WHAT IS AMALGAMATION?

- ✓ It refers to one or more companies merging together to form a new company.
- ✓ It includes absorption of assets and liabilities of one or more companies by another company.

PROVISIONS UNDER THE COMPANIES ACT, 2013

<table>
<tr><th>SECTION</th><th>PROVISION</th></tr>
<tr><td>232(1)- Merger and amalgamation of companies.</td><td>✓ Application by the company or any creditor or member of the Company, or in the case of a company which is being wound up, the liquidator for sanctioning of compromise or arrangement.(Sec.230)

✓ Tribunal may on such application, order a meeting of the creditors or class of creditors or the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal may direct and the provisions of sub-sections (3) to (6) of section 230 shall apply mutatis mutandis.(Sec.232(1))

<u>SUB-SECTIONS (3) TO (6) OF SECTION 230</u>

(3). When a meeting is proposed to be held, a notice of the same shall be sent to the members, creditors, debenture holders along with a statement disclosing the details of compromise or arrangement, their effects and a copy of valuation report.
The notice and other documents should be placed on the website of the company and also sent to the SEBI.

(4) Notice shall be sent one month before the commencement of the meeting.
Any objection to the arrangement or compromise shall be made only by a person having not less than 10% of shareholding or not less than 5% of outstanding debt, as per latest audited financial statement.

(5) A notice under sub-section (3) along with all the documents in such form as may be prescribed shall also be sent to the Central Government, the income-tax authorities, the Reserve Bank of India, the Securities and Exchange Board, the Registrar, the respective stock exchanges, the Official Liquidator, the Competition Commission of India, if necessary, and such other sectoral regulators or authorities which are likely to be affected.
Any representations to be made by them shall be made within a period of 30days from the date of receipt of such notice, failing which; it shall be presumed that they have no representations to make on the proposals.

(6) At least ¾ th of the members, creditors, debenture holders agree to the compromise or arrangement and the Tribunal has passed the orders, the same shall be binding on the members, creditors, debenture holders , the company, in case of company being wound up, the liquidator or the contributories.</td></tr>
<tr><td>232(2)</td><td>Where an order has been made by the Tribunal under sub-section (1), merging companies or the companies in respect of which a division is proposed, required to circulate the following for the meeting so ordered by the Tribunal, namely:—</td></tr>
</table>

	(*a*) the draft of the proposed terms of the scheme drawn up and adopted by the directors of the merging company; (*b*) confirmation that a copy of the draft scheme has been filed with the Registrar; (*c*) a report adopted by the directors of the merging companies explaining effect of compromise on each class of shareholders, key managerial personnel, promoters and non-promoter shareholders laying out in particular the share exchange ratio, specifying any special valuation difficulties; (*d*) the report of the expert with regard to valuation, if any; (*e*) a supplementary accounting statement if the last annual accounts of any of the merging company relate to a financial year ending more than 6 months before the first meeting of the company summoned for the purposes of approving the scheme.
232(3)	The Tribunal may, by order, sanction the scheme of compromise or arrangement and make provision for the following: (a)The transfer of the whole or part of the assets and liabilities of the transferor company (b) The allotment or appropriation by the transferee company of any shares, debentures, policies or other like instruments. (c) the continuation of any legal proceedings pending by or against any transferor company , by or against the transferee company on the date of transfer; (d) dissolution, without winding-up, of any transferor company (e) Provision for dissented persons within prescribed time and manner. (f) where share capital is held by any non-resident shareholder under the FDI norms or guidelines specified by the Central Government or in accordance with any law, the allotment of shares of the transferee company to such shareholder shall be in the manner specified in the order; (*g*) the transfer of the employees of the transferor company to the transferee company (h) where the transferor company is a listed company and the transferee company is an unlisted company,— (*A*) the transferee company shall remain an unlisted company until it becomes a listed company; (*B*) If shareholders of the transferor company decide to opt out of the transferee company, provision shall be made for payment of the value of shares held by them and other benefits in accordance with a pre-determined price formula or after a valuation is made. (*i*) where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorized capital shall be set-off against any fees payable by the transferee company on its authorized capital subsequent to the amalgamation; and (*j*) such incidental, consequential and supplemental matters as are deemed necessary to secure that the merger or amalgamation is fully and effectively carried out:

	No compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, in conformity with the accounting standards prescribed under section 133.
232(4)	By the virtue of the order, the property and liabilities of the transferor will become that of transferee or may be freed from charge.
232(5)	Every company in relation to which the order is made shall file the same with ROC within **30 days** of the receipt of the certified copy.
232(6)	Effective date of the scheme.
232(7)	Until the completion of the scheme, every company shall file with ROC, every year, a certificate that the scheme is being compiled in accordance with the order, duly certified by CA or CMA or CS in practice.
232(8) **Penalty**	If a transferor company or a transferee company contravenes the provisions of this section, the transferor company or the transferee company, as the case may be, shall be punishable with fine which shall not be less than **one lakh rupees but which may extend to twenty-five lakh rupees** and every officer of such transferor or transferee company who is in default, shall be punishable with imprisonment for a term which may extend to **one year** or with fine which shall **not be less than one lakh rupees but which may extend to three lakh rupees, or with both.**

233(*1*) **Merger or amalgamation of certain companies**	Notwithstanding the provisions of section 230 and section 232, a scheme of merger or amalgamation may be entered into between two or more small companies or between a holding company and its wholly-owned subsidiary company or such other class or classes of companies: **(a)** Issue a notice inviting the suggestions or objections from ROC or Official liquidator within **30 days.** (b) Consider the suggestions or objections and approve the same in the general meeting by members holding at least **90% of the total shares**. (c) File declaration of insolvency with ROC (d) Approval by **9/10 th** of creditors in a meeting convened by the company by **21 days notice**.
233(2)	File a copy of the scheme so approved, with the Central Government, Registrar and the Official Liquidator
233(3)	If the Registrar or the Official Liquidator has no objections or suggestions to the scheme, the Central Government shall register the same and issue a confirmation.
233(4)	If the Registrar or Official Liquidator has any objections or suggestions, he may communicate the same in writing to the Central Government within **30 days.**
233(5)	If the Central Government is of the opinion that such a scheme is not in public interest or in the interest of the creditors, it may file an application before the Tribunal within a period of **sixty day**s of the receipt of the scheme, to consider th scheme under section 232.
233(6)	The Tribunal is of the opinion that the scheme should be considered as per the procedure laid down in section 232, the Tribunal may direct accordingly or it may confirm the scheme by passing such order as it deems fit.
233(7)	Communication of the order confirming the scheme to the ROC in the jurisdiction of the transferee company.
233(8)	Communication of the order has the effect of dissolution of the transferor company.
233(9)	**Effects of registration:** The property, liabilities, charges on the property, legal proceedings by or against the transferor company becomes that of the transferee company.
233(14)	A company covered under this section may use the provisions of section 232 for the approval of any

	scheme for merger or amalgamation
234 (2) Merger or amalgamation of company with foreign company	An Indian company may merge with a foreign company and vice-versa, with the prior approval of the RBI. Purchase consideration may be in the form of in cash, or in Depository Receipts, or partly in cash and partly in Depository Receipts.
235(1) Power to acquire shares of shareholders dissenting from scheme or contract approved by Majority.	If at least **9/10th of the shareholders** of the transferor company agree to the transfer of shares in the transferee company within **4 months** from the date of offer by the transferee company, the transferee company may, within **2 months from the expiry of 4 months**, give notice to the dissenting shareholders to acquire their shares.
235(2)	T he transferee company may within **1 month from the date of notice,** if the dissenting shareholders did not made an application to the Tribunal, and the Tribunal passes order, the transferee company will be entitled to the shares of the dissenting shareholders.
235(3)	If any application is pending before the Tribunal, the transferee company after the disposal of the same, send a copy of the notice to the transferor company together with an instrument of transfer, to be executed on behalf of the shareholder by any person appointed by the transferor company and on its own behalf by the transferee company, and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares
235(4)	Any sum or any other consideration received shall be deposited in a separate bank account or held as a trust and shall be disbursed to the entitled shareholders within 60 days.
236(1) Purchase of minority shareholding	In the event of an acquirer, or a person acting in concert with such acquirer, becoming registered holder of ninety per cent. or more of the issued equity share capital of a company, by virtue of an amalgamation, share exchange, conversion of securities or for any other reason, such acquirer, person or group of persons, as the case may be, shall notify the company of their intention to buy the remaining equity shares.
236(2)	Offer to the minority shareholders of the company for buying the equity shares held by shareholders u/s 236(1) at a price determined on the basis of valuation by a registered valuer.
236(3)	The minority shareholders of the company may offer to the majority shareholders to purchase the minority equity shareholding of the company at the price determined
236(4)	The majority shareholders shall deposit an amount equal to the value of shares to be acquired by them under sub-section (*2*) or sub-section (*3*), as the case may be, in a separate bank account to be operated by the transferor company for at least one year and shall disburse to the entitled shareholders within sixty days:
236(5)	In the event of a purchase under this section, the transferor company shall act as a transfer agent for receiving and paying the price to the minority shareholders and for taking delivery of the shares
236(6)	In the absence of a physical delivery of shares by the shareholders within the time specified by the company, the share certificates shall be deemed to be cancelled, and the transferor company shall be authorized to issue shares in lieu of the cancelled shares and complete the transfer in accordance with law and make payment of the price out of deposit made under sub-section (*4*)
236(7) Right of	In the event of a majority shareholders requiring a full purchase and making payment of price by deposit with the company for any shareholder(s) who have died or ceased to exist, or whose heirs,

transmission	successors, administrators or assignees have not been brought on record by transmission, the right of such shareholders to make an offer for sale of minority equity shareholding shall continue and be available for a period of **3 years** from the date of majority acquisition or majority shareholding.
236(8)	Where the shares of minority shareholders have been acquired as on or prior to the date of transfer the shareholders holding **75% or more minority equity shareholding** negotiate or reach an understanding on a higher price for any transfer. The majority shareholders shall share the additional compensation so received by them with such minority shareholders on a *pro rata* basis.
237(1) **Power of Central Government to provide for amalgamation of companies in public Interest.**	Where the Central Government is satisfied that it is essential in the public interest that two or more companies should amalgamate, the Central Government may, by order notified in the Official Gazette, provide for the scheme of amalgamation.
237(2)	Continuation of legal proceedings by or against transferee company.
237(3)	If the interest or rights of the creditors or shareholders of the transferor company is less than his interest in or rights against the original company, he shall be entitled to compensation to that extent
237(4)	Any person aggrieved by any assessment of compensation may, within a period of thirty days from the date of publication of such assessment in the Official Gazette, prefer an appeal to the Tribunal and thereupon the assessment of the compensation shall be made by the Tribunal.
237(5)	No order shall be made unless (*a*) a copy of the proposed order has been sent in draft to each of the companies concerned; (*b*) the time for preferring an appeal has expired, or where any such appeal has been preferred, the appeal has been finally disposed off; and (*c*) the Central Government has considered, and made such modifications, if any, in the draft order which may be received by it from any such company within such period, not being less than two months from the date on which the copy aforesaid is received by that company, or from any class of shareholders therein, or from any creditors or any class of creditors thereof.
237(6)	The copies of every order made under this section shall, as soon as may be after it has been made, be laid before each House of Parliament.
238(1) **Registration of offer of schemes involving transfer of Shares.**	Every circular containing the offer for transfer of shares shall be accompanied by necessary information, statement disclosing the steps it has taken to ensure that necessary cash and sent to the ROC for registration before issue.
238(2)	An appeal shall lie to the Tribunal against an order of the Registrar refusing to register any circular
238(3)	The director who issues a circular which has not been presented for registration shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.
239 **Preservation of books and papers of**	No disposal of books and papers of amalgamated companies without the prior approval of central Government.

amalgamated companies	
240	The liability in respect of offences committed under this Act by the officers in default, of the transferor company prior to its merger, amalgamation or acquisition shall continue after such merger, amalgamation or acquisition.

ACCOUNTING STANDARD -14

IMPORTANT TERMS

AMALGAMATION

- ✓ Amalgamation pursuant to the companies act, 1956 or any other statute which may be applicable to the companies.

TRANSFEROR COMPANY

- ✓ The Company which is amalgamated into another company.
- ✓ Selling company or Vendor Company.

TRANSFEREE COMPANY

- ✓ The Company into which Transferor Company is amalgamated.
- ✓ Purchasing or Vending Company.

PURCHASE CONSIDERATION

- ✓ When amalgamation takes place, the vendee company has to pay for the assets and liabilities of the vendor company. Such amount is purchase consideration.

TYPES

S.No	CATEGORY	EXISTING CO.	NEW CO.	MIN. CO. DISSOLVED	COVERAGE UNDER AS 14
1.	Amalgamation	~~A, B, C, ……….Z~~	AZ	2	Yes
2.	Absorption	A, ~~B, C, ……….Z~~	-	1	Yes
3.	Reconstruction				
	External	A	A NEW	1	Yes
	Internal	A ⟶ A	-	-	No

METHODS AND ACCOUNTING FOR AMALGAMATION

METHODS	ACCOUNTING
In the nature of merger	Pooling of interest
In the nature of purchase	Purchase

1. IN THE NATURE OF MERGER

SATISFY CUMULATIVE CONDITIONS ←	Continuation of same business. Purchase consideration in equity shares. Dissent shareholders to be paid in cash. 90% of equity shareholders of transferor co. become the shareholders of transferee co. Assets and liabilities to be incorporated at book values.

2. IN THE NATURE OF PURCHASE

- ✓ On the failure to satisfy any one condition under merger will attract this method.

S.NO	POOLING OF INTEREST METHOD	PURCHASE METHOD
1.	Pooling of assets and liabilities as well as the interest of shareholders.	Only pooling of assets and liabilities.
2.	Amalgamation in the nature of merger	Amalgamation in the nature of purchase.
3.	Transfer of assets, liabilities and reserves & surplus at book values.	Transfer of assets, liabilities and reserves & surplus at revised values.
4.	Transfer all the reserves of transferor company	Transfer only statutory reserves of transferor company
5.	Costs of amalgamation are not capitalized.	Costs of amalgamation are capitalized.
6.	Book values of Equity/ Preference shares xxx LESS: Purchase consideration xxx **ADJUST WITH REVENUE RESERVES XXX** **ADJUSTMENT WITH REVENUE RESERVES** Gain out of PC XXX Loss out of PC (XXX) (XXX) **Revenue reserves** General Reserve XXX Reserve Fund XXX Profit & loss A/C XXX **Balance to be shown in B/S** XXX (If any)	Net Assets XXX LESS: Purchase consideration XXX **CAPITAL RESERVE/ (GOODWILL)** XX/(XXX)
7.	No need to open Amalgamation Adjustment Account in the books of transferee company.	Amalgamation Adjustment Account in the books of transferee company, in case of maintenance of any reserves as per the law in force.
8.	Identity of reserves is preserved.	Identity of reserves, other than statutory reserves is not preserved.
9.	Reserves are available for distribution of dividend after amalgamation.	Reserves are not available for distribution of dividend after amalgamation.

10.	Balance of P&L A/C is transferred to the transferee company and appears in their financial statement.	Balance of P&L A/C loses its identity.

STEPS IN ACCOUNTING FOR AMALGAMATION

1. COMPUTATION OF PURCHASE CONSIDERATION

S.NO	METHOD	COMPUTATION		
1	LUMP SUM	AMOUNT WILL BE GIVEN		
2	NET ASSETS	ASSETS (**REALISABLE VALUE**)	XXX	
		LESS: LIABILITIES (**RV**)	XXX	
		NET ASSETS	XXX	
3	NET PAYMENT	EQUITY SHARE CAPITAL	XXX	
		PREFERENCE SHARE CAPITAL	XXX	
		DEBENTURES	XXX	
		CASH OTHERS	XXX	
		NET PAYMENT	XXX	
4	INTRINSIC VALUE		X LTD	Y LTD
		A.NET ASSETS	XXX	XXX
		B.NUMBER OF SHARES	XXX	XXX
		C.INTRINSIC VALUE (A/B)	XXX	XXX
		D.SHARE EXCHANGE RATIO	XXX :	XXX

NOTE:

- ✓ Settlement of long term debt (debenture holders) does not form a part of Purchase consideration
- ✓ Computation of Shares or debentures having same amount of interest.

$$\frac{\textbf{OLD RATE}}{\textbf{NEW RATE}} \textbf{ X SHARES/DEBENTURES}$$

2. CLOSING THE BOOKS OF TRANSFEROR COMPANY

JOURNAL ENTRIES

S.NO	PARTICULARS	L.F	DEBIT	CREDIT
1.	Liabilities A/C Dr			

	Realization A/c Dr To Assets A/c To Realization A/c (Being all assets and liabilities taken over)			
2.	Transferee co. A/C Dr To Realization A/C (Being purchase consideration due)			
3.	Equity share capital A/C Dr Preference share capital A/C Dr Debentures A/c Dr Bank A/C Dr To Transferee co. A/C (Being purchase consideration received)			
4.	Realization A/c Dr To Equity shareholders A/C (Being profit on realization transferred) For loss, reverse entry.			
5.	Equity share capital A/C Dr General Reserve A/C Dr P&L A/C Dr To Equity shareholders A/C (Being Equity share capital and reserves transferred)			
6.	Preference share capital A/C Dr To Preference shareholders A/C (Being Preference share capital transferred)			
7.	Equity shareholders A/C Dr Preference shareholders A/C Dr To Equity share capital A/C To Bank A/C To Debentures A/C To Preference share capital A/C To Equity shareholders A/C (Gain out of PC) (Being the transfer of purchase consideration)			

IN THE BOOKS OF TRANSFEROR COMPANY
LEDGER ACCOUNTS

REALIZATION ACCOUNT

To Assets (Book Value) To ESH A/C (Profit)	By Liabilities A/C (Book Value) By purchase consideration A/C By ESH A/c (Loss)

PURCHASE CONSIDERATION A/C

To Realization A/c	By Transferee co. A/C

TRANSFEREE CO. A/C

To purchase consideration A/C	By Equity share holders A/C Equity share capital Bank A/C Debentures Preference share capital

EQUITY SHARE HOLDERS A/C

To Equity shares in transferee company To Bank A/C To Debentures A/C To Preference shareholders A/C (Gain out of PC)	By Realization A/c (Profit on realization) By Equity share capital A/C By Reserves

PREFERENCE SHAREHOLDERS A/C

To Preference share capital A/C To Bank A/C To Equity share holders A/C (Balancing figure)	By Preference share capital A/C

BANK A/C

To Transferee co. A/C	By Preference share capital A/C By Equity shareholders A/C

3. INCORPORATING IN THE BOOKS OF TRANSFEREE COMPANY

JOURNAL ENTRIES

	PURCHASE METHOD	POOLING OF INTEREST METHOD
1.	Business Purchase A/c DR To Liquidators of Transferor company A/C	Business Purchase A/C DR To Liquidators of Transferor company A/C
2.	Goodwill A/C (LOSS) DR Assets A/C (Realizable value) DR To Liabilities A/C To Business Purchase To Capital Reserve (GAIN)	Assets A/C (Book value) DR To Liabilities A/C To Business Purchase A/c To Revenue Reserve A/C To P&L A/C
3.	Liquidators of Transferor company A/C DR To Equity share capital A/C To Preference share capital A/C To Bank A/C To Debentures A/C	Liquidators of Transferor company A/C DR To Equity share capital A/C To Preference share capital A/C To Bank A/C To Debentures A/C

Balance Sheet as at 31st March, 2011			
Particulars	**Note No**	**Figures as at the end of current reporting period**	**Figures as at the end of previous reporting period**
I. EQUITY AND LIABILITIES			
(1) Shareholder's Funds			
(a) Share Capital			
(b) Reserves and Surplus			
(c) Money received against share warrants			
(2) Share application money pending allotment			
(3) Non-Current Liabilities			
(a) Long-term borrowings			
(b) Deferred tax liabilities (Net)			
(c) Other Long term liabilities			
(d) Long term provisions			
(4) Current Liabilities			
(a) Short-term borrowings			
(b) Trade payables			
(c) Other current liabilities			
(d) Short-term provisions			
Total			
II.Assets			
(1) Non-current assets			
(a) Fixed assets			
(i) Tangible assets			
(ii) Intangible assets			
(iii) Capital work-in-progress			
(iv) Intangible assets under development			
(b) Non-current investments			
(c) Deferred tax assets (net)			
(d) Long term loans and advances			
(e) Other non-current assets			
(2) Current assets			
(a) Current investments			
(b) Inventories			
(c) Trade receivables			
(d) Cash and cash equivalents			
(e) Short-term loans and advances			
(f) Other current assets			
Total			

Treatment of Goodwill Arising on Amalgamation

Goodwill represents a payment made in anticipation of future income and is generally treated as an asset to be amortized to income on a systematic basis over its useful life. However, since it is difficult to estimate its useful life with reasonable certainty, it is considered appropriate to amortize goodwill over a period not exceeding five years unless a somewhat longer period can be justified.

Factors which may be considered in estimating the useful life of goodwill include:

- the foreseeable life of the business or industry,
- the effects of product obsolescence, changes in demand and other economic factors,
- the service life expectancies of key individuals or groups of employees,
- expected actions by competitors or potential competitors, and
- Legal, regulatory or contractual provisions affecting the useful life.

Disclosures

For All Amalgamations the following disclosure should be made in the **first financial statements** following the amalgamation:

1. Names and general nature of business of the amalgamating companies.
2. Effective date of amalgamation for accounting purposes.
3. The method of accounting used to reflect the amalgamation.
4. Particulars of the scheme sanctioned under a statute.

Additional disclosures in the first financial statements after Amalgamation in the Nature of Pooling of Interests

1. Description and no of shares issued together with the percentage of the each companies equity shares exchange to effect amalgamation, and
2. The amount of any difference between the consideration and the value of the net identifiable assets acquired and the treatment thereof.

Additional disclosures in the first financial statements after Amalgamation in the Nature of Purchase:

1. Consideration for the amalgamation and the description of the consideration paid or contingently payable, and
2. The amount of any difference between the consideration and the value of the net identifiable assets treatment thereof.

If an amalgamation is effected after the balance sheet date but before the issuance of the financial statements of either party to the amalgamation, the amalgamation should not be incorporated in the financial statements but disclosure needs to be made in accordance with AS 4 - Contingencies and Events Occurring after the Balance Sheet Date.

TAXATION ASPECTS

SCETION	PROVISIONS
2(1B)	Definition "amalgamation", in relation to companies, means the merger of one or more companies with another company or the merger of two or more company (the company or companies which so merge being referred to as the amalgamating company or companies and the company with which they merge or which is formed as a result of the merger, as the amalgamated company) in such a manner that all the property of the amalgamating company or companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation ; all the liabilities of the amalgamating company or companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation; shareholders holding not less than 14(three-fourths) in value of the shares in the amalgamating company or companies (there than shares already held therein immediately before the amalgamation by, or by a nominee for, the amalgamation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the amalgamation, Otherwise than as a result of the acquisition of the property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first-mentioned company."

TAX RELIEF TO AMALGAMATING COMPANY

	SECTION	PROVISION
1.	**47(vi)**	**EXEMPTION FROM CAPITAL GAINS TAX** Capital gain on the transfer of assets by the amalgamating co. to the Indian amalgamated co. is exempt from tax as such transfer is not regarded as transfer.
2.	**47(via)**	**EXEMPTION IN CASE OF INTERNATIONAL RESTRUCTURING** In case of amalgamation of foreign companies, transfer of shares held in Indian co. by amalgamating foreign co. is exempt, if the following conditions are satisfied:

<table>
<tr><td></td><td></td><td>

✓ At least 25% of the share holders of the amalgamating foreign co. continue to remain share holders of the amalgamated foreign co.
✓ Such transfer does not attract tax on capital gains in the country, in which the amalgamating co. is incorporated.

</td></tr>
<tr><td>3.</td><td>47(vii)</td><td>EXEMPTION FROM CAPITAL GAIN TAX
Capital gains arising from transfer of shares by a shareholder of the amalgamating co. are exempt as such transactions are not regarded as transfer if:

✓ The transfer is made in consideration for the allotment to him of shares in the amalgamated co; and
✓ Amalgamated co. is an Indian co.

</td></tr>
</table>

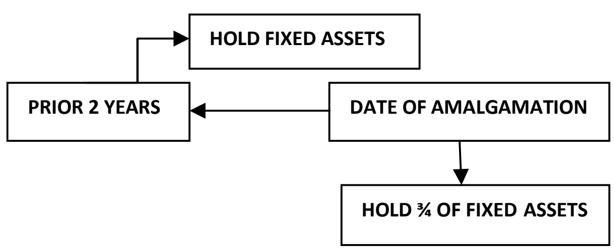
TAX RELEIF TO AMALGAMATED COMPANY

<table>
<tr><th></th><th>SECTION</th><th>PROVISION</th></tr>
<tr><td>1.</td><td>72 A</td><td>CARRY FORWARD AND SET OFF OF ACCUMULATED LOSS AND UNABSORBED DEPRECIATION of the amalgamating co., if the following conditions are satisfied:

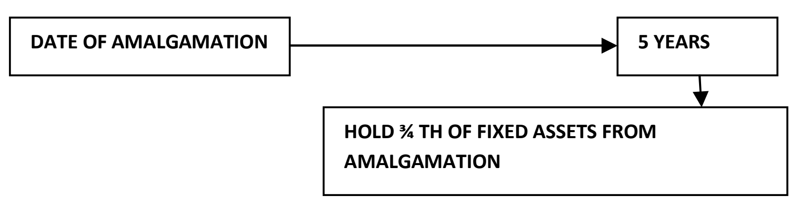
✓ Amalgamation of

➢ Industrial undertaking
➢ Specified bank
➢ Aircraft operation

✓ Amalgamated co should be an Indian co.
✓ Amalgamating co. should engage in a business in which the accumulated loss or depreciation remains unabsorbed for 3 years or more.
✓ Amalgamating co.



✓ Amalgamated co.



✓ Continuation of business for 5 years from the date of amalgamation
✓ If Amalgamating co. id an industrial undertaking, amalgamated co. satisfy the following condition:

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<table>
<tr><td></td><td></td><td>
<table>
<tr><td>Yrs after amalgamation</td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr>
<tr><td></td><td colspan="4">ACHIEVE 50% INSTALLED CAPACITY WITHIN 4 YEARS</td><td></td></tr>
<tr><td></td><td colspan="5">MAINTAIN 50% INSTALLED CAPACITY FOR 5 YEARS</td></tr>
</table>
✓ Submission of FORM NO.62 for first 4 years for target achievement till 5 years.
</td></tr>
<tr><td>2.</td><td>35(5)</td><td>EXPENDITURE ON SCIENTIFIC RESEARCH

✓ Unabsorbed expenditure on scientific research of the amalgamating co. Will be allowed to be carried forward and set off in the hands of the amalgamated co.
✓ If such asset ceases to be used in the previous yr for scientific research related to the business of amalgamated co. And is sold by it the sale price to the extent of cost of asset shall be treated as business income and the excess of sale price over the cost shall be subject to the provisions of capital gains.</td></tr>
<tr><td>3.</td><td>35DD</td><td>AMORTIZATION OF EXPENDITURE IN CASE OF AMALGAMATION

1/5 th of expenditure for each of the 5 successive previous years beginning with the PY in which amalgamation takes place.</td></tr>
<tr><td>4.</td><td>35D(5)</td><td>TREATMENT OF PRELIMINARY EXPENSES

Preliminary expenses of the amalgamating co. to the extend not written off shall be allowed as a deduction to the amalgamated co.</td></tr>
<tr><td>5.</td><td>35ABB(6)</td><td>EXPENDITURE FOR OBTAINING A LICENCE TO OPERATE TELECOMMUNICATION SERVICES

Unabsorbed amount allowed to be written off in the balance installment
Surplus or deficit in case of sale of license will be given same treatment as that of amalgamating co.</td></tr>
<tr><td>6.</td><td>36(1)(ix)</td><td>DEDUCTION OF CAPITAL EXPENDITURE ON FAMILY PLANNING</td></tr>
<tr><td>7.</td><td>36(1)(vii)</td><td>DEDUCTION OF BAD DEBTS</td></tr>
<tr><td>8.</td><td>41</td><td>DEEMED PROFITS</td></tr>
<tr><td>9.</td><td>80 IA, IB</td><td></td></tr>
</table>

SEBI NORMS FOR AMALGAMATION

REQUIREMENTS BEFORE THE SCHEME IS SUBMITTED FOR SANCTION BY THE HON'BLE HIGH COURT

A. Obligations of Listed Companies

Listed companies desirous of undertaking a Scheme of Arrangement shall be required to fulfill the following requirements:

i. File the Draft Scheme with the stock exchanges in terms of Clause 24(f) of the Listing Agreement along with the following documents:

- ✓ Draft Scheme of arrangement/ amalgamation/ merger/ reconstruction/ reduction of capital, etc.;
- ✓ Valuation Report from Independent Chartered Accountant;

- ✓ Report from the Audit Committee recommending the Draft Scheme, taking into consideration, inter alia, the Valuation Report as stated in Para (b) above. The Valuation Report mentioned in Para (b) above is required to be placed before the Audit Committee of the listed company;
- ✓ Fairness opinion by merchant banker;
- ✓ Pre and post amalgamation shareholding pattern of unlisted company;
- ✓ Audited financials of last 3 years (financials not being more than 6 months old) of unlisted company;
- ✓ Compliance with Clause 49 of Listing Agreement; and
- ✓ Complaints Report

ii. Place the Valuation Report obtained from an Independent Chartered Accountant before its Audit Committee. Thereafter, the Audit Committee shall furnish a report recommending the Draft Scheme, taking into consideration, the aforementioned valuation report.

iii. For the purpose of coordinating with SEBI, the companies shall be required to choose one of the stock exchanges having nation-wide trading terminals as the designated stock exchange.

iv. Further, at the time of sending notice to the shareholders seeking approval of the scheme and also at the time of seeking approval of the Scheme from Hon'ble High Court, companies shall be required to include the Observation Letter as issued by the Stock Exchange.

v. Listed Companies shall make sure that the scheme submitted with the Hon'ble High Court for sanction, provides for obtaining shareholders' approval through special resolution passed through postal ballot and e-voting, after disclosure of all material facts in the explanatory statement sent to the shareholders in relation to such resolution.

B. Obligations of the Stock Exchanges

i. Upon receipt of the Draft Scheme of arrangement along with the relevant documents from the companies, the designated stock exchange shall within 3 working days forward the same to SEBI.

ii. The stock exchanges shall process the Draft Scheme (which includes clarifications from company and/or Opinion from Independent Chartered Accountant) and forward its "Objection/No-Objection" letter on the Draft Scheme to SEBI:

- ✓ Within 30 days from the date of application or
- ✓ within 7 days of date of receipt of satisfactory reply on clarifications from the company and/or opinion from independent chartered accountant, if applicable.

iii. On receipt of comments from SEBI, the stock exchanges, shall issue Observation Letter to the listed company within 7 days of receipt of comments from SEBI on the Draft Scheme. Further, SEBI in its circular has clarified that the validity period for the "Observation Letter" issued by Stock Exchange shall be six months from the date of issuance, within which the Scheme shall be submitted to the Hon'ble High Court.

C. Obligations of SEBI

i. Once the SEBI receives a "Objection/No- Objection" letter from the stock exchanges, it shall provide its comments on the Draft Scheme to the stock exchanges. SEBI, while processing the scheme, may seek clarifications from any person relevant in this regard including the listed company or the stock exchanges and may also seek an opinion from an Independent Chartered Accountant.

ii. SEBI shall endeavor to provide its comments on the Draft Scheme to the stock exchanges within 30 days from the later of the following:

- ✓ date of receipt of satisfactory reply on clarifications, if any sought from the company by SEBI; or
- ✓ date of receipt of opinion from Independent Chartered Accountant, if sought by SEBI; or
- ✓ date of receipt of "Objection/No-Objection" letter from the stock exchanges.

REQUIREMENTS AFTER THE SCHEME IS SANCTIONED BY THE HON'BLE HIGH COURT

A. Obligation of Listed Companies

Where the scheme has been approved by the Hon'ble High Court, the listed companies shall be required to submit the following documents to the Stock Exchange:

- ✓ Copy of the High Court approved Scheme;
- ✓ Result of voting by shareholders for approving the Scheme;
- ✓ Statement explaining changes, if any, and reasons for such changes carried out in the Approved Scheme vis-à-vis the Draft Scheme;
- ✓ Status of compliance with the Observation Letter/s of the stock exchanges;
- ✓ The application seeking exemption from Rule 19(2)(b) of SCRR, 1957, wherever applicable; and
- ✓ Complaints Report

B. Obligation of Stock Exchange

The designated stock exchange shall forward its recommendations to SEBI on the documents submitted by the listed company

C. Obligation of SEBI

SEBI shall endeavor to offer its comments/approval, wherever applicable, to the designated stock exchange in 30 days.

CONCLUSION

The above mentioned requirements will safeguard the interest of the shareholders as well as various stakeholders. The requirements as discussed above shall be applicable to listed companies which, as on 4th February, 2013 have not submitted the Scheme with the Hon'ble High Court. SEBI has further clarified that the revised requirements shall also be applicable to the companies even in the cases wherein the companies have submitted the Draft Scheme to the Stock Exchange and such scheme have not been submitted with the Hon'ble High Court for approval.