets lottery tickets to the distributor or selling agents who have not opted the above composition scheme.

(9) E- Filling of Return

Where an assessee has paid a total service tax of Rs. 10 lakh or more including the amount paid by utilization of Cenvat credit, in the preceding financial year, he shall file the return electronically. [W.e.f 1-4-2010]

(10) Export of service

The additional condition that, in order to regarded as export of service, " such service is provided from India and used outside India" has been done away w.e.f 27-2-2010.

Now the provision read as follows-
The provisions of any taxable services under the Category A,B and C shall be treated as export of service when the following conditions are satisfied -

- *(i)* ***such service is provided from India and used outside India; and [Omitted w.e.f. 27-2-2010]***
- (ii) payment for such service provided outside India is received by the service provider in convertible foreign exchange.

(11) Service tax paid on service provided by airports authority to an exporter for export of goods eligible for refund - Just read.

Service tax paid on certain taxable services that are used in relation to or for export of goods are eligible for refund under *Notification No. 17/09 ST dated 07.07.2009*. The said Notification covers port service within its ambit but does not include 'airport service'. Such anamoly has been corrected by amending the said Notification so as to include 'airport service' in the list of eligible services under the said refund scheme.
[Notification No. 37/2010 ST dated 28.06.2010]