FINAL COURSE

SUPPLEMENTARY STUDY PAPER - 2011

DIRECT TAX LAWS AND INDIRECT TAX LAWS

[Covers amendments made by the Finance Act, 2011 and Important Circulars/Notifications issued between 1st May 2010 and 30th June 2011]

(Relevant for students appearing for May, 2012 and November, 2012 examinations)

BOARD OF STUDIES
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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A WORD ABOUT SUPPLEMENTARY

Direct Tax Laws and Indirect Tax Laws are amongst the extremely dynamic subjects of the chartered accountancy course. The level of knowledge prescribed at the final level for the subjects is 'advanced knowledge'. For attaining such a level of knowledge, the students have not only to be thorough with the basic provisions of the relevant laws, but also have to constantly update their knowledge regarding statutory developments.

The Board of Studies has been instrumental in imparting theoretical education for the students of Chartered Accountancy Course. The distinctive characteristic of the course i.e., distance education, has emphasized the need for bridging the gap between the students and the Institute and for this purpose, the Board of Studies has been providing a variety of educational inputs for the students.

One of the important inputs of the Board on taxation is the supplementary study paper in direct and indirect tax laws to be used by the final students. The supplementary study papers are annual publications and contain a discussion of the amendments made by the Annual Finance Acts and Notifications/Circulars in income-tax, wealth-tax, excise, customs and service tax. They are very important to the students for updating their knowledge regarding the latest statutory developments in the respective areas mentioned above. A lot of emphasis is being placed on these latest amendments in the final examinations.

The amendments made by the Finance Act, 2011 and important Notifications/Circulars issued between 1st May, 2010 and 30th June, 2011 have been incorporated in this Supplementary Study Paper – 2011, which is relevant for students appearing for May 2012 and November 2012 examinations. In case you need any further clarification/guidance with regard to this publication, please send your queries relating to direct tax laws at priya@icai.org and queries relating to indirect tax laws at shefali.jain@icai.in.

Happy Reading and Best Wishes for the forthcoming examinations!

DIRECT TAX LAWS

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DIRECT TAX LAWS

AMENDMENTS BY THE FINANCE ACT, 2011 IN THE INCOME-TAX ACT, 1961

1. RATES OF TAX

Section 2 of the Finance Act, 2011 read with Part I of the First Schedule to the Finance Act, 2011, seeks to specify the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2011-12. Part II lays down the rate at which tax is to be deducted at source during the financial year 2011-12 i.e., A.Y. 2012-13 from income subject to such deduction under the Income-tax Act, 1961; Part III lays down the rates for charging income-tax in certain cases, rates for deducting income-tax from income chargeable under the head "salaries" and the rates for computing advance tax for the financial year 2011-12 i.e. A.Y.2012-13. Part III of the First Schedule to the Finance Act, 2011 will become Part I of the First Schedule to the Finance Act, 2012 and so on.

Rates for deduction of tax at source for the F.Y.2011-12 from income other than salaries

Part II of the First Schedule to the Act specifies the rates at which income-tax is to be deducted at source during the financial year 2011-12 i.e. A.Y. 2012-13 from income other than "salaries". These rates of tax deduction at source are the same as were applicable for the F.Y.2010-11. However, it has been clarified that the rate of tax deduction at source @ 20% on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency would not be applicable in respect of interest payable by a notified infrastructure debt fund to a non-resident/foreign company under new section 194LB, for which the rate of TDS would be 5%.

Further, no surcharge would be levied on income-tax deducted at source except in the case of foreign companies. If the recipient is a foreign company, surcharge @ 2% would be levied on such income-tax if the income or aggregate of income paid or likely to be paid and subject to deduction exceeds ₹ 1 crore. Levy of surcharge has been withdrawn on deductions in all other cases. Also, education cess and secondary and higher education cess would not be added to tax deducted or collected at source in the case of a domestic company or a resident non-corporate assessee. However, education cess @2% and secondary and higher education cess @ 1% of income tax including surcharge, wherever applicable, would be leviable in cases of persons not resident in India and foreign companies.

Rates for deduction of tax at source from "salaries", computation of "advance tax" and charging of income-tax in certain cases during the financial year 2011-12

Part III of the First Schedule to the Act specifies the rate at which income-tax is to be deducted at source from "salaries" and also the rate at which "advance tax" is to be computed and income-tax is to be calculated or charged in certain cases for the financial year 2011-12 i.e. A.Y. 2012-13.

It may be noted that education cess @2% and secondary and higher education cess @ 1% would continue to apply on tax deducted at source in respect of salary payments.

The general basic exemption limit for individuals/HUFs/AOPs/BOIs and artificial juridical persons has been increased from ₹ 1,60,000 to ₹ 1,80,000. The basic exemption limit for senior citizens has been increased from ₹ 2,40,000 to ₹ 2,50,000. Further, the age criterion for qualifying as a "senior citizen" for availing this higher basic exemption limit has been reduced from 65 years to 60 years. Also, resident individuals of the age of 80 years or more at any time during the previous year would be eligible for a higher basic exemption limit of ₹ 5,00,000. The exemption limit for resident women below the age of 60 years has, however, been retained at ₹ 1,90,000. The revised tax slabs are shown hereunder -

(i) (a) Individual/ HUF/ AOP / BOI and every artificial juridical person

Level of total income	Rate of income-tax
Where the total income does not exceed ₹ 1,80,000	Nil
Where the total income exceeds ₹ 1,80,000 but does not exceed ₹ 5,00,000	10% of the amount by which the total income exceeds ₹ 1,80,000
Where the total income exceeds ₹ 5,00,000 but does not exceed ₹ 8,00,000	₹ 32,000 plus 20% of the amount by which the total income exceeds ₹ 5,00,000
Where the total income exceeds ₹ 8,00,000	₹ 92,000 plus 30% of the amount by which the total income exceeds ₹ 8,00,000

(b) For resident women below the age of 60 years at any time during the previous year

Level of total income	Rate of income-tax
Where the total income does not exceed ₹ 1,90,000	Nil
Where the total income exceeds ₹ 1,90,000 but does not exceed ₹ 5,00,000	10% of the amount by which the total income exceeds ₹ 1,90,000
Where the total income exceeds ₹ 5,00,000 but does not exceed ₹ 8,00,000	₹ 31,000 plus 20% of the amount by which the total income exceeds ₹ 5,00,000
Where the total income exceeds ₹ 8,00,000	₹ 91,000 plus 30% of the amount by which the total income exceeds ₹ 8,00,000

(c) For resident individuals of the age of 60 years or more but less than 80 years at any time during the previous year

Level of total income	Rate of income-tax
Where the total income does not exceed ₹ 2,50,000	Nil
Where the total income exceeds ₹ 2,50,000 but does not exceed ₹ 5,00,000	10% of the amount by which the total income exceeds ₹ 2,50,000
Where the total income exceeds ₹ 5,00,000 but does not exceed ₹ 8,00,000	₹ 25,000 plus 20% of the amount by which the total income exceeds ₹ 5,00,000
Where the total income exceeds ₹ 8,00,000	₹ 85,000 plus 30% of the amount by which the total income exceeds ₹ 8,00,000

(d) For resident individuals of the age of 80 years or more at any time during the previous year

Level of total income	Rate of income-tax
Where the total income does not exceed ₹ 5,00,000	Nil
Where the total income exceeds ₹ 5,00,000 but does not exceed ₹ 8,00,000	20% of the amount by which the total income exceeds ₹ 5,00,000
Where the total income exceeds ₹ 8,00,000	₹ 60,000 plus 30% of the amount by which the total income exceeds ₹ 8,00,000

(ii) Co-operative society

There is no change in the rate structure as compared to A.Y.2011-12.

	Level of total income	Rate of income-tax
(1)	Where the total income does not exceed ₹ 10,000	10% of the total income
(2)	Where the total income exceeds ₹ 10,000 but does not exceed ₹ 20,000	₹ 1,000 plus 20% of the amount by which the total income exceeds ₹ 10,000
(3)	Where the total income exceeds ₹ 20,000	₹ 3,000 plus 30% of the amount by which the total income exceeds ₹ 20,000

(iii) Firm/Limited Liability Partnership (LLP)

The rate of tax for a firm for A.Y.2012-13 is the same as that for A.Y.2011-12 i.e. 30% on the whole of the total income of the firm. This rate would apply to an LLP also.

(iv) Local authority

The rate of tax for a local authority for A.Y.2012-13 is the same as that for A.Y.2011-12 i.e. 30% on the whole of the total income of the local authority.

(v) Company

The rates of tax for A.Y.2012-13 are the same as that for A.Y.2011-12.

(1)	In the case of a domestic company	30% of the total income
(2)	In the case of a company other than a domestic company	40% on the total income However, specified royalties and fees for rendering technical services (FTS) received from Government or an Indian concern in pursuance of an approved agreement made by the company with the Government or Indian concern between 1.4.1961 and 31.3.1976 (in case of royalties) and between 1.3.1964 and 31.3.1976 (in case of FTS) would be chargeable to tax @50%.

Surcharge

The rates of surcharge applicable for A.Y.2012-13 are as follows -

(i) Individual/HUF/AOP/BOI/Artificial juridical person

No surcharge would be leviable in case of such persons.

(ii) Co-operative societies/Local authorities

No surcharge would be leviable on co-operative societies and local authorities.

(iii) Firms/LLPs

No surcharge would be leviable on firms and LLPs.

(iv) Domestic company

Where the total income exceeds ₹ 1 crore, surcharge is payable at the rate of 5% of income-tax computed in accordance with the provisions of para (v)(1) above or section 111A or section 112. Marginal relief is available in case of such companies having a total income exceeding ₹ 1 crore i.e. the additional amount of income-tax payable (together with surcharge) on the excess of income over ₹ 1 crore should not be more than the amount of income exceeding ₹ 1 crore.

> *Example*
>
> *Compute the tax liability of X Ltd., assuming that the total income of X Ltd. is ₹ 1,01,00,000 and the total income does not include any income in the nature of capital gains.*
>
> The tax payable on total income of ₹ 1,01,00,000 of X Ltd. computed@ 31.5% (including surcharge) is ₹ 31,81,500. However, the tax cannot exceed the tax of ₹ 30,00,000 payable on total income of ₹ 1 crore by more than the ₹ 1,00,000, being the amount of total income exceeding ₹ 1 crore. Therefore, the tax payable on ₹ 1,01,00,000 would be ₹ 31,00,000 (30,00,000+1,00,000). The marginal relief is ₹ 81,500 (i.e., ₹ 31,81,500-₹ 31,00,000).

(v) Foreign company

Where the total income exceeds ₹ 1 crore, surcharge is payable at the rate of 2% of income-tax computed in accordance with the provisions of paragraph (v)(2) above or section 111A or section 112. Marginal relief is available in case of such companies having a total income exceeding ₹ 1 crore i.e. the additional amount of income-tax payable (together with surcharge) on the excess of income over ₹ 1 crore should not be more than the amount of income exceeding ₹ 1 crore.

Note – Marginal relief would also be available to those companies which are subject to minimum alternate tax under section 115JB, in cases where the book profit (i.e. deemed total income) exceeds ₹ 1 crore.

Education cess / Secondary and higher education cess on income-tax

The amount of income-tax as increased by the union surcharge, if applicable, should be further increased by an “Education cess on income-tax”, calculated at the rate of 2% of such income-tax and surcharge. Education cess is leviable in the case of all assessees i.e. individuals, HUFs, AOP/BOIs, co-operative societies, firms, LLPs, local authorities and companies. Further, “Secondary and higher education cess on income-tax” @1% of income-tax and surcharge is leviable to fulfill the commitment of the Government to provide and finance secondary and higher education. No marginal relief would be available in respect of such cess.

2. BASIC CONCEPTS

Increase in monetary limit in respect of permissible receipts from trading activity for an institution with the object of “advancement of any other object of general public utility” to retain its “charitable” status [Section 2(15)]

(i) Section 2(15) defines “charitable purpose” 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 any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity.

(ii) Organisations existing for charitable purpose can obtain exemption under the Income-tax Act, 1961. However, the institutions which were engaged in charitable activities and having the object of general public utility were denied exemption, if they were engaged in any activity in the nature of trade, commerce or business or activity of rendering any service in relation to any trade, commerce or business for a cess or fees. This amendment denying the benefit of exemption was brought about by the Finance Act, 2008 w.e.f. 1.4.2009.

(iii) In order to provide relief to the genuine hardship faced by charitable organizations which receive marginal consideration from such activities, the Finance Act, 2010 had provided that such benefit of exemption will not be denied to the institutions having object of advancement of general public utility, even where they are engaged in the activity of trade, commerce or business or rendering any service for a cess or fee, provided the aggregate value of receipts from such activities does not exceed ₹ 10 lakh in the year under consideration. This amendment was effected retrospectively from A.Y.2009-10.

(iv) The above limit of ₹ 10 lakhs has now been increased to ₹ 25 lakhs by the Finance Act, 2011 with effect from A.Y.2012-13.

(v) Therefore, in effect, "advancement of any other object of general public utility" would continue to be a "charitable purpose", if the total receipts from any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business does not exceed ₹ 25 lakhs in the relevant previous year.

(Effective from A.Y. 2012-13)

Example

An institution having its main object as "advancement of general public utility" received ₹ 30 lakhs in aggregate during the P.Y.2011-12 from an activity in the nature of trade. It applied 85% of its receipt from such activity during the same year for its main object i.e. advancement of general public utility.

(i) What would be the tax consequence of such receipt and application thereof by the institution?

(ii) Would your answer be different of the institution had received ₹ 23 lakhs (instead of ₹ 30 lakhs) in aggregate during the P.Y.2011-12 from an activity in the nature of trade?

(iii) What would be your answer if the main object of the institution is "relief of the poor" and the institution receives ₹ 30 lakhs from a trading activity and applies 85% of the said receipts for its main object?

Answer

(i) As the main object of the institution is "advancement of object of general public utility", the institution will lose its "charitable" status for the P.Y.2011-12, since it has received ₹ 30 lakhs from an activity in the nature of trade. The application of 85% of such receipt for its main object during the year would not help in retaining its "charitable" status for that year.

(ii) If the institution receives only ₹ 23 lakhs in aggregate from an activity in the nature of trade during the P.Y.2011-12, then it will not lose its "charitable" status since receipt of upto ₹ 25 lakhs in a year from such activity is permissible as per the amendment by the Finance Act, 2011. The institution can claim exemption subject to fulfillment of other conditions under sections 11 to 13.

(iii) The restriction regarding carrying on of a trading activity for a cess, fee or other consideration will not apply if the main object of the institution is "relief of the poor". Therefore, receipt of ₹ 30 lakhs from a trading activity by such an institution will not affect its "charitable" status. The institution can claim exemption subject to fulfillment of other conditions under sections 11 to 13.

3. INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

(a) Exemption of specified allowances and perquisites paid to Chairman or a retired Chairman or any other member or retired member of the UPSC [Section 10(45)]

(i) Under the Income-tax Act, 1961, perquisites and allowances received by an employee are taxable under the head "Salaries" unless they are specifically exempted.

(ii) New clause (45) has been inserted in section 10 to exempt specified allowances and perquisites received by Chairman or any other member, including retired Chairman/member, of the Union Public Service Commission (UPSC).

(iii) The exemption would be available in respect of such allowances and perquisites as may be notified by the Central Government in this behalf.

(Effective retrospectively from A.Y.2008-09)

Note – At present, tax exemption is available in respect of certain specified perquisites enjoyed by Chief Election Commissioner/Election Commissioner and judges of Supreme Court on account of the enabling provisions in the respective Acts which govern their service conditions.

(b) Exemption of specified income of notified entities not engaged in commercial activity [Section 10(46)]

Related amendment in section: 139(4C)

(i) New clause (46) has been inserted in section 10 to provide for exemption of income arising to a body or authority or Board or Trust or Commission, the nature and extent of which is to be specified by the Central Government.

(ii) For availing the benefit of exemption under this clause, the body or authority or Board or Trust or Commission should be set up or constituted by or under a Central, State or Provincial Act or constituted by the Central or State Government with the object of regulating or administering an activity for the benefit of the general public.

(iii) Further, the body or authority or Board or Trust or Commission should –

(1) not be engaged in any commercial activity;

(2) be notified by the Central Government in this behalf.

(iv) Section 139(4C) has been amended to require such body or authority or Board or Trust or Commission to furnish its return of income for the previous year in the prescribed form within the period specified under section 139(1), if its total income, without giving effect to the exemption under section 10(46), exceeds the basic exemption limit.

(Effective from 1st June, 2011)

(c) Exemption of income of notified infrastructure debt funds and concessional tax rate on interest received by non-residents from such fund [Section 10(47) & 115A]

Related amendment in sections: 194LB & 139(4C)

(i) In order to give a fillip to infrastructure and encourage inflow of long-term foreign funds to this sector, the Central Government to notify infrastructure debt funds to be set up in accordance with the prescribed guidelines, the income of which would be exempt from tax.

(ii) Interest income received by a non-resident or a foreign company from such fund would be subject to tax at a concessional rate of 5% under section 115A on the gross amount of such interest income as compared to tax @ 20% on other interest income of non-resident.

(iii) Accordingly, tax would be deductible @ 5% on interest paid/credited by such fund to a non-resident/foreign company. The person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax @5%. This is provided for in new section 194LB.

(iv) Section 139(4C) has been amended to require such infrastructure debt fund to furnish its return of income for the previous year in the prescribed form within the period specified under section 139(1), if its total income, without giving effect to the exemption under section 10(47), exceeds the basic exemption limit.

(Effective from 1st June, 2011)

4. PROFITS AND GAINS OF BUSINESS OR PROFESSION

(a) Increase in percentage of weighted deduction under section 35(2AA)

(i) Section 35(2AA) provides for a weighted deduction of 175% in respect of amount paid to National Laboratory, or a University or an IIT or specified person with a specific direction that such sum shall be used for the purpose of an approved scientific research programme.

(ii) The Finance Act, 2011 has increased the percentage of weighted deduction from 175% to 200% with effect from A.Y.2012-13.

(Effective from A.Y.2012-13)

Example

A Ltd. furnishes the following particulars for the P.Y.2011-12. Compute the deduction allowable under section 35 for A.Y.2012-13, while computing its income under the head "Profits and gains of business or profession".

	Particulars	₹
1.	*Amount paid to Indian Institute of Science, Bangalore, for scientific research*	*1,00,000*
2.	*Amount paid to IIT, Delhi for an approved scientific research programme*	*2,50,000*
3.	*Amount paid to X Ltd., a company registered in India which has as its main object scientific research and development, as is approved by the prescribed authority*	*4,00,000*
4.	*Expenditure incurred on in-house research and development facility as approved by the prescribed authority*	
(a)	*Revenue expenditure on scientific research*	*3,00,000*
(b)	*Capital expenditure (including cost of acquisition of land ₹ 5,00,000) on scientific research*	*7,50,000*

Answer

Computation of deduction under section 35 for the A.Y.2011-12

Particulars	₹	Section	% of weighted deduction	Amount of deduction (₹)
Payment for scientific research				
Indian Institute of Science	1,00,000	35(1)(ii)	175%	1,75,000
IIT, Delhi	*2,50,000*	*35(2AA)*	*200%*	*5,00,000*

X Ltd.	4,00,000	35(1)(iia)	125%	5,00,000
Expenditure incurred on in-house research and development facility				
Revenue expenditure	3,00,000	35(2AB)	200%	6,00,000
Capital expenditure (excluding cost of acquisition of land ₹ 5,00,000)	2,50,000	35(2AB)	200%	5,00,000
Deduction allowable under section 35				22,75,000

(b) Expansion of scope of "specified business" for provision of "investment-linked tax incentives" under section 35AD and for set-off of losses under section 73A

(i) At present, investment-linked tax incentives are available in respect of the following specified businesses, namely, –

- setting-up and operating 'cold chain' facilities for specified products;
- setting-up and operating warehousing facilities for storing agricultural produce;
- 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;
- building and operating a *new* hotel of two-star or above category, anywhere in India;
- building and operating a *new* hospital, anywhere in India, with at least 100 beds for patients;
- developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as the case may be, and notified by the CBDT in accordance with the prescribed guidelines.

(ii) 100% of the capital expenditure incurred during the previous year, wholly and exclusively for the above businesses would be allowed as deduction from the business income. However, expenditure incurred on acquisition of any land, goodwill or financial instrument would not be eligible for deduction.

(iii) Further, the expenditure incurred, wholly and exclusively, for the purpose of specified business prior to commencement of operation would be allowed as deduction during the previous year in which the assessee commences operation of his specified business. A condition has been inserted that such amount incurred prior to commencement should be capitalized in the books of account of the assessee on the date of commencement of its operations.

(iv) The Finance Act, 2011 has extended the investment-linked tax deduction under section 35AD to two new businesses –

(1) developing and building a housing project under a notified scheme for affordable housing framed by the Central Government or State Government; and

(2) production of fertilizer in India.

(v) One of the conditions is that the date of commencement of operations in the case of the two "specified businesses" of affordable housing projects and production of fertilizer in a new plant or in a newly installed capacity in an existing plant should be on or after 1st April, 2011.

(Effective from A.Y.2012-13)

(vi) In respect of the business of hotels and hospitals, the word "new" has been removed from the definition of "specified business". Therefore, "specified business" means the business of building and operating, anywhere in India, -

(1) a hotel of two-star or above category as classified by the Central Government;

(2) a hospital with at least one hundred beds for patients.

Consequently, the loss of an assessee claiming deduction under section 35AD in respect of a specified business can be set-off against the profit of another specified business under section 73A, irrespective of whether the latter is eligible for deduction under section 35AD. As assessee can, therefore, set-off the losses of a hospital or hotel which begins to operate after 1st April, 2010 and which is eligible for deduction under section 35AD, against the profits of the existing business of operating a hospital (with atleast 100 beds for patients) or a hotel (of two-star or above category), even if the latter is not eligible for deduction under section 35AD.

(Effective from A.Y.2011-12)

Example

XYZ Ltd. commenced operations of the business of a new three-star hotel in Madurai, Tamil Nadu on 1.4.2011. The company incurred capital expenditure of ₹ 50 lakh during the period January, 2011 to March, 2011 exclusively for the above business, and capitalized the same in its books of account as on 1st April, 2011. Further, during the P.Y.2011-12, it incurred capital expenditure of ₹ 2 crore (out of which ₹ 1.50 crore was for acquisition of land) exclusively for the above business. Compute the income under the head "Profits and gains of business or profession" for the A.Y.2012-13, assuming that XYZ Ltd. has fulfilled all the conditions specified for claim of deduction *under section 35AD and has not claimed any deduction under Chapter VI-A under the heading "C. – Deductions in respect of certain incomes". The profits from the business of running this hotel (before claiming deduction under section 35AD) for the A.Y.2012-13 is ₹ 25 lakhs. Assume that the company also has another existing business of running a four-star hotel in Coimbatore, which commenced operations 5 years back, the profits from which are ₹ 120 lakhs for the A.Y.2012-13.*

Answer

Particulars		₹
Profits from the specified business of new hotel in Madurai (before providing deduction under section 35AD)		25 lakh
Less: Deduction under section 35AD		
Capital expenditure incurred during the P.Y.2011-12 (excluding the expenditure incurred on acquisition of land) = ₹ 200 lakh – ₹ 150 lakh (See point no. (ii) above)	50 lakh	
Capital expenditure incurred prior to 1.4.2011 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2011 (See point no. (iii) above)	50 lakh	
Total deduction under section 35AD for A.Y.2012-13		100 lakh
Loss from the specified business of new hotel in Madurai		(75 lakh)
Profit from the existing business of running a hotel in Coimbatore		120 lakh
Net profit from business after set-off of loss of specified business against profits of another specified business under section 73A		45 lakh

(c) Employer's contribution to the account of the employee under a Pension Scheme referred to in section 80CCD to be deductible as a business expenditure [Section 36(1)(iva)]

Related amendment in sections : 40A(9) & 80CCE

(i) Clause (iva) has been inserted in section 36(1) to provide that the employer's contribution to the account of an employee under a Pension Scheme as referred to in section 80CCD would be allowed as deduction while computing business income.

(ii) However, the deduction would be restricted to 10% of salary of the employee in the previous year.

(iii) Salary, for this purpose, includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

(iv) Correspondingly, section 40A(9), which provides for disallowance of any sum paid by an employer towards contribution to any fund or trust has been amended to exclude from the scope of its disallowance, contribution by an employer to the pension scheme referred to in section 80CCD, to the extent to which deduction is allowable under section 36(1)(iva).

(v) Further, such contribution by the employer to the pension scheme, allowable as deduction under section 80CCD(2) in the hands of the employee, would now be outside the overall limit of ₹ 1 lakh stipulated under section 80CCE i.e. the employer contribution to pension scheme allowable as deduction under section 80CCD(2) in the hands of the employee would be in addition to the other investments which are subject to the overall limit of ₹ 1 lakh under section 80CCE.

(Effective from A.Y.2012-13)

Examples

(1) Computation of deduction in the hands of the employer in respect of contribution to pension scheme

X Ltd. contributes 20% of basic salary to the account of each employee under a pension scheme referred to in section 80CCD. Dearness Allowance is 40% of basic salary and it forms part of pay of the employees. Compute the amount of deduction allowable under section 36(1)(iva), if the basic salary of the employees aggregate to ₹ 10 lakh. Would disallowance under section 40A(9) be attracted, and if so, to what extent?

Answer

Computation of deduction allowable under section 36(1)(iva) and disallowance under section 40A(9)

Particulars	₹
Basic Salary	10,00,000
Dearness Allowance@40% of basic salary [DA forms part of pay]	4,00,000
Salary for the purpose of section 36(1)(iva) (Basic Salary + DA)	14,00,000
Actual contribution (20% of basic salary i.e., 20% of ₹ 10 lakh)	2,00,000
Less: Permissible deduction under section 36(1)(iva) (10% of basic salary plus dearness pay = 10% of ₹ 14,00,000 = ₹ 1,40,000)	1,40,000
Excess contribution disallowed under section 40A(9)	60,000

(2) Tax treatment of employer's and employee's contribution to pension scheme in the hands of the employee

The basic salary of Mr. A is ₹ 20,000 p.m. He is entitled to dearness allowance, which is 40% of basic salary. 50% of dearness allowance forms part of pay for retirement benefits. Both Mr. A and his employer contribute

15% of basic salary to the pension scheme referred to in section 80CCD. Explain the tax treatment in respect of such contribution in the hands of Mr. A.

Answer

Tax treatment in the hands of Mr.A in respect of employer's and own contribution to pension scheme referred to in section 80CCD

(a) Employer's contribution to such pension scheme would be treated as salary since it is specifically included in the definition of "salary" under section 17(1)(viii). Therefore, ₹ 36,000, being 15% of basic salary of ₹ 2,40,000, will be included in Mr. A's salary.

(b) Mr. A's contribution to pension scheme is allowable as deduction under section 80CCD(1). However, the deduction is restricted to 10% of salary. Salary, for this purpose, means basic pay plus dearness allowance, if it forms part of pay.

Therefore, salary for the purpose of deduction under section 80CCD, in this case, would be –

Particulars	₹
Basic salary = 20,000 × 12 =	2,40,000
Dearness allowance = 40% of ₹ 2,40,000 = ₹ 96,000	
50% of DA forms part of pay = 50% of ₹ 96,000	48,000
Salary for the purpose of deduction u/s 80CCD	2,88,000
Deduction u/s 80CCD(1) = 10% of ₹ 2,88,000	28,800
(as against actual contribution of ₹ 36,000, being 15% of basic salary of ₹ 2,40,000)	

₹ 28,800 is allowable as deduction under section 80CCD(1). This would be taken into consideration and be subject to the overall limit of ₹ 1 lakh under section 80CCE.

(c) Employer's contribution to pension scheme would be allowable as deduction under section 80CCD(2), subject to a maximum of 10% of salary. Therefore, deduction under section 80CCD(2), would also be restricted to ₹ 28,800, even though the entire employer's contribution of ₹ 36,000 is included in salary under section 17(1)(viii). However, this deduction of employer's contribution of ₹ 28,800 to pension scheme would be outside the overall limit of ₹ 1 lakh under section 80CCE i.e., this deduction would be over and above the other deductions which are subject to the limit of ₹ 1 lakh.

5. DEDUCTIONS FROM GROSS TOTAL INCOME

(a) Deduction for investment in long-term infrastructure bonds to continue for one more year [Section 80CCF]

(i) At present, there is cap of ₹ 1 lakh on the savings qualifying for deduction from gross total income, and this embraces all forms of eligible savings through different instruments, whether it be contribution to provident fund, public provident fund, pension fund, subscription to ELSS, NSC or payment of life insurance premium. This ceiling is provided in section 80CCE for the investments/contributions covered under section 80C, 80CCC & 80CCD(1).

(ii) In order to give a fillip to the infrastructure sector, section 80CCF was introduced last year to provide an additional deduction of up to ₹ 20,000 to individuals and HUFs exclusively for subscription to notified long-term infrastructure bonds during the financial year 2010-11. This deduction is over and above the deduction under section 80C, 80CCC and 80CCD(1), which is restricted to ₹ 1 lakh under section 80CCE.

(iii) The Central Government has notified the long-term infrastructure bonds, subscription to which would qualify for deduction under section 80CCF, i.e., subscription to long-term infrastructure bonds of Industrial Finance Corporation of India, Life Insurance Corporation of India, Infrastructure Development Finance Company Limited and a Non Banking Finance Company classified as an Infrastructure Finance Company by the Reserve Bank of India. Further, subscription to long-term infrastructure bonds of India Infrastructure Finance Company Ltd. would also qualify for deduction under section 80CCF.

(iv) This benefit of additional deduction of ₹ 20,000 under section 80CCF for investment in notified long-term infrastructure bonds has now been extended for one more year i.e. A.Y. 2012-13.

(Effective for A.Y.2012-13)

Example

The gross total income of Mr.X for the A.Y.2012-13 is ₹5,00,000. He has made the following investments/payments during the F.Y.2011-12 -

	Particulars	*₹*
(1)	*Contribution to PPF*	*70,000*
(2)	*Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI*	*45,000*
(3)	*Repayment of housing loan taken from Standard Chartered Bank*	*25,000*
(4)	*Contribution to approved pension fund of LIC*	*10,000*
(5)	*Subscription to IDFC long-term infrastructure bonds*	*25,000*

Compute the eligible deduction under Chapter VI-A for the A.Y.2012-13.

Answer

Computation of deduction under Chapter VI-A for the A.Y.2012-13

Particulars		₹
Deduction under section 80C		
(1)	Contribution to PPF	70,000
(2)	Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45,000
(3)	Repayment of housing loan	25,000
		1,40,000
Deduction under section 80CCC		
(4)	Contribution to approved pension fund of LIC	10,000
		1,50,000
As per section 80CCE, the aggregate deduction under section 80C, 80CCC and 80CCD(1) has to be restricted to ₹ 1 lakh		1,00,000
Deduction under section 80CCF		
(5)	Subscription to notified long-term infrastructure bonds of IDFC, ₹ 25,000, but restricted to ₹ 20,000, being the maximum deduction allowable under section 80CCF	20,000
Deduction allowable under Chapter VIA for the A.Y.2012-13		1,20,000

(b) **Extension of sunset clause for tax holiday under section 80-IA for power-sector undertakings [Section 80-IA(4)(iv)]**

Section 80-IA(4)(iv) provides for deduction in respect of profits and gains derived by an undertaking which –

(1) is set up in India for generation or generation and distribution of power, if it begins to generate power on or before 31st March, 2011;

(2) starts transmission or distribution by laying a network of new transmission or distribution lines on or before 31st March, 2011;

(3) undertakes substantial renovation and modernization of the existing network of transmission or distribution lines on or before 31st March 2011.

This time limit has been extended by one year i.e., from 31st March, 2011 to 31st March, 2012, to enable undertakings which start generation, or transmission or distribution of power during the period between 1st April, 2011 and 31st March, 2012 or which undertakes substantial renovation and modernization of the existing network of transmission or distribution lines between 1st April, 2011 and 31st March, 2012 to avail benefit of deduction under this section.

(Effective from A.Y.2012-13)

(c) **Sunset clause for tax holiday in respect of certain undertakings engaged in commercial production of mineral oil [Section 80-IB(9)]**

(i) For the purposes of claiming deduction under sub-section (9), all blocks licensed under a single contract, which has been awarded -

(1) under the New Exploration Licencing Policy announced by the Government of India vide Resolution No.O-19018/22/95-ONG.DO.VL, dated 10.2.1999 or

(2) in pursuance of any law for the time being in force or

(3) by Central or a State Government in any other manner

shall be treated as a single "undertaking".

(ii) An undertaking which is located in any part of India and engaged in commercial production of mineral oil is eligible for a seven-year profit linked deduction under section 80-IB(9), if it has begun commercial production on or after 1.4.1997. So far, no sunset clause has been provided for such business.

(iii) A sunset clause for tax holiday in respect of certain undertakings engaged in commercial production of mineral oil has now been inserted. Accordingly, the above deduction for commercial production of mineral oil will not be available for blocks licensed under a contract awarded after 31.3.2011 under the New Exploration Licencing Policy or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner.

(Effective from A.Y.2012-13)

6. TRANSFER PRICING

(a) **Permissible variation between ALP and transfer price to be such percentage of the transfer price, as may be notified by the Central Government [Section 92C]**

(i) Section 92C requires application of the most appropriate method for determination of arm's length price (ALP). Where more than one price is determined by the most appropriate method, the ALP shall be the arithmetical mean of such prices. However, if the ALP so determined is within 5% of the transfer price, then no adjustment is required to be made and the transfer price would be deemed to be the ALP of the international transaction.

(ii) The permissible variation at a standard rate of 5% of the transfer price for all segments of business activity and range of international transactions has been substituted by such percentage of the transfer price, as may be notified by the Central Government in this behalf [Second proviso to section 92C(2)].

(iii) The Central Government may, therefore, prescribe the rate of permissible variation for different segments of business activity and class of international transactions.

(Effective from A.Y.2012-13)

(b) Broadening the scope of powers of Transfer Pricing Officer (TPO) [Section 92CA (2A) & (7)]

The powers of the TPO under section 92CA have been extended to empower him to -

(i) determine the arm's length price of other international transactions, identified subsequently in course of proceedings before him. So far, his powers were restricted to determining the ALP of international transactions referred to him by the Assessing Officer.

(ii) conduct a survey by exercising the powers conferred upon an income-tax authority under section 133A for the purpose of determining the ALP.

(Effective from 1st June, 2011)

(c) Introduction of specific anti-avoidance measures in respect of transactions with persons located in notified jurisdictional area [New Section 94A]

The objective of the introduction of anti-avoidance measures is to discourage assessees from entering into transactions with persons located in countries or territories which do not have effective information exchange mechanism with India. The following are the anti-avoidance measures introduced -

(i) The Central Government empowered to notify any such country or territory outside India as a NJA (Notified Jurisdictional Area), having regard to the lack of effective exchange of information with such country or territory.

(ii) A transaction where one of the parties thereto is a person located in a NJA would be deemed to be an international transaction and all parties to the transaction to be deemed as associated enterprises, and accordingly, all the provisions of transfer pricing to be attracted in case of such a transaction. However, the benefit of permissible variation between the ALP and the transfer price [provided for in the second proviso to section 92C(2)] based on the rate notified by the Central Government would not be available in respect of such transaction.

(iii) Such transaction may be in the nature of –

(1) purchase, sale or lease of tangible or intangible property or

(2) provision of service or

(3) lending or borrowing money or

(4) any other transaction having a bearing on the profits, income, losses or assets of the assessee. It may include a mutual agreement or arrangement for allocation or apportionment of, or contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided by or to the assessee.

(iv) Person located in a NJA shall include a person who is a resident of the NJA and a person, not being an individual, which is established in the NJA. It would also include a permanent establishment of any other person in the NJA.

(v) Payments made to any financial institution located in a NJA would not be allowed as deduction unless the assessee authorizes the CBDT or any other income-tax authority acting on its behalf to seek relevant information from the financial institution on behalf of the assessee.

(vi) No deduction in respect of any other expenditure or allowance, including depreciation, arising from the transaction with a person located in a NJA would be allowed unless the assessee maintains the relevant documents and furnishes the prescribed information.

(vii) Any sum credited or received from a person located in a NJA to be deemed to be the income of the recipient-assessee if he does not explain satisfactorily the source of such money in the hands of such person or in the hands of the beneficial owner, if such person is not the beneficial owner.

(viii) The rate of TDS in respect of any payment made to a person located in the NJA, on which tax is deductible at source, will be the higher of the following rates –

(1) rates specified in the relevant provision of the Income-tax Act, 1961; or

(2) rate or rates in force; or

(3) 30%.

(Effective from 1st June, 2011)

Examples

(1) A Ltd., an Indian company, provides technical services to a company, XYZ Inc., located in a NJA for a consideration of ₹ 20 lakhs in October, 2011. It charges ₹ 24 lakhs and ₹ 26 lakhs for similar services rendered to PQR Inc. and MNO Inc., respectively, which are not located in a NJA. PQR Inc. and MNO Inc. are not associated enterprises of A Ltd.

Assuming that the variation notified by the Central Government for such class of international transactions is 8% of the transaction price, discuss the tax implications under section 94A read with section 92C in respect of the above transaction of provision of technical services by A Ltd. to XYZ Inc.

Answer

Since XYZ Inc. is located in a NJA, the transaction of provision of technical services by the Indian company, A Ltd., would be deemed to be an international transaction and XYZ Inc. and A Ltd. would be deemed to be associated enterprises. Therefore, the provisions of transfer pricing would be attracted in this case.

The prices of ₹ 24 lakhs and ₹ 26 lakhs charged for similar services from PQR

Inc and MNO Inc, respectively, being independent entities located in a non-NJA country, can be taken into consideration for determining the arm's length price (ALP) under Comparable Uncontrolled Price (CUP) Method.

Since more than one price is determined by the CUP Method, the ALP would be the arithmetical mean of such prices.

Therefore, the ALP = ₹ 25,00,000 i.e., (24,00,000+26,00,000)/2

Transfer price = ₹ 20,00,000

Since the ALP is more than the transfer price, the ALP of ₹ 25 lakhs would be considered as the income arising from the international transaction between A Ltd. and XYZ Inc.

It may be noted that the benefit of permissible variation between the ALP and the transfer price at the rate notified by the Central Government for a particular class of international transaction would not be available where transfer pricing provisions are attracted under section 94A. Therefore, it is not necessary to determine the impact, if any, of such permissible variation.

(2) *Mr.X, a non-resident individual, is due to receive interest of ₹ 5 lakhs during March 2012 from a notified infrastructure debt fund eligible for exemption under section 10(47). He incurred expenditure amounting to ₹ 10,000 for earning such income. Assuming that Mr.X is a resident of a NJA, discuss the tax implications under section 94A, read with sections 115A and 194LB.*

Answer

The interest income received by Mr.X, a non-resident, from a notified infrastructure debt fund would be subject to a concessional tax rate of 5% under section 115A on the gross amount of such interest income. Therefore, the tax liability of Mr.X in respect of such income would be ₹ 25,750 (being 5% of ₹ 5 lakhs plus education cess@2% and SHEC@1%).

Under section 194LB, tax is deductible @5% on interest paid by such fund to a non-resident. However, since X is a resident of a NJA, tax would be deductible@30% as per section 94A, and not@ 5% specified under section 194LB. This is on account of the provisions of section 94A(5), which provides that "Notwithstanding anything contained in any other provision of this Act, where a person located in a NJA is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVII-B, the tax shall be deducted at the highest of the following rates, namely –

(a) at the rate or rates in force;

(b) at the rate specified in the relevant provision of the Act;

(c) at the rate of thirty per cent."

7. ASSESSMENT OF VARIOUS ENTITIES

(a) Marginal increase in rate of MAT to maintain the effective rate of MAT [Section 115JB]

(i) Section 115JB provides that in the case of a company, where 18% of its book profit exceeds the tax on its total income, then the book profit shall be deemed to be the total income and the tax payable on such total income shall be 18% thereof.

(ii) The rate of MAT has been increased from 18% to 18.5% of book profits, to offset the reduction in surcharge from 7.5% to 5% in the case of domestic companies and 2.5% to 2% in the case of foreign companies and to maintain the effective rate of MAT.

(iii) With effect from A.Y.2012-13, if tax on the total income of a company is less than 18.5% of its book profit, then MAT provisions are attracted and the book profit is deemed to be the total income and tax is payable @ 18.5% thereof.

(Effective from A.Y.2012-13)

(b) Concessional rate of tax on dividends received by Indian companies from specified foreign companies [New Section 115BBD]

(i) Dividends received by Indian companies from specified foreign companies to be subject to a concessional rate of 15% as against the existing rate of 30%.

(ii) This rate of 15% would be applied on gross dividend, in the sense, that no expenditure would be allowable in respect of such dividend.

(iii) However, this concessional rate would not be applicable in respect of dividend received from a foreign company in which the holding of the Indian company is less than 26% of the nominal value of the equity share capital.

(iv) Therefore, if the total income of an Indian company, includes income by way of dividend declared, distributed or paid by a specified foreign company, the income tax payable would be the aggregate of –

(a) Income-tax @15% on gross dividend from such specified foreign company; and

(b) Income-tax with which the assessee would have been chargeable had its total income been reduced by such dividend.

(v) Specified foreign company means a foreign company in which the Indian company holds 26% or more in nominal value of the equity share capital of the company.

(Effective from A.Y.2012-13)

Example

A Ltd., an Indian company, receives the following dividend income during the P.Y.2011-12 -

(1) *from shares held in XYZ Inc., a foreign company, in which it holds 25% of nominal value of equity share capital – ₹ 80,000;*

(2) *from shares held in PQR Inc., a foreign company, in which it holds 30% of nominal value of equity share capital – ₹ 1,85,000.*

(3) *from shares held in Indian companies – ₹ 90,000.*

A Ltd. has paid remuneration of ₹ 18,000 for realising dividend, the break up of which is as follows –

(1) *₹ 4,000 (XYZ Inc.)*

(2) *₹ 9,000 (PQR Inc.)*

(3) *₹ 5,000 (Indian companies)*

The business income of A Ltd. computed under the provisions of the Act is ₹ 40 lakh. Compute the total income and tax liability of A Ltd., ignoring MAT.

Answer

Computation of total income of A Ltd.

Particulars	₹
Profits and gains of business or profession	40,00,000
Income from other sources *(See Note below)*	2,61,000
Total income	42,61,000

Note – Dividend income taxable under "Income from other sources"

Particulars	₹
From XYZ Inc. – net dividend (i.e., ₹ 80,000 – ₹ 4,000) is taxable at normal rates	76,000
From PQR Inc. – gross dividend is taxable@15% u/s 115BBD [no deduction is allowable in respect of any expenditure as per section 115BBD(2)]	1,85,000
From shares in Indian companies ₹ 90,000 – exempt under section 10(34) since dividend distribution tax would have been paid under section 115-O [As per section 14A, no deduction is allowable in respect of expenditure incurred to earn exempt income]	Nil
	2,61,000

Computation of tax liability of A Ltd.

Particulars	₹
Tax@15% under section 115BBD on ₹ 1,85,000 (gross dividend)	27,750
Tax@30% on balance income of ₹ 40,76,000	12,22,800

	12,50,550
Add: Education cess@2% and Secondary and higher education cess@1%	37,517
Tax liability	12,88,067

(c) Sunset for MAT exemption for SEZ Developers and units and for dividend distribution tax (DDT) exemption for SEZ Developers [Section 115-O & 115-JB]

Related amendment in section: 10(34)

(i) SEZ Developers were entitled to exemption from applicability of MAT and DDT and units in SEZ were entitled to exemption from applicability of MAT.

(ii) Section 10(34) provides for exemption of dividend referred to in section 115-O in the hands of the recipient. *Explanation* to section 10(34) clarifies that dividend referred to in section 115-O shall not be included in the total income of the assessee, being a Developer or entrepreneur.

(iii) A sunset clause has now been introduced to remove MAT exemption w.e.f. A.Y.2012-13 and remove DDT exemption for dividends declared, distributed or paid on or after 1st June, 2011.

(iv) Since DDT would be levied under section 115-O on dividends declared, distributed or paid on or after 1.6.2011, such income would be exempt in the hands of the recipient under section 10(34). Further, dividend income received by an SEZ Developer or entrepreneur would also be exempt under section 10(34), since the same would have been subject to DDT under section 115-O.

(v) Therefore, the clarificatory Explanation to section 10(34) has also been omitted w.e.f. 1.6.2011, since the dividend income would be exempt in the hands of the recipient under the main section 10(34) itself.

Note - *Since DDT exemption has been removed only with effect from 1st June, 2011, such exemption would be available to SEZ Developers in respect of dividend declared, distributed or paid upto 31st May, 2011. It is possible to take a view that DDT would not be attracted in respect of dividend declared on or before 31st May, 2011, even if the same is paid after that date.*

(d) Increase in rate of additional income-tax on income distributed by a debt fund to a person other than an individual or HUF [Section 115R]

(i) The rate of additional income-tax on income distributed by a debt fund to a person other than individual or HUF has been increased to 30% w.e.f. 1.6.2011.

(ii) However, the rate of tax on income distributed by such fund to an individual or HUF would remain the same.

(iii) Further, distribution of income by an equity-oriented fund would continue to be exempt from tax.

(iv) The rates of additional income-tax on income distributed by a mutual fund are summarized as under -

Particulars	Where recipient is an individual/HUF	Where recipient is any other person
Distribution by a money market mutual fund or a liquid fund	25%	25% (upto 31.5.2011) 30% (w.e.f. 1.6.2011)
Distribution by a debt fund other than a money market mutual fund or a liquid fund	12.5%	20% (upto 31.5.2011) 30% (w.e.f. 1.6.2011)
Distribution by an equity-oriented fund	Exempt	Exempt

(e) Levy of Alternate Minimum Tax (AMT) on LLPs [New Chapter XII-BA – Sections 115JC to 115JF]

(i) LLPs to be subject to Alternate Minimum Tax @ 18.5%.

(ii) Though the concept of Alternate Minimum Tax (AMT) is similar to MAT in case of corporates, however, the tax base in the case of LLPs would be the adjusted total income computed as per the Income-tax Act, 1961 and not the book profit computed after making the specified adjustments to the profit as per the profit and loss account prepared in accordance with Schedule VI to the Companies Act, 1956.

(iii) Where the regular income-tax payable by an LLP for a previous year computed as per the provisions of the Income-tax Act, 1961 (other than Chapter XII-BA) is less than the AMT payable for such previous year, the adjusted total income shall be deemed to be the total income of the LLP. The LLP shall be liable to pay income-tax on the adjusted total income @ 18.5% [Section 115JC].

(iv) "Adjusted total income" would mean the total income before giving effect to Chapter XII-BA as increased by the deductions claimed under –

(1) any section included in Chapter VI-A under the heading "C – Deductions in respect of certain incomes"; and

(2) section 10AA.

(v) Such LLPs to which this section applies should obtain a report in the prescribed form from a Chartered Accountant certifying that the adjusted total income and the AMT have been computed in accordance with the provisions of this Chapter. The LLP has to furnish such report on or before the due date of filing of return under section 139(1).

(vi) Section 115JE specifically provides that "save as otherwise provided in this Chapter, all other provisions of this Act shall apply to a LLP referred to in this Chapter". Hence, all other provisions relating to advance tax, interest under sections 234A, 234B and 234C, penalty etc. would also apply to a LLP which is subject to AMT.

Tax credit for AMT [Section 115JD]

(vii) AMT paid in excess of income-tax payable under the normal provisions of the Income-tax Act, 1961 for any year would be eligible for credit to be carried forward and set-off against income-tax payable in the later year to the extent of excess of income-tax payable under the regular provisions over the AMT payable in that year. The balance tax credit, if any, shall be carried forward to the next year for set-off in that year in a similar manner.

(viii) AMT credit can be carried forward for set-off upto a maximum period of 10 assessment years succeeding the assessment year in which the credit becomes allowable.

(ix) No interest shall, however, be payable on such tax credit.

(x) If the amount of regular income-tax or AMT is reduced or increased as a result of any order passed under the Income-tax Act, 1961, the amount of tax credit allowed under section 115JD would also vary accordingly.

(Effective from A.Y.2012-13)

Example

XYZ LLP has income of ₹ 12 lakhs under the head "Profits and gains of business or profession". One of its businesses is eligible for deduction@100% of profits under section 80-IB for A.Y.2012-13. The profit from such business included in the business income is ₹ 5 lakhs. Compute the tax payable by the LLP, assuming that it has no other income during the P.Y.2011-12.

Answer

Computation of regular income-tax payable under the provisions of the Act

Particulars	₹
Profits and gains of business or profession	12,00,000
Less: Deduction under section 80-IB	5,00,000
Total Income	7,00,000
Tax payable = 7,00,000 × 30% =	2,10,000

Computation of Alternate Minimum Tax (AMT)

Particulars	₹
Total Income as per the Income-tax Act, 1961	7,00,000
Add: Deduction under section 80-IB	5,00,000
Adjusted Total Income	12,00,000
AMT = 18.5% × 12,00,000 =	2,22,000

Since the regular income-tax payable as per the provisions of the Act is less than the AMT, the adjusted total income of ₹ 12 lakhs would be deemed to be the total income of the LLP and the LLP would be liable to pay tax@18.5% thereof. The tax payable by the LLP for the A.Y.2012-13 would, therefore, be ₹ 2,22,000 plus education cess@2% and secondary and higher education cess@1%, totaling ₹ 2,28,660.

The LLP would be eligible for credit to the extent of ₹ 12,360 [₹ 2,28,660 – ₹ 2,16,300 (i.e. 2,10,000 + 3% cess)] to be set-off in the year in which tax on total income computed under the regular provisions of the Act exceeds the AMT.

8. INCOME TAX AUTHORITIES

Powers for facilitating collection of information on requests from tax authorities outside India [Section 131]

Related amendment in sections: 133, 153 & 153B

(i) Under section 131(1), certain income-tax authorities have the same powers as are vested in a court under the Code of Civil Procedure, 1908, while trying a suit in respect of discovery and inspection, enforcing the attendance of any person and examining him on oath, compelling the production of books of account and other documents and issuing commissions.

(ii) Further, section 131(3) confers power to impound and retain in their custody, books of account or other documents produced in any proceeding under the Act.

(iii) For facilitating quick collection of information on request from tax authorities outside India, notified income-tax authorities (not below the rank of Assistant Commissioner of Income-tax) to now have powers under section 131(1) for making an inquiry or investigation in respect of any person or class of persons relating to an agreement for exchange of information under section 90 or 90A, even if no proceeding is pending before it or any other income-tax authority with respect to the concerned person or class of persons. Such notified authorities to also have the powers under section 131(3) to impound and retain in their custody for such period as they think fit, any books of account or other documents produced before them in any proceeding under the Act.

(iv) Such notified authorities are also empowered, for the purposes of an agreement referred to in section 90 or section 90A, to exercise the powers conferred under section 133 to call for information, irrespective of whether any proceedings are pending before it or any other income-tax authority.

(v) The time limits for completion of assessments and reassessments are provided for in section 153. Section 153B provides for the time limit for completion of assessment under section 153A in case of search or requisition. The periods to be specifically excluded for computing these time limits are provided in Explanation 1 to section 153 and Explanation to section 153B, respectively. Clause (viii) has been inserted in the said Explanations to exclude the time taken in obtaining information from the tax authorities in jurisdictions situated outside India (under an agreement referred to in section 90 or section 90A) from the prescribed time limit for completion of assessments/reassessments under section 153/153B. Accordingly, the period beginning with the date on which a reference for exchange of information is made and ending with the date on which the information is received by the Commissioner or a period of six months, whichever is less, is excluded for computing the above time limits.

(Effective from 1st June, 2011)

9. ASSESSMENT PROCEDURE

(a) **Extension of due date for filing of transfer pricing report and return of income of corporate assessees undertaking international transactions [Section 139(1)]**

(i) The due date for filing of a transfer pricing report under the provisions of section 92E in Form 3CEB and filing of return of income of corporate assessees who have undertaken international transactions during the relevant previous year has been extended from 30th September to 30th November of the assessment year, on account of the practical difficulties in accessing contemporary comparable data before 30th September.

(ii) Consequently, the due date within which the sums referred to in section 43B have to be actually paid to escape disallowance under that section would be 30th November of the assessment year in case of such companies.

(iii) Similarly, the tax deducted at source at any time during the year by such companies can be deposited on or before the extended due date of 30th November of the assessment year, to avoid disallowance under section 40(a)(ia).

(iv) The extension of due date for filing of return would, however, not be applicable to non-corporate assessees who have undertaken international transactions during the relevant previous year.

(Effective from A.Y. 2011-12)

(b) **Specified class or classes of persons to be exempted from filing return of income [Section 139(1C)]**

Related amendment in section: 296

(i) Under section 139(1), every person has to furnish a return of his income on or before the due date, if his total income exceeds the basic exemption limit.

(ii) For reducing the compliance burden of small taxpayers, the Central Government has been empowered to notify the class or classes of persons who will be exempted from the requirement of filing of return of income, subject to satisfying the prescribed conditions. This has been provided for in new clause (1C) of section 139.

(iii) Every notification issued under section 139(1C) shall, as soon as may be after its issue, be laid before each House of Parliament while it is in session, for a total period of thirty days. If both Houses agree in making any modification in the notification, the notification will thereafter have effect only in such modified form. If both Houses agree that the notification should not be issued, the notification shall thereafter have no effect.

(Effective from 1st June, 2011)

(c) Time limit extended for issue of notification for relaxation, modification or adaptation of any provision of law to facilitate centralized processing of returns [Section 143(1B)]

(i) Sub-section (1A) of section 143 empowers the CBDT to make a scheme for centralized processing of returns with a view to expeditiously determine the tax payable by, or refund due to, the assessee.

(ii) A Centralised Processing Centre (CPC) has been set-up at Bangalore for centralised processing of income-tax returns to determine the tax payable by, or the refund due to, the assessee in a quick manner.

(iii) Section 143(1B) provides that the Central Government may relax, modify or adapt any provision of law relating to processing of returns subject to the condition that the notification for such relaxation, modification or adaptation is issued on or before 31st March, 2011 and the said notification is laid before each House of Parliament.

(iv) The time limit for issue of notification has been extended by one more year i.e. up to 31st March, 2012, to relax, modify or adapt any provision of law relating to processing of returns.

(Effective from 1st April, 2011)

10. SETTLEMENT COMMISSION

(a) Threshold limit for "additional amount of income-tax payable on income disclosed in the application" for admission of a case by an entity related to the tax-payer who is the subject matter of search [Section 245C]

(i) Last year, section 245A was amended to provide that the proceedings for assessment or reassessment resulting from search/requisition would fall within the definition of a "case" which can be admitted by the Settlement Commission.

(ii) Consequent amendment was made in section 245C to provide that the additional amount of income-tax payable on income disclosed in the application should exceed ₹ 50 lakh, for an application to be made before the Settlement Commission in such cases.

(iii) Therefore, if proceedings have been initiated against the applicant (hereinafter referred to as specified person) under section 153A or under section 153C as a result of search or a requisition of books of account, an application can be made before the Settlement Commission if the additional amount of income-tax payable on the income disclosed in the application exceeds ₹ 50 lakh.

(iv) The Finance Act, 2011 has now provided that an application can also be made, where the applicant is related to the specified person (mentioned in (iii) above) and in whose case also proceedings have been initiated as a result of search, provided the additional income-tax payable on the income disclosed in the application exceeds ₹ 10 lakh.

(v) Therefore, the limit of ₹ 50 lakh would be applicable to the tax payer who is the subject matter of search and the limit of ₹ 10 lakh would be applicable to entities related to such a tax payer, who are also the subject matter of search.

(vi) The applicant, in relation to the specified person, means –

	Specified person		Related entity
(i)	Individual	(1)	Relative of the individual
		(2)	Any person who has substantial interest in the business or profession of the individual. In addition, the following are also considered as related entity - · If such person is an individual, any relative of such individual. · If such person is a company, any director of such company or any relative of such director. · If such person is a firm, any partner of such firm, or any relative of such partner. · If such person is an AOP or HUF, any member of the AOP or HUF, or any relative of such member.
		(3)	A company, whose director has a substantial interest in the business or profession of the individual; Any director of such company; Any relative of such director.
		(4)	A firm, whose partner has a substantial interest in the business or profession of the individual; Any partner of such firm; Any relative of such partner.
		(5)	An AOP, whose member has a substantial interest in the business or profession of the individual;

			Any member of such AOP;
			Any relative of such member.
		(6)	A HUF, whose member has a substantial interest in the business or profession of the individual;
			Any member of such HUF;
			Any relative of such member.
		(7)	Where the individual or his relative has a substantial interest in a business or profession carried on by any other person, the person who carries on such business or profession.
(ii)	Company	(1)	Director of the company or any relative of such director
		(2)	Any person who has substantial interest in the business or profession of the company. In addition, the following are also considered as related entity - · If such person is an individual, any relative of such individual. · If such person is a company, any director of such company or any relative of such director. · If such person is a firm, any partner of such firm, or any relative of such partner. · If such person is an AOP or HUF, any member of the AOP or HUF, or any relative of such member.
		(3)	A company, whose director has a substantial interest in the business or profession of this company;
			Any director of such company;
			Any relative of such director.
		(4)	A firm, whose partner has a substantial interest in the business or profession of the company;
			Any partner of such firm;
			Any relative of such partner.
		(5)	An AOP, whose member has a substantial interest in the business or profession of the company;

			Any member of such AOP; Any relative of such member.
		(6)	A HUF, whose member has a substantial interest in the business or profession of the company; Any member of such HUF; Any relative of such member.
		(7)	Where the company or its director or relative of such director has a substantial interest in a business or profession carried on by any other person, the person who carries on such business or profession.
(iii)	Firm	(1)	Partner of the firm or any relative of such partner
		(2)	Any person who has substantial interest in the business or profession of the firm. In addition, the following are also considered as related entity - · If such person is an individual, any relative of such individual. · If such person is a company, any director of such company or any relative of such director. · If such person is a firm, any partner of such firm, or any relative of such partner. · If such person is an AOP or HUF, any member of the AOP or HUF, or any relative of such member.
		(3)	A company, whose director has a substantial interest in the business or profession of the firm; Any director of such company; Any relative of such director.
		(4)	A firm, whose partner has a substantial interest in the business or profession of this firm; Any partner of such firm; Any relative of such partner.
		(5)	An AOP, whose member has a substantial interest in the business or profession of the firm; Any member of such AOP; Any relative of such member.

		(6)	A HUF, whose member has a substantial interest in the business or profession of the firm; Any member of such HUF; Any relative of such member.
		(7)	Where the firm or its partner or relative or such partner has a substantial interest in a business or profession carried on by any other person, the person who carries on such business or profession.
(iv)	AOP	(1)	Member of AOP or any relative of such member
		(2)	Any person who has substantial interest in the business or profession of the AOP. In addition, the following are also considered as related entity - · If such person is an individual, any relative of such individual. · If such person is a company, any director of such company or any relative of such director. · If such person is a firm, any partner of such firm, or any relative of such partner. · If such person is an AOP or HUF, any member of the AOP or HUF, or any relative of such member.
		(3)	A company, whose director has a substantial interest in the business or profession of the AOP; Any director of such company; Any relative of such director.
		(4)	A firm, whose partner has a substantial interest in the business or profession of the AOP; Any partner of such firm; Any relative of such partner.
		(5)	An AOP, whose member has a substantial interest in the business or profession of this AOP; Any member of such AOP; Any relative of such member.
		(6)	A HUF, whose member has a substantial interest in the business or profession of the AOP;

			Any member of such HUF;
			Any relative of such member.
		(7)	Where the AOP or its member or relative of such member has a substantial interest in a business or profession carried on by any other person, the person who carries on such business or profession.
(v)	HUF	(1)	Member of HUF or relative of such member
		(2)	Any person who has substantial interest in the business or profession of the HUF. In addition, the following are also considered as related entity - · If such person is an individual, any relative of such individual. · If such person is a company, any director of such company or any relative of such director. · If such person is a firm, any partner of such firm, or any relative of such partner. · If such person is an AOP or HUF, any member of the AOP or HUF, or any relative of such member.
		(3)	A company, whose director has a substantial interest in the business or profession of the HUF;
			Any director of such company;
			Any relative of such director.
		(4)	A firm, whose partner has a substantial interest in the business or profession of the HUF;
			Any partner of such firm;
			Any relative of such partner.
		(5)	An AOP, whose member has a substantial interest in the business or profession of the HUF;
			Any member of such AOP;
			Any relative of such member.
		(6)	A HUF, whose member has a substantial interest in the business or profession of this HUF;
			Any member of such HUF;
			Any relative of such member.

		(7)	Where the HUF or its member or relative of such member has a substantial interest in a business or profession carried on by any other person, the person who carries on such business or profession.

(vi) A person shall be deemed to have a substantial interest in a business or profession, if –

(i) in a case where the business or profession is carried on by a company, such person is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits) carrying not less than 20% of the voting power.

(ii) in any other case, such person is beneficially entitled to not less than 20% of the profits of such business or profession.

Such beneficial ownership/beneficial entitlement may be at any time during the previous year.

(Effective from 1st June, 2011)

(b) Settlement Commission specifically empowered to amend any order to rectify a mistake apparent from record within six months from date the of its order [Section 245D(6B)]

(i) Section 245D(4) stipulates that the Settlement Commission shall pass an order after giving an opportunity of being heard to the applicant and the Commissioner.

(ii) Under section 245F(1), the Settlement Commission has been conferred all the powers which are vested in an income-tax authority under the Act. Under section 154, an income-tax authority has the power to amend any order passed by it in order to rectify any mistake apparent from the record.

(iii) However, there are High Court rulings holding that the order made by the Settlement Commission is conclusive and final and therefore, the same cannot be rectified under section 154. However, this view does not convey the true legislative intent.

(iv) Therefore, in order to reflect the correct intention of the legislature, sub-section (6B) has been inserted in section 245D to specifically provide that the Settlement Commission may amend any order passed by it under section 245D(4) to rectify any mistake apparent from the record.

(v) However, the time limit for effecting such amendment is within six months from the date of its order, as against the permissible time limit of four years provided for under section 154(7).

(vi) Further, the Settlement Commission should not make a rectification which has the effect of modifying the liability of the applicant, without –

(1) giving a notice to the applicant and the Commissioner of its intention to do so; and

(2) allowing the applicant and the Commissioner an opportunity of being heard.

(Effective from 1st June, 2011)

Note – *Similar amendment has been effected by inserting sub-section (6B) in section 22 of the Wealth-tax Act, 1957 to provide that that the Settlement Commission may amend any order passed by it under section 22D(4) to rectify any mistake apparent from the record within a period of six months from the date of the order. However, the Settlement Commission should not make a rectification which has the effect of modifying the liability of the applicant, without –*

(1) giving a notice to the applicant and the Commissioner of its intention to do so; and

(2) allowing the applicant and the Commissioner an opportunity of being heard.

11. MISCELLANEOUS PROVISIONS

(a) Omission of the requirement to quote DIN [Section 282B]

(i) In order to improve the standards of service and transparency in the functioning of the Income-tax Department, a computer based system of allotment and quoting of Document Identification Number (DIN) in each correspondence sent or received by the Income-tax Department was proposed to be introduced with effect from 1st October, 2010 to facilitate tracking of documents and alleviate the taxpayers grievances.

(ii) Accordingly, section 282B was inserted by the Finance (No.2) Act, 2009, to provide that every income-tax authority shall allot a computer generated DIN in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon. Further, every document, letter or any correspondence, received by an income-tax authority or on behalf of such authority, shall be accepted only after allotting and quoting of a computer generated DIN.

(iii) The date for implementation of the DIN was extended to 1st July, 2011 by the Finance Act, 2010.

(iv) The Finance Act, 2011 has, however, omitted section 282B considering the practical difficulties due to non-availability of the requisite infrastructure on an all India basis.

(Effective from 1st April, 2011)

(b) Non-resident having liaison office required to submit statement in prescribed form to the Assessing Officer [New Section 285]

(i) A non-resident can operate in India through a branch or a liaison office set up after getting the approval of the Reserve Bank of India. Since the branch constitutes a permanent establishment of the non-resident, it has to file its return of income.

However, there is no such requirement as regards a liaison office since no business activity is allowed to be carried out in India via a liaison office of a non-resident.

(ii) With effect from 1.6.2011, such a non-resident would be required to file a statement in the prescribed form to the Assessing Officer having jurisdiction, within 60 days from the end of the financial year, providing the details in respect of activities carried out by the liaison office in India during the financial year.

(iii) This requirement has to be complied with by every person, being a non-resident having a liaison office in India set up in accordance with the guidelines issued by the RBI under the Foreign Exchange Management Act, 1999.

(iv) Since the provision has been made effective from 01.06.2011, the requirement to file such statements would arise for financial year 2011-12 and thereafter and the statement of a particular financial year should be filed on or before 30th May, of the succeeding financial year. For example, the statement for F.Y. 2011-12 should be filed on or before 30th May, 2012.

(Effective from 1st June, 2011)

(c) Relaxation of time limit for satisfying the conditions, the non-compliance of which would result in withdrawal of recognition of recognized provident fund [Amendment of Fourth Schedule to the Income-tax Act]

(i) Rule 4 of Part A of the Fourth Schedule to the Income-tax Act, 1961, provides for the conditions which are required to be satisfied by a provident fund for receiving or retaining recognition under the Income-tax Act, 1961.

(ii) Clause (ea) of the said Rule provides that for receiving and retaining recognition under the Income-tax Act, 1961, the fund shall be a fund of an establishment –

(1) to which the provisions of section 1(3) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 apply; or

(2) which has been notified by the Central Provident Fund Commissioner under section 1(4) of the said Act.

(iii) Further, such establishment is required to obtain exemption under section 17 of the said Act from the operation of all or any of the provisions of any scheme referred to in that section.

(iv) In case where a provident fund has been accorded recognition on or before 31.3.2006 and such provident fund does not satisfy the conditions set out in clause (ea) of Rule 4 or any other condition specified by the Board on or before 31.12.2010, the recognition granted shall be withdrawn.

(v) The above time limit specified in the proviso to Rule 3(1) of Part A of the Fourth Schedule for a recognized provident fund, where it has received recognition on or before 31.03.2006, for satisfying the conditions set out in clause (ea) of Rule 4 and any other conditions such as the Board may notify, has now been extended from 31.12.2010 to 31.3.2012. Therefore, only if the fund does not satisfy such conditions on or before 31.3.2012, the recognition granted to the fund shall be withdrawn.

(Effective retrospectively from 1.1.2011)

IMPORTANT CIRCULARS & NOTIFICATIONS ISSUED BETWEEN 1.5.2010 AND 30.6.2011

CIRCULARS

1. **Circular No. 4/2010 dated 18.5.2010**

   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.

2. **Circular No. 6/2010 dated 20.9.2010**

   Regional Rural Banks not eligible for deduction under section 80P

   The CBDT has, through this circular, reiterated that Regional Rural Banks are not eligible for deduction under section 80P of the Income-tax Act, 1961 from the assessment year 2007-08 onwards. It has also been clarified that the Circular No. 319 dated 11-1-1982 deeming any Regional Rural Bank to be cooperative society stands withdrawn for application with effect from A.Y.2007-08.

   This is consequent to the amendment in section 80P by the Finance Act, 2006, providing specifically that w.e.f. 1-4-2007, the provisions of section 80P will not apply to any co-operative bank other than a Primary Agricultural Credit Society or a Primary Cooperative Agricultural and Rural Development Bank. The same has been further clarified by this circular.

3. **Circular No. 7/2010 dated 27.10.2010**

   Clarification regarding period of validity of approvals issued under section 10(23C)(iv), (v), (vi) or (via) and section 80G(5)

   For the removal of doubts about the period of validity of various approvals granted by the Chief Commissioners of Income-tax or Directors General of Income-tax under sub-clauses (iv), (v), (vi) and (via) of section 10(23C) and by the Commissioners of Income-tax or Directors of Income-tax under section 80G(5) of the Income-tax Act, 1961, the CBDT has, through, this circular clarified the following:-

   (1) For the purposes of sub-clauses (iv) and (v) of section 10(23C), any notification issued by the Central Government under the said sub-clauses, on or after 13-7-2006 will be valid until withdrawn and there will be no requirement on the part of the assessee to seek renewal of the same after three years.

(2) For the purposes of sub-clauses (vi) and (via) of section 10(23C), any approval issued on or after 1-12-2006 under the said sub-clauses would be a one time approval and would be valid till it is withdrawn.

(3) For the purposes of section 80G(5), existing approvals expiring on or after 1st October, 2009 shall be deemed to have been extended in perpetuity unless specifically withdrawn. Further, any approval under section 80G(5) on or after 1-10-2009 would be a one time approval which would be valid till it is withdrawn.

NOTIFICATIONS

1. Ceiling for gratuity exemption raised to Rs.10 lakhs

Section 10(10)(ii) exempts any gratuity received under the Payment of Gratuity Act, 1972, to the extent it does not exceed an amount calculated in accordance with the provisions of sub-sections (2) and (3) of section 4 of that Act. The limit specified under sub-section (3) of section 4 has been increased from ₹ 3,50,000 to ₹ 10,00,000 by the Payment of Gratuity (Amendment) Act, 2010 dated 17th May, 2010.

Thereafter, the Central Government has enhanced the notified limit under section 10(10)(iii) from ₹ 3,50,000 to ₹ 10,00,000 in relation to employees who retire or become incapacitated prior to such retirement or die on or after 24th May, 2010 or whose employment is terminated on or after the said date. In effect, the ceiling for gratuity exemption under section 10(10)(iii), which is relevant for employees not covered under the Payment of Gratuity Act, 1972, has also been increased to ₹ 10 lakh vide Central Government Notification No.43/2010 dated 11th June, 2010.

2. Notification No.41/2010 dated 31.05.2010

Substitution of Rules 30, 31, 31A, 31AA, 37CA & 37D in the Income-tax Rules, 1962.

Rule 30 – Time and mode of payment to Government account of TDS or tax paid under section 192(1A)

(a) All sums deducted in accordance with Chapter XVII-B by an office of the Government shall be paid to the credit of the Central Government on the same day where the tax is paid without production of an income-tax challan and on or before seven days from the end of the month in which the deduction is made or income-tax is due under section 192(1A), where tax is paid accompanied by an income-tax challan.

(b) All sums deducted in accordance with Chapter XVII-B by deductors other than a Government office shall be paid to the credit of the Central Government on or before 30th April, where the income or amount is credited or paid in the month of March. In any other case, the tax deducted should be paid on or before seven days from the end of the month in which the deduction is made or income-tax is due under section 192(1A).

(c) 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 on or before 7th of the month following the quarter, in respect of first three quarters in the financial year and 30th April in respect of the quarter ending on 31st March. The dates for quarterly payment would, therefore, be 7th July, 7th October, 7th January and 30th April, for the quarters ended 30th June, 30th September, 31st December and 31st March, respectively.

Rule 31 – Certificate of TDS to be furnished under section 203

(a) The certificate of deduction of tax at source to be furnished under section 203 shall be in Form No.16 in respect of tax deducted or paid under section 192 and in any other case, Form No.16A.

(b) Form No.16 shall be issued to the employee annually by 31st May of the financial year immediately following the financial year in which the income was paid and tax deducted. Form No.16A shall be issued quarterly within 15 days from the due date for furnishing the statement of TDS under Rule 31A.

Rule 31A – Statement of deduction of tax under section 200(3)

(a) Every person responsible for deduction of tax under Chapter XVII-B 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):

  (1) Statement of TDS under section 192 in Form No.24Q;

  (2) Statement of TDS under sections 193 to 196D in Form No.26Q in respect of all deductees other than a deductee being a non-resident not being a company or a foreign company or resident but not ordinarily resident in which case the relevant form would be Form No.27Q.

(b) The time limit for furnishing such quarterly statements shall be 15th of the month following each quarter in respect of the first three quarters and 15th May for the last quarter ending on 31st March. The due dates would therefore be 15th July, 15th October, 15th January and 15th May for the quarters ending 30th June, 30th September, 31st December and 31st March, respectively.

Rule 31AA – Statement of collection of tax under proviso to section 206C(3)

Quarterly statement in Form No.27EQ shall be delivered, or cause to be delivered, to the DGIT (Systems) or any person authorized by him in accordance with the proviso to section 206C(3). The time limit for furnishing such quarterly statements shall be 15th of the month following each quarter in respect of the first three quarters and 15th May for the last quarter ending on 31st March. The due dates would therefore be 15th July, 15th October, 15th January and 15th May for the quarters ending 30th June, 30th September, 31st December and 31st March, respectively.

Rule 37CA – Time and mode of payment to Government account of tax collected at source under section 206C

(a) All sums collected in accordance with section 206C(1)/(1C) by an office of the Government, shall be paid to the credit of the Central Government on the same day where the tax is paid without production of an income-tax challan and on or before 7 days from the end of the month in which the collection is made, where tax is paid accompanied by an income-tax challan; and

(b) All sums collected in accordance with the provisions of section 206C(1)/(1C) by collectors other than an office of the Government, shall be paid to the credit of the Central Government within one week from the last day of the month in which the collection is made.

Rule 37D – Certificate of tax collected at source under section 206C(5)

Certificate of tax collected at source under section 206C(5) in Form No.27D shall be furnished by the collector within 15 days from the due date for furnishing the quarterly statement of TCS under Rule 31AA.

3. Notification Nos. 48/2010 dated 9.7.2010 & 77/2010 dated 11.10.2010

Notification of long-term infrastructure bonds by the Central Government, subscription to which would qualify for deduction under section 80CCF

Section 80CCF provides that an assessee, being an individual or a Hindu Undivided Family, shall get a deduction of up to rupees twenty thousand in computing his total income if he subscribes to long-term infrastructure bonds as may be notified by the Central Government for this purpose.

Consequently, the Central Government has, vide these notifications, specified the long-term infrastructure bonds, subscription to which would qualify for deduction under section 80CCF. Accordingly, subscription to long-term infrastructure bonds of Industrial Finance Corporation of India, Life Insurance Corporation of India, Infrastructure Development Finance Company Limited and a non-banking Finance Company classified as an Infrastructure Finance Company by the Reserve Bank of India would qualify for deduction under section 80CCF. Further, subscription to long-term infrastructure bonds of India Infrastructure Finance Company Ltd. would also qualify for deduction under section 80CCF.

4. Notification No. 80/2010 dated 19.10.2010 (as amended by Notification No.20/2011 dated 21.4.2011)

Notification of annuity plan for deduction under section 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 annuity plan of the Life Insurance Corporation or any other insurer as the Central Government may, by notification in the Official Gazette specify in this behalf.

Accordingly, the Central Government, has, through this notification specified the Tata AIG Easy Retire Annuity plan of the Tata AIG Life Insurance Company Limited as the annuity plan of the Tata AIG Life Insurance Company Limited for the purposes deduction under section 80C.

5. **Notification No.84/2010 dated 22.11.2010**

Salaried persons entitled to act as Tax Return Preparers

In exercise of the powers conferred under section 139B(1), the CBDT had framed the Tax Return Preparer Scheme, 2006 for the purpose of enabling any specified class or classes of persons in preparing and furnishing their return of income. "Specified class or classes of persons" means any person, other than a company or a person, whose accounts are required to be audited under section 44AB or under any other law for the time being in force, who is required to furnish a return of income under the Act.

Paragraph 2(f) of the Tax Return Preparer Scheme, 2006 defining a Tax Return Preparer, specifically provided that a person who is in employment and income from which is chargeable under the head "Salaries" shall not be entitled to act as a Tax Return Preparer. This disqualification has now been removed by amending paragraph 2(f). Consequently, a salaried person is now eligible to act as a Tax Return Preparer.

Consequential amendment has been made in Paragraph 11(1)(xii), which provided for withdrawal of certificate given to the Tax Return Preparer in case he, after issue of Tax Return Preparer Certificate to him, takes up an employment, income from which is chargeable under the head "Salaries". Henceforth, taking up a salaried employment would not result in withdrawal of certificate given to the Tax Return Preparer.

However, it may be noted that as per section 139B(3) of the Income-tax Act, 1961, an employee of the "specified class or classes of persons" is not authorized to act as a Tax Return Preparer. A combined reading of section 139B(3) with the amended Tax Return Preparer Scheme, 2006 reveals that employees of companies and persons whose accounts are required to be audited under section 44AB or any other law for the time being in force, are eligible to act as Tax Return Preparers.

6. **Notification No.85/2010 dated 22.11.2010**

Increase in exemption limit for allowance granted to employees working in a transport system to meet their personal expenditure during the course of duty

Section 10(14)(ii) exempts any such allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides, or to compensate him for the increased cost of living as may be prescribed and to the extent as may be prescribed.

Rule 2BB(2) prescribes the allowances for the purposes of exemption under section 10(14)(ii). As per this rule, the exemption allowable in respect of any allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running of such transport from one place to another place (provided he is not in receipt of daily allowance) is 70% of such allowance, subject to a maximum of ₹ 6,000 per month.

The monthly limit of ₹ 6,000 has been increased to ₹ 10,000 with retrospective effect from 1st September, 2008. Therefore, with effect from 1st September, 2008, the exemption would be 70% of such allowance, subject to a maximum of ₹ 10,000 per month.

7. Notification No. 12/2011 dated 25.02.2011

United Stock Exchange of India Ltd. notified as a recognized stock exchange

Clause (d) of the proviso to section 43(5) provides that an eligible transaction in respect of trading in derivatives referred to in section 2(ac) of the Securities Contracts (Regulation) Act,1956 carried out in a recognised stock exchange, which is notified by the Central Government for this purpose, shall not be deemed to be a speculative transaction.

Accordingly, in exercise of the powers conferred under section 43(5) read with Rule 6DDB, the Central Government has notified the United Stock Exchange of India Limited as a recognised stock exchange for the purpose of the said clause. The notification also lays down certain conditions to be fulfilled by the stock exchange.

It may be noted that at present, there are three other stock exchanges notified as recognized stock exchanges for the purposes of section 43(5), namely, the National Stock Exchange, Bombay Stock Exchange and MCX Stock Exchange.

8. Notification No. 14/2011 dated 9.3.2011

Conditions to be fulfilled for a stock exchange to qualify as a recognized stock exchange for the purposes of section 43(5) - Modification of cash and derivative market transactions registered in the system permitted in case of genuine error

Clause (d) of proviso to section 43(5) provides that an eligible transaction in respect of trading in derivatives referred to in section 2(ac) of the Securities Contracts (Regulation) Act,1956 carried out in a recognised stock exchange shall not be deemed to be a speculative transaction. Rule 6DDB provides for notification of recognised stock exchange for the purposes of said clause.

Further, Rule 6DDA provides the conditions that a stock exchange is required to fulfil to be notified as a recognised stock exchange for the purpose of abovementioned clause. One of the conditions, specified in clause (iv) of Rule 6DDA, is that the stock exchange shall ensure that transactions once registered in the system cannot be erased or modified. This clause has been substituted to provide that the stock exchange shall ensure that transactions (in respect of cash and derivative market) once registered in the system are not erased.

Another condition has been stipulated by insertion of clause (v), which provides that the stock exchange shall ensure that the transactions (in respect of cash and derivative market) once registered in the system are modified only in cases of genuine error. The stock exchange should maintain data regarding all transactions (in respect of cash and derivative market) registered in the system which have been modified and submit a monthly statement in Form No. 3BB to the Director General of Income-tax (Intelligence), New Delhi within fifteen days from the last day of each month to which such statement relates.

Corresponding amendment has been made in Rule 6DDB requiring that the application for notification of a recognised stock exchange should be accompanied by inter alia, confirmation regarding fulfilling the conditions referred to in clauses (ii) to (v) of Rule 6DDA.

9. Notification No. 24/2011 dated 13.05.2011 (in supersession of Notification No. 69/2010 dated 26.8.2010)

9.5% notified as the interest rate on RPF, the interest in excess of which would be taxable as salary

Rule 6 of Part A of the Fourth Schedule to the Income-tax Act, 1961, provides, *inter alia,* that interest credited on the balance to the credit of an employee participating in a recognized provident fund in so far as it is allowed at a rate exceeding such rate notified by the Central Government, shall be deemed to have been received by the employee in the relevant previous year and shall be included in his total income.

Accordingly, the Central Government has, vide this notification, notified w.e.f. 1st September, 2010, in exercise of the powers conferred by Rule 6, 9.5% as the rate of interest on employer's annual contributions in a recognized provident fund. In effect, the Notification No. 69/2010 dated 26.8.2010, notifying the rate of interest as 8.5% w.e.f. 1st September, 2010, has been superseded by this notification.

This implies that interest credited on the balance to the credit of the employee in excess of 9.5% (and not 8.5% as earlier notified to be effective from 1.9.2010) shall be deemed to have been received by the employee in the previous year and shall be included in the total income of the employee. Prior to 1.9.2010, in any case, the interest credited in excess of 9.5% was deemed to be the income of the employee.

Therefore, the position of law as it stands now after issue of this notification is that irrespective of the date of credit of interest, whether before or on or after 1.9.2010, only the interest credited on the balance to the credit of the employee in excess of 9.5% shall be included in the total income of the employee. For example, if an employer credits interest @10% for the P.Y.2010-11 and P.Y.2011-12 on the balance standing to the credit of each employee, then the excess interest of 0.5% (10% - 9.5%) would be included in the total income of the employee for the respective years.

10. Notification No. 32/2011 dated 3.06.2011

Limits for exemption of interest on Post Office Savings Bank Account

Under section 10(15)(i), income by way of, *inter alia*, interest on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits as the Central Government may, by notification in the Official Gazette, specify in this behalf, would be exempt subject to such conditions and limits specified in the said notification.

In exercise of powers given in section 10(15)(i), the Central Government has, through this notification, amended the Notification No. GSR 607(E) dated 9th June, 1989 which specified the bonds, annuity certificates, savings certificates and other certificates issued by the Central Government for the purpose of exemption under this clause as well as the maximum limit up to which the income by way of, *inter alia*, interest on such securities, bonds, savings certificates etc. issued by the Central Government shall be exempt from tax for any assessment year. The said notification dated 9th June, 1989 provided for exemption of the whole of the amount of interest on Post Office Savings Bank Account.

However, as per the amendment by this notification, the interest on Post Office Savings Bank Account which was so far fully exempt would henceforth be exempt from tax for any assessment year only to the extent of:

(i) ₹ 3,500 in case of an individual account.

(ii) ₹ 7,000 in case of a joint account.

11. Notification No.33/2011 dated 3.06.2011

Income received by any person on behalf of a fund established for the purpose of providing cash benefits to its employee-members to meet the cost of annual medical tests or medical checkups to qualify for benefit of exemption under section 10(23AAA)

Section 10(23AAA) provides that any income received by any person on behalf of the fund established for notified purposes for the welfare of employees or their dependents, and of which fund such employees are members, would be exempt subject to fulfillment of certain conditions.

Accordingly, in exercise of the powers conferred by section 10(23AAA), the CBDT had, vide Notification No. S.O. 672(E) dated 27th July, 1995, notified the following purposes –

(1) cash benefits to a member of the fund -

   (a) on superannuation, or

   (b) in the event of his illness or illness of his spouse or dependent children, or

   (c) to meet the cost of education of his dependent children or

(2) cash benefits to the dependents of a member of the fund in the event of the death of such member.

The CBDT has, through this notification, amended the Notification No. S.O. 672(E) dated 27th July, 1995 to include cash benefits to a member of the fund to meet the cost of annual medical tests or medical checkups of a member, his spouse and dependent children as one of the purposes of the fund.

12. Notification No. 35/2011 dated 23.06.2011

Notification of Cost Inflation Index for F.Y.2011-12

Clause (v) of Explanation to section 48 defines "Cost Inflation Index", in relation to a previous year, to mean such Index as the Central Government may, by notification in the Official Gazette, specify in this behalf, having regard to 75% of average rise in the Consumer Price Index for urban non-manual employees.

Accordingly, the Central Government has, in exercise of the powers conferred by clause (v) of Explanation to section 48, specified the Cost Inflation Index for the financial year 2011-12 as 785.

S. No.	Financial Year	Cost Inflation Index
1.	1981-82	100
2.	1982-83	109
3.	1983-84	116
4.	1984-85	125
5.	1985-86	133
6.	1986-87	140
7.	1987-88	150
8.	1988-89	161
9.	1989-90	172
10.	1990-91	182
11.	1991-92	199
12.	1992-93	223
13.	1993-94	244
14.	1994-95	259
15.	1995-96	281
16.	1996-97	305
17.	1997-98	331
18.	1998-99	351
19.	1999-2000	389
20.	2000-01	406
21.	2001-02	426
22.	2002-03	447
23.	2003-04	463
24.	2004-05	480
25.	2005-06	497
26.	2006-07	519
27.	2007-08	551
28.	2008-09	582
29.	2009-10	632
30.	2010-11	711
31.	2011-12	785