Prepared by CA B. Vinay Gandhi

FINANCE ACT, 2011

Rates of Tax:-

Individual/HUF/AOP/Artificial Juridical person:

< Rs.1,80,000	Nil
Rs. 1,80,001 to Rs. 5,00,000	10%
Rs.5,00,001 to Rs.8,00,000	20%
> Rs. 8,00,000	30%

Women assessee

< Rs.1,90,000	Nil
Rs. 1,90,001 to Rs. 5,00,000	10%
Rs.5,00,001 to Rs.8,00,000	20%
> Rs. 8,00,000	30%

Individual who is more than age of 65 years

< Rs.2,50,000	Nil
Rs. 2,50,001 to Rs. 5,00,000	10%
Rs.5,00,001 to Rs.8,00,000	20%
> Rs. 8,00,000	30%

Co-operative Societies

<Rs..10,000	10%
Rs..10,001 to Rs..20,000	20%
>Rs..20,000	30%

Firm/LLP 30%
Local Authority 30%
Company
(a) Domestic Company 30%
(b)Other than Domestic company
- ✓ Royalties 50%
- ✓ Fees for technical services 50%
- ✓ Other Income 40%

Surcharge:-
No surcharge on Individuals/HUF/AOP/Artificial Juridical person /BOI/Firm/LLP/ Co-operative societies.
Changed to **5%** from 7.5% in case of domestic companies whose total income exceeds Rs..1 Crore
Changed to **2%** from 2.5% in case of Foreign company whose total income exceeds Rs.1 Crore

Education cess:-
In case of all assesses;

Education cess on income tax	2%
Secondary & Higher education cess	1%

BASIC CONCEPTS

Sec.2(15) Charitable Purpose

"Advancement of any other object of general public utility" remains to be 'Charitable Purpose' if total receipts from any activity of trade, commerce or business do not exceed Rs.**25** lakh during the previous year.
(Effective from **AY 2012-13**)

INCOME WHICH DONOT FORM PART OF TOTAL INCOME

Explanation to **Sec. 10 (34)** was omitted.
(Effective from **01.06.2011**)

New **Sec. 10 (45)** Exemption of any allowance, perquisite as may be notified by the central government in the official gazette in this behalf, paid to Chairman or a retired chairman or any other member or retired member of the Union Public Service Commission (UPSC).
(Retrospective from **01.04.2008**)

New **Sec. 10 (46)** Any specified income arising to a body or authority or Board or Trust or Commission which is constituted or established by or under a Central, State or Provincial Act or has been constituted by the Central Government or a State Government with the object of regulating or administering an activity for the benefit of general public shall be exempt if it is not engaged in commercial activity and is specified by Central Government in Official Gazette.
(With effect from 01.06.2011)

New **Sec. 10 (47)** Central Government can notify any Infrastructure debt fund which is set up in accordance with the guidelines as may be prescribed and income of such notified fund is exempt from tax.
(With effect from 01.06.2011)

INCOME FROM BUSINESS OR PROFESSION

Sec. 35 (2AA) (a) Weighted deduction of **200%** (Increased from 175%) of the sum paid to a National Laboratory or a University or an IIT or a specified purpose of an approved Scientifics research programme.
(With effect from 01.04.2012)

Sec.35AD Investment linked tax incentives in case of 'Specified Business'

2 new Specified Businesses included

a. Business in the nature of developing and building a housing project under a scheme for affordable housing framed by Central Government or State

Government and notified by CBEC. (Date of commencement of Operations: 01.04.2011)

b. New Plant or in a newly installed capacity in an existing plant for production of fertilizer. (Date of commencement of Operations: 01.04.2011)

(With effect from. **AY 2011-12**)

DEDUCTIONS FROM GROSS TOTAL INCOME

Sec. 80CCE Contribution made by the Central Government or any employer to a pension scheme u/s 80CCD(2) shall not be included in the limit of deduction of ₹ 1,00,000 (With effect from 01.04.2012)

Sec. 80CCF Deduction in respect of subscription to Long term Infrastructure Bonds extended for AY 2012-13 also.

Sec.80IA Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings

Deduction is of 100% in 7 consecutive assessment years. Such undertaking is located in any part of India and has begun or begins commercial production of mineral oil on or after 01.04.1997.

Above provisions shall not apply to blocks licensed under contract awarded after 31.03.2011 under new exploration licensing policy announced by the Government of India or in pursuance of any law for time being in force or by central or state government in any manner.

INTERNATIONAL PRICING

Sec. 92C Computation of Arm's length price

Where more than one price was determined, then arm's length price shall be taken as arithmetical mean of such price.

If variation between arm's length price as determined and actual price at which international transaction took place does not exceed 5% of the latter, the price at which international transaction has been actually undertaken shall be deemed to be arm's length price.

Amendment:-Allowable variation will be such percentage as may be notified by the central government in this behalf.

Sec. 92CA Reference to Transfer Pricing Officer (TPO)

Amendment:- New Sub-section 2A to enable TPO to take into account any other international transaction which comes into his notice subsequently during the course of the proceeding before him.

Also amended to enable TPO to exercise power of Survey.

(With effect from 01.06.2011)

Sec. 94A Special measures in respect of transactions with persons located in a notified jurisdictional area

Central Government can notify any country or territory outside India having regard to lack of effective exchange of information by it with India, as notified jurisdictional area.

If an assessee enters into a transaction where one of the parties is a person located in notified jurisdictional area, then all the parties are deemed to be associated enterprises within meaning of Sec. 92B.

Notwithstanding anything contained in the Act, No deduction in respect of any payment made to any financial institution located in notified jurisdictional area shall be allowed unless the assessee furnishes an authorization in prescribed form authorizing the Board or any other Income tax authority acting on this behalf to seek relevant information from the said financial institution and no deduction in respect of any other expenditure or allowance arising from the transaction with a person located in a notified territory shall be allowed under any provision of the act unless assessee maintains such other documents and furnishes the information as may be prescribed.

If any sum is received from a person located in the notified jurisdictional area, then, the onus is on the assessee to satisfactorily to explain the source of such money in the hands of such person or in the hands of beneficial owner, and in case of his failure to do so, the amount shall be deemed to be the income of the assessee.

(With effect from 01.06.2011)

<u>ASSESSMENT OF VARIOUS ENTITIES</u>

Sec. 115A Tax on Dividends, royalty and technical service fees in case of foreign companies.

Under existing provisions of the Act, the rates at which Income tax shall be payable is prescribed where total income includes any income by way of Dividends or interest received from Govt. or Indian concern on monies borrowed or debt incurred by Govt. or Indian concern in foreign currency **(Not being interest received u/s 10 (47))**; or income received in respect of units, purchased in foreign currency, of a Mutual fund specified u/s 10 (23D) or of UTI.

Tax is chargeable @ **5%** in case of interest received u/s 10 (47) by a non-resident.

Sec. 115BBD Tax on certain dividends received from Foreign companies

Where the total income of an assessee, being an Indian company, the Income tax payable shall be aggregate of

(a) Amount of Income tax calculated on income by way of such dividends @ **15%**

(b) Amount of income tax with which the assessee would have been chargeable had his total income been reduced by the amount of aforesaid income by way of dividends.

No deduction in respect of expenditure allowed to the assessee in computing income by way of dividends.

(With effect from 01.04.2012)

Sec.115JB Minimum Alternate Tax (MAT)

MAT rate has been increased from 15% to **18.50% of book profits**.
Therefore, If tax on total income of a company is less than 18.50% of its book profits, then book profit is deemed to be the total income of the company and tax is payable at 18.50% thereof.

Existing Provision:- Subsection 6 was inserted by way of a modification vide section 27 of SEZ Act, 2005.

Amendment:- The provisions of Subsection 6 shall cease to have effect from Assessment year commencing on or after 01.04.2012.

Chapter XII-BA Special provisions relating to certain LLPs

Sec.115JC Where regular tax payable by an LLP < Alternate Minimum tax, the adjusted total income shall be deemed to be total income of such LLP and it shall be liable to pay Income tax on such total income @ 18.50%.

Sec. 115JD Credit for tax paid by LLP u/s 115JC = Alternate Minimum tax paid – Actual tax payable. This credit is available up to 10^{th} assessment year.

Sec. 115JE All other provisions of Income tax Act shall apply to LLP

Sec. 115JF Definitions of “accountant”, “minimum alternate tax”, “Limited liability partnership” and “Regular income tax”

Sec. 115R Tax on distributed income to Unit Holders

Existing Provisions:-

(i) Any income distributed by specified company or Mutual fund to the unit holders shall be chargeable to tax and
(ii) such specified company or mutual fund is liable to pay additional income tax on such distributed income:-
    (a) @ 25% on income distributed by a money market mutual fund or Liquid fund;
    (b) @ 12.50% on income distributed to Individual or HUF by other than money market mutual fund or Liquid fund and
    (c) @ 25% on income distributed to any other person by a fund other than money market mutual fund or Liquid fund.

Amendments:-

- Specifically added that additional tax @ **25%** is to be paid on income distributed to Individual or HUF by money market mutual fund or Liquid fund.
- Any income distributed to any other person by a money market mutual fund or liquid fund shall be liable to additional income tax @ **30%.**
- Amended to provide **30%** instead of 25% on income distributed to any other person by a fund other than money market mutual fund or Liquid fund.

(With effect from 01.06.2011)

POWERS OF INCOME TAX AUTHORITIES

Sec. 131 Power regarding discovery, production of evidence, etc.

New Sub-section (2):- Power given in relation to international transaction.
For the purpose of an inquiry or investigation in respect of any person or classes of persons in relation to an agreement referred to in Sec. 90 & 90A, it shall be competent to any ITO not below rank of Assistant Commissioner of IT to exercise powers conferred to in Sec. 131(1)

Amendment in 131(3) empowers the above authority to impound and retain books of account and other documents produced before it in any proceeding under the Act.

(With effect from 01.06.2011)

Sec. 133 Power to call for Information

For the purposes of any agreement referred to in per Sec. 90 & 90A, an income tax authority notified u/s 131(2) may exercise all powers conferred under Sec. 133

(With effect from 01.06.2011)

Sec. 139 Return of Income

Due date for filing return of income in case of an assessee being Company who has to furnish its report u/2 92E is 30^{th} November of the assessment year.

(Retrospectively 01.04.2011)

Sub section (1C) Central Government is empowered to exempt by notification in the official gazette any class or classes of persons from requirement of furnishing return of income having regard to such conditions as may be specified in that notification.

Sub section (4C) Every entity shall furnish a return of income if total income in respect of any entity (without giving effect to Provisions of Sec.10) exceeds maximum amount which is not chargeable to tax.
This sub-section is amended to include (g) any body or authority or board or trust or commission referred to in Sec. 10(46) and (h) Infrastructure debt fund referred to in Sec. 10(47).

(With effect from 01.06.2011)

ASSESSMENT PROCEDURE

Sec.143(1B) Time limit for issue of notification for relaxation, modification or adaptation of any provision of law to facilitate centralized processing of returns has been **extended to 31-03-2012**.

Sec. 153 Time Limit for completion of assessments or re-assessments

Certain period are excluded from calculating the time limit for purpose of Sec. 153. Another Clause has been added: - Period commencing from date on which reference for exchange of information is made by an authority under an agreement referred to in Sec. 90 or 90A and ending on date on which information so requested is received by the Commissioner or period of 6 months, whichever is less, shall also be excluded.
(With effect from 01.06.2011)

Sec. 153B Time Limit for completion of assessment u/s 153A

Period commencing from date on which reference for exchange of information is made by an authority under an agreement referred to in Sec. 90 or 90A and ending on date on which information so requested is received by the Commissioner or period of 6 months, whichever is less, shall also be excluded.
(With effect from 01.06.2011)

COLLECTION AND RECOVERY OF TAX

Sec. 194LB TDS on income by way of interest from an infrastructure debt fund

Any income by way of interest is payable to a non-resident, not being a company, or to a foreign company, by an infrastructure debt fund referred in Sec. 10(47) – **5%**

(With effect from 01.06.2011**)**

SETTLEMENT COMMISSION

Sec.245C Application to Settlement commission
An application can be filed before settlement commission, only if additional amount of income tax payable on income disclosed in the application is

(a) **Rs..50 lakh** in case of assessment/reassessment of proceedings resulting from search/ requisition cases.
(b) **Rs.10 Lakh** in case of the applicant is related to the person referred to in clause (i) who has filed an application (hereafter in this sub-section referred to as “specified person”); and the proceedings for assessment or re-assessment for any of the assessment years referred to in clause (b) of sub-section (1) of section 153A

or clause (b) of sub-section (1) of section 153B in case of the applicant, being a person referred to in section 153A or section 153C, have been initiated,

(c) **Rs.10 lakh** in other cases.

(With effect from 01.06.2011)

Sec.245D Time limit of passing of order by the settlement commission

New Sub-section (6B):- The Settlement Commission may, at any time within a period of six months from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4):

Provided that an amendment which has the effect of modifying the liability of the applicant shall not be made under this sub-section unless the Settlement Commission has given notice to the applicant and the Commissioner of its intention to do so and has allowed the applicant and the Commissioner an opportunity of being heard
(Same amendment in Wealth Tax)
(With effect from 01.06.2011)

<u>MISCELLANEOUS PROVISIONS</u>

Sec.282B Document Identification Number **Omitted.**

Sec. 285 Submission of statement by a non-resident having liaison office

Every person, being a non-resident having a liaison office in India set up in accordance with the guidelines issued by the Reserve Bank of India under the FEMA, shall, in respect of its activities in a financial year, prepare and deliver or cause to be delivered to the Assessing Officer having jurisdiction, within 60 days from the end of such financial year, a statement in such form and containing such particulars as may be prescribed.

Sec. 296 Rules and certain notifications to be placed before Parliament
Every notification issued u/s **139(1C)** is to be laid before Parliament.