# Tax Rates for A.Y. 2016-17.

* Individual / HUF

(A) For Individual & HUF (Resident or Non-Resident)

| | |
|---|---|
| upto ₹ 250,000 (Basic Exemption limit) | NIL |
| > 250,000 upto ₹ 500,000 | 10% |
| > 500,000 upto ₹ 1000,000 | 20% |
| > 10,00,000 | 30% |

(B) For Resident senior citizen (Age 60 years or more in P.Y.)

| | |
|---|---|
| upto ₹ 300,000 (Basic Exemption Limit) | NIL |
| > 300,000 upto ₹ 500,000 | 10% |
| > 500,000 upto ₹ 1000,000 | 20% |
| > 10 00,000 | 30% |

(C) For Resident Super Senior Citizen (Age 80 years or more in P.Y.)

| | |
|---|---|
| upto ₹ 500,000 (Basic Exemption Limit) | NIL |
| > 500,000 upto ₹ 10,00,000 | 20% |
| > 10,00,000. | 30% |

Surcharge : @ 12% of Tax if NTI > ₹ 1 crore.

* For Partnership Firm / LLP.

- Tax Rate : 30%.

Surcharge : @ 12% of Tax if NTI > ₹ 1 crore

* For company

| | Indian company | Foreign Company |
|---|---|---|
| Tax Rate : | 30% | 40% |
| Surcharge : | | |
| Net Taxable Income | | |
| > ₹ 1 crore but ≤ ₹ 10 crore | 7% | 2% |
| > ₹ 10 crore | 12% | 5% |

NOTE: In all the above cases, Education cess is applicable @ 3%

* Rebate u/s 87A.

For Resident Individuals having NTI upto ₹ 5 lakhs,

a) 100% of Tax payable

b) ₹ 2000

whichever is lower.

This rebate shall be reduced before adding Education cess.

NOTE: Net Taxable Income (NTI) and Tax amount should be rounded off to the nearest rupees of 10.

# CAPITAL GAIN

→ SECTION 45(5): COMPENSATION ON COMPULSORY ACQUISITION UNDER ANY LAW.

Normally capital gain is taxed in the year of transfer but in case of compulsory acquisition of capital asset, capital gain will be taxable in the year in which compensation is received.

| Initial compensation | | Enhanced compensation | |
|---|---|---|---|
| FVOC (initial compensation) | xxxx | FVOC (Enhanced compensation) | xxxx |
| (-) COA / ICOA | (xxx) | (-) Litigation expenses | (xxx) |
| (-) COI / ICOI | (xxx) | STCG / LTCG | xxxx |
| LTCG / STCG | xxxx | | |

** If compensation received in instalment

Initial compensation
→ It will be taxable in the year in which first instalment received.

Enhanced compensation
→ It will be taxable as & when received

* Amendment by Finance Act, 2014

If any enhanced compensation received due to interim order of court, then such compensation shall not be taxable in the year of receipt but shall be taxable in the year in which FINAL ORDER is passed by such court or other authority.

Note: Any interest received on late compensation shall be taxable under IFOS in the year of receipt and 50% deduction is allowed u/s 57

* SECTION 51 : ADVANCE MONEY FORFEITED (Token Money)

If any Advance money / Token money / earnest money forfeited by Assessee [Present owner] before 01/04/2014, then it shall be reduced from "cost of Acquisition" (before indexing)

* Amendment by Finance Act 2014

Any Advance money forfeited on or after 1/4/2014 shall be charged to tax in the year of forfeiture under the head "Income from Other Sources (IFOS)" u/s 56(2)(ix).

* SECTION 47 : CERTAIN TRANSACTIONS NOT REGARDED AS TRANSFER.

Amendment by Finance Act, 2015.

Transfer of capital assets being shares of a FOREIGN company [which derives its value substantially from the shares of Indian company, whether directly or indirectly], by Amalgamating foreign co. to Amalgamated foreign co. in the scheme of Amalgamation, provided :- Section 47 (via b)

conditions:

a) Atleast 25% of the shareholders of the amalgamating foreign company continue to remain shareholder of the amalgamated foreign co., and

b) such transfer does not attract tax in the country in which Amalgamating company is incorporated.

w.e.f A.Y. 2016-17 : Transfer of a capital asset being shares of a foreign co. [which derives its value substantially from the shares of Indian co, whether directly or indirectly as referred to in Explanation 5 to Section 9(1)(i)], by demerged foreign co. to the Resulting Foreign co. in a scheme of demerger provided : Section 47(vicc)

a) at least 75% of the shareholders (in terms of value of shares) of the demerged foreign co. continue to be the shareholders of the Resulting foreign co. and.
b) such transfer does not attract tax on capital gains in the country in which the demerged foreign co. is incorporated.

Note: The provision of section 391 to section 397 of the Companies Act, 1956 shall not apply in case of demergers referred to in this clause to section 47.

w.e.f. A.Y. 2016-17 , If there is a consolidation (same as merger / amalgamation of two schemes of a mutual fund) and the unit holder of units of the consolidating scheme of MF transfers his "units in such consolidating scheme of MF" in consideration for "units of consolidated scheme of MF." then it will not be regarded as transfer provided — there is a consolidation of one "Equity oriented scheme" with another "Equity oriented scheme/s" or there is a consolidation of "a non-equity oriented scheme" with another "non-equity oriented scheme/s".
Section 47 (xviii)

Eg:-

| | Exemption to unit holder. |
|---|---|
| EOF A + EOF B = EOF C | Allowed |
| DOF X + DOF Y = DOF Z | Allowed |
| EOF P + DOF Q = EOF R | Not Allowed |
| DOF C + DOF D = EOF E | Not Allowed |
| EOF A + EOF B = DOF C | Not Allowed. |

**

EOF — Equity Oriented Fund

DOF — Debt Oriented Fund.

# Profit & Gain Of Business Or Profession

* Sec 32 (1) (iia) Additional Depreciation.
- Assessee - engaged in the Business of manufacture or Generation & Distribution of Power.
- Additional depⁿ @ 20% allowed on Plant & Machinery excluding following:
  (i) Second hand P&M
  (ii) Any P&M installed in office premises or residential accomodation
  (iii) ships, aircraft and transport vehicles
  (iv) P&M on which 100% deduction allowed.

- Additional depⁿ is allowed ONLY in the first year in which it is put to use. If put to use for less than 180 days then 10% Depⁿ shall be allowed. [20% × 50%]

IMPT
* Amendments by Finance Act 2015
1. If additional depⁿ allowed at Half rate [Asset used less than 180 days] then balance half rate depⁿ shall be allowed in next year.

2. Additional depⁿ @ 35% available if undertaking is setup on or after 1/4/2015 in the notified backward area of Bihar, Andhra Pradesh, Telangana or West Bengal for manufacturing of any article.

* Amendment by Finance Act 2015 related to Subsidies / Grants.

Any subsidy, grants, cash incentive, duty drawback, waiver, etc by CG or SG or any authority or body [other than referred in Explanation 10] shall be treated as INCOME sec. 2(24)(xviii)

NOTES: 1) If subsidy for acquiring an asset → It shall be deducted from actual cost of asset.

2) Any other subsidy / waiver of loan / Govt grant from Govts / any authority / body will be taxable under PGBP.

* Treatment of Interest on Loan taken for Acquiring Asset.

- New company & New Business is being set up.
  - upto the date of commercial Production → Added to Actual cost.
  - After the date the asset is first put to use → allowed as Revenue exps.
- Existing Business / Extension / Not a case of extension
  - upto the date the asset is first put to use. → Added to Actual cost
  - After the date the asset is first put to use. → Allowed as Revenue exps.

Summary:

Interest upto the date of Asset first put to use → Added to Actual cost.
Interest after the date of asset first put to use → Allowed as Revenue exp.

* Section 32AC / 32AD : Investment Allowance.

* Section 32 AC : Investment in new P&M.

1. Eligible Assessee : Only Company (Indian / Foreign) engaged in the business of manufacture or production of any article or things

2. Amount of Deduction : 15% of Actual cost of new P&M acquired & installed in P.Y. if cost of P&M > 25 cr in P.Y. [This deduction is allowed upto 31.3.2017] P.Y. 2014-15 / P.Y. 2015-16 / P.Y. 2016-17.

* Section 32AD : Investment in new P&M in Notified Backward areas.
[New section by Finance Act 2015].

1. Eligible Assessee : All Assessee.
setting up an undertaking for manufacture or production of any article on or after 1/4/2015 in any notified Backward area of Andhra Pradesh / Bihar / Telangana / West Bengal.

2. Amount of Deduction : 15% of actual cost of new P&M acquired & installed during 1/4/2015 to 31/3/2020

* common points for Section 32AC / 32AD.

1. Assessee should not transfer P&M (on which investment allowance claimed) with 5 years from the date of its installation. If it is transferred within 5 years then deduction allowed u/s 32AC / 32AD shall be taxable under PGBP in the year in which P&M sold.
[Exception ⇒ Amalgamation, Demerger, or Reorganisation as per sec 47 (xiii) / 47 (xiv) / 47 (xiii b)

2. Plant & Machinery does not include –
- Second hand P&M.
- P&M installed in office premises or residential accomodation.

- Ships, Aircraft and Road transport vehicles.
- P&M on which 100% deduction allowed.

3. This deduction is in addition to Depn & Additional Depn.
4. This deduction shall not be reduced from WDV of Block of assets.
5. This deduction shall not be restricted to 50% if P&M used less than 180 days.
6. Deduction u/s 32AC & 32AD can be claimed simultaneously.

* Section 36(1)(xvii) : Purchase of Sugar cane.

Expenditure incurred by a cooperative society engaged in Business of manufacturing of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed by Govt allowed as deduction.

# Assessment Procedures.

* Section 139(1): Filing of return of income (ROI)

a) For company & Partnership firm (including LLP) → return filing is compulsory.

b) For other Assessee → If GTI > Basic Exemption then return filing is compulsory.

* Ammendment by Finance Act 2015:

* Person compulsorily required to file the Return.

Resident (Other than R but NOR).

(A)

⇒ Beneficial Owner of any asset (including financial interest) located outside India

⇒ has signing authority in any a/c outside India

(B)

Beneficiary of any Asset (including financial interest) located outside India

NOTE: If income already included in the income of Person (A) then person (B) not required to file the return.

* Section 151: Approval of Higher Authority (Amendment)

Notice issued

| within 4 yrs from end of R.A.Y. | beyond 4 yrs from end of R.A.Y. |
|---|---|
| If A.O. is –<br>a) AC/DC/ITO → JC. approval<br>b) J.C. → No approval required | Any A.O. → Approval of CIT/CCIT/PCIT/PCCIT required. |

# Transfer Pricing

* Section 92BA : Specified Domestic Transactions.

Any of the following transactions where the aggregate value of such transactions in the P.Y. is more than ₹ 20 crores

(i) Any expenditure in respect of which payment made to person referred to in Section 40 A (2).

(ii) Any transaction referred in Sec 80 IA (8) or 80 IA (10).

(iii) Any transaction referred in Sec 80 A.

(iv) Any transaction referred in any other section under Chapter VI A or section 10 AA, to which provision of section 80 IA (8)/(10) are applicable.

(v) any other transaction may be prescribed.

# Appeals & Revision

* Section 158 A : Special provisions for avoiding repetitive appeals.

In case of an assessee, for an earlier assessment year; if appeal is pending before :-

(i) High Court (H.C.) or.

(ii) Supreme court (S.C.)

on a particular matter & for an identical point.

In the case of same assessee, but for subsequent year, if the same matter is pending before :-

(i) Any I.T. Authority (A.O.) or

(ii) CIT (A) or

(iii) ITAT.

then Assessee, rather than filing the appeal once again he can furnish a declaration in form no. 8 to A.O./CIT(A)/ITAT, requesting them that if they agree to apply decision of HC/SC in current case then the Assessee shall not appeal.

The A.O./CIT(A)/ITAT may admit or reject the application of Assessee.

* Section 158 AA : [New Section by Finance Act 2015 w.e.f 1/6/15]

a) In case of an Assessee, if a question of law for any A.Y. is pending before Supreme Court against an order of High court in favour of Assessee.

b) And a same question of law in case of same assessee is decided by CIT(A) in the favour of Assessee, then instead of filing appeal to ITAT (by dept), CIT/PCIT may direct the A.O. to make an application to ITAT that the appeal against CIT(A) order will be filed only after decision of Supreme Court.

c) CIT / PCIT can direct the A.O. only after receiving an acceptance from assessee.

d) If NO such acceptance received from Assessee, then CIT/PCIT may direct A.O. to file appeal to ITAT now.

e) when question of law is decided by SC. in that other case, in the favour of department then, CIT / PCIT may direct A.O. to file appeal to ITAT against CIT (A) order.

f) Such appeal shall be filed within 60 days from the date of receipt of copy of order of S.C. by CIT / PCIT.

* Section 268 A : Special provision for appeal by Dept.

(i) This section empowers CBDT to fix monetary limit to regulate appeal by Dept., in order to avoid litigation in small - small cases.

(ii) As per current notification, the dept can file appeal only if the Tax effect is more than following amount :-

| | |
|---|---|
| For appeal to ITAT | more than ₹ 10,00,000. |
| For appeal to H.C. | more than ₹ 20,00,000 |
| For appeal to S.C | more than ₹ 2500,000. |

(w.e.f. 10/12/2015)

[Earlier amount of limit was ₹ 4 Lakh, 10 Lakh & 25 Lakh]

# Minimum Alternate Tax (MAT)

the prov. of MAT is applicable only to "COMPANIES" (including foreign / govt. / Non-Govt company)

As per S115JB, company have to pay tax

| | |
|---|---|
| (i) Tax as per Normal prov. of Income tax | xxxx |
| (ii) 18.5% of Book Profit (MAT) + SC + EC | xxxx |

whichever is higher

* Normal tax in case of Company.

| | Indian Company | Foreign Company |
|---|---|---|
| Tax rate | 30% | 40% |
| Surcharge | | |
| If NTI > ₹1 cr upto ₹10 cr | 7% of tax | 2% of tax |
| NTI > ₹10 cr. | 12% of tax | 5% of tax |
| Education Cess. | 3% | 3% |

* MAT Calculation

| | | ₹ |
|---|---|---|
| 18.5% of Book Profits | | xxxxx |
| Add: Surcharge:- | | |
| If BP > ₹ 1 cr | 7% | |
| If BP > ₹ 10 cr | 12% | xxxx |
| | | xxxxx |
| Add: education cess @ 3%. | | xxxx |
| MAT. | | xxxxx |

NOTE: Incase of Foreign co. surcharge rate is 2% & 5%.

* Explanation to Sec 115JB : computation of Book Profit.

| | Amt | Amt |
|---|---|---|
| Net Profit as per P&L A/c (Companies Act). Add: [only if Dr. to P&L (except point no. 10)] | | xxx |
| 1) Income tax paid / prov. [includes interest on IT, DDT, surcharge & education cess] | xx | |
| 2) Dividend paid / proposed. | xx | |
| 3) Any amount transferred to any Reserves A/c. | xx | |
| 4) Losses of subsidy co. | xx | |
| 5) Prov. for unascertained / contingent liability | xx | |
| 6) Expenses for earning income exempt u/s 10, 11, 12 (except 10(38)). | xx | |
| 7) Depreciation debited to P&L A/c (Total Depn) | xx | |
| 8) Prov. for Diminution in the value of Assets. (Prov. for Bad debts / AS-13 / AS-28). | xx | |
| 9) Deferred tax | xx | |
| 10) Bal in Revenue reserve on retirement or disposal of Asset (if not credited to P&L A/c). | xx | |
| 11) Expenses related to share in the income of AOP/BOI. | xx | |

| | | | |
|---|---|---|---|
| 12) | Expenses relating to capital gain on transfer of securities by foreign co. | xxx | xxxx |
| | **Less:** | | |
| a) | Amount withdrawn from any reserve (if reserve made through P&L A/c). | (xx) | |
| b) | Income exempted u/s 10/11/12 (except 10(38)) | (xx) | |
| c) | Deferred tax | (xx) | |
| d) | Depreciation (excluding depⁿ on Revaluation of asset) | (xx) | |
| e) | Profit of sick industrial company. | (xx) | |
| f) | Transfer from Revaluation reserve (to the extent Depⁿ on revaluation assets). | (xx) | |
| g) | (i) B/F Business Loss OR xx<br>(ii) B/F Unabsorbed depⁿ xx<br>whichever is lower | (xxx) | |
| h) | Income as a share in income of AOP/BOI (because income already taxable in hands of AOP/BOI) | (xxx) | |
| i) | capital gain on transfer of securities by foreign company. | (xxx) | (xxxx) |
| | Book profit | | xxxx |

**NOTE:** 1. For above adjustment, net profit should be computed as per Sch III of Companies Act 2013.

2. In Point No. '2' (Above table) prov. for gratuity, leave salary, prov. for warranty shall not be added if it is made as per Actual valuation or scientific basis.

3. Depreciation referred in point No. '7' and 'd' should be as per Companies Act, NOT as per IT Act.

4. B/f business loss & unabsorbed depreciation as per Companies Act, NOT as per IT Act.

* Section 115JAA : MAT credit.

a) MAT credit shall be c/f & set off upto 10 A.Y.

b) MAT credit available

18.5% of B.P. (MAT) — Tax as per Normal Provision.

c) MAT credit can be set off in the year in which

Tax as per Normal prov > MAT (18.5% of BP)

d) MAT credit can be utilised to the extent Normal tax exceeds MAT.

**NOTE:** 1. Company to which MAT applies shall be liable to pay, Advance tax, interest u/s 234 A/B/C.

2. Apollo Tyres Ltd: Where P&L is prepared as per Companies Act, the A.O. could not recompute profit of Company for MAT calculation. He can adjust only adjustment provided in explⁿ 1 of Sec 115JB.

# Taxation of Charitable/Religious Trust

Sec 11/12/13

* section 2(15): "charitable" means -
  a) Relief of Poor
  b) Education
  c) Yoga (w.e.f. A.Y. 2016-17)
  d) medical relief
  e) Preservation of Environment (including watersheds, forests & wildlife)
  f) Preservation of monuments or places or objects of Artistic or Historic interest.
  g)* Advancement of any other object of General public utility.

Amendment :

* Advancement of any other object of General public utility not be charitable purpose, if it involves any activity related to trade, commerce or Business.
  But it is treated as charitable purpose if aggregate receipt from Business activity is not more than 20% of the total receipts.

* Section 11(2): Exemption if income accumulated for specific purposes.
  where 85% of income is not applied during the P.Y. but accumulated or set apart, then such set apart income is not included in income if following condition are satisfied:
  1) Assessee should furnish a statement to A.O stating the purpose & period for which such income is accumulated [Maximum period can be 5 years]
  2) Such money should be deposited in S.11(5) modes (safe investments)
  3) Such money should not be donated to any other Trust.

* Section 13(9) : Denial of exemption if return not filed upto due date.

exemption u/s 11(2) shall not be available, if

a) statement to A.O. not filed upto due date of ROI or

b) Return of income not filed upto due date of return filing.

# Income Tax Settlement Commission [ITSC]

* Rectification of mistakes (Amendment).

If there is any mistake apparent on record in the order of ITSC, then the ITSC can rectify within 6 months from the end of the month in which :-

a) the order was passed.

b) an application for rectification has been made by assessee or CIT / PCIT

NOTE: Application for rectification cannot be made by Assessee or CIT / PCIT after 6 months from the end of the month in which order was passed by ITSC.

* Restriction on making second time application

The assessee can settle his case only once in lifetime.

Amendment:

w.e.f. 1/6/2015 not only such person, but even related to such person shall also not allowed to ITSC.

| Assessee | Related Person |
|---|---|
| 1. Individual | a) Co. in which Individual holds > 50% shares / voting power.<br>b) Firm /AOP/BOI in which individual holds > 50% of PSR.<br>c) Any HUF in which individual is Karta |
| 2. Company | Any individual holds > 50% share Cap / voting power |
| 3. Firm/AOP/BOI | Any individual holds > 50% PSR. |
| 4. HUF | Karta of such HUF. |

# Taxation Of Business Trust

Unit holders → Invest in Business Trust → Business Trust REIT/InvIT → Invest in SPV → Special purpose vehicle (SPV)

Int from Business Trust to unit holders – Taxable in hands of unit holder

Int from SPV to Business Trust – Exempt in hands of Business Trust u/s 10 (23FC)

* Business Trust means "Real Estate Investment Trust (REIT)" or "Infrastructure Investment Trust (invit)" and unit of which are listed in recognised stock exchange

* Taxability in hands of Business Trust (REIT / InvIT):

1. Interest from SPV shall be fully exempt u/s 10 (23FC) so SPV is not required to deduct TDS on such interest.

2. Rental income of REIT (only REIT) from renting / Leasing / letting out any Real estate asset owned by REIT shall be Exempt — sec 10 (23 FCA).

3. All other income of Business Trust → Taxable.

| LTCG 10(38) | Other LTCG | STCG 111A | All other income. |
|---|---|---|---|
| Exempt | Taxable @ 20% | Taxable @ 15% | Taxable @ MMR in hands of Business Trust @ 34.608% |

* Taxability in hands of unit holders.

1. Any Interest received by unit holder from Business Trust (which was received from SPV) shall be taxable in hands of unit holder at following rates.
   - → NR For Co → 5%.
   - → Others → Normal tax rates.

2. Since interest is taxable in hands of unitholders so, Business trust required to deduct TDS u/s 194 LBA at following rates.
   - → Paid to NR/ For co. → 5%.
   - → Others → 10%.

3. Taxability on transfer of unit of Business Trust → listed in recognised stock exchange & STT paid so.
   - LTCG → exempt u/s 10(38)
   - STCG → Taxable @ 15% u/s 111A.

4. w.e.f A.Y. 2015-16 Rental income received by unit holder from REIT shall be taxable in hands of unit holder because it was exempt in hands of REIT u/s 10(23FCA)

5. If any person transfer shares of SPV to Business Trust in exchange of unit of Business trust, shall not be treated as transfer & capital gain shall not apply. sec. 47(xvii)
   Sec 49(2AC): COA of units = COA of shares in SPV.

   Period of Holding = Period of shares in SPV + units in Business Trust.

6. Business Trust compulsory required to file return as per section 139(4E).

* IMP. NOTES *

1. SPV means Indian Company in which Business Trust holds controlling interest & any specific percentage of shareholding.

2. Income distribution by Business Trust to its unit holders shall be of the SAME NATURE & in the SAME PROPORTION in hands of the unit holders as it had been received by Business Trust (Sec 115 UA)

# Taxation Of Investment Fund

Unit Holder $\xrightarrow{\text{Invest in Fund}}$ Investment Funds

Unit Holder $\xleftarrow{\text{Income recd from fund}}$ Investment Funds

↑ All income taxable except PGBP.

↑ Income of Fund exempt except PGBP.

1. All incomes of investment funds (except PGBP) are Exempt u/s 10 (23 FBA).

2. All incomes received by unit holders from investment fund are taxable in hands of unit holders (except PGBP)

3. Tax rates for investment fund (PGBP)
   - Company / Firm → 30%
   - Others → MMR i.e 34.608%

4. Any income distribution by investment fund Not liable for DDT u/s 115-O.

5. Any income distribution by investment fund (except PGBP), TDS has to be deducted @ 10% by investment fund u/s 194 LBB.

6. Any loss incurred by investment fund should be c/f by investment fund only & not by unit holders.

7. Any income accruing to / receiving by a person being unitholder of an investment fund, out of investment made in investment fund, shall be chargeable to income tax in the same manner as it were the income accruing /received by unit holder (Pass-through status).

8. Investment fund compulsory required to file return u/s 139(4F)

Ex. The following are the particulars of investment Fund

| | A. | B | C |
|---|---|---|---|
| Business income | – | 200,000 | (200,000) |
| Capital gain | 1600,000 | 1400,000 | (600,000) |
| Income from Other Sources. | 400,000. | 400,000 | 800,000 |

Compute total income of investment funds & unitholders for A.Y. 2016-17, assuming that –

(i) each investment fund, 20 unit holders each having one unit

(ii) income from investment in the investment fund is the only income of unit holders.

Solution: Computation of Total income of investment Fund.

| | A. | B | C |
|---|---|---|---|
| PGBP | NIL | 200,000 | NIL |
| | NIL | 200,000 | NIL |

Computation of Total income of unit Holders.

| | | A. | B | C |
|---|---|---|---|---|
| Capital Gain | $\left[\frac{\text{income}}{\text{20 unit holder}}\right]$ | 80,000 | 70,000 | – |
| IFOS. | | 20,000 | 20000 | 30,000 |
| | | 100,000 | 90,000 | 30,000. |

Note: 1. Business loss of fund C (i.e 200,000) set off against IFOS income & remaining 600000 taxable in hands of unitholders = $\frac{600,000}{\text{20 Unitholder}}$ i.e 30000 each.

2. Loss under the head capital gain c/f by investment fund only.

# Amendments for MAY 16

## Residential Status

**Residential status of a company to be determined on the basis of "Place of Effective Management" [Section 6(3)]**

section 6(3) has been substituted to provide that a company would be resident in India in any previous year, if-

i. it is an Indian company; or
ii. its place of effective management, in that year, is in India .

*Explanation* to section 6(3) defines "place of effective management" to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

## Salary

**Increase in the maximum limit for exemption of transport allowance**

transport allowance can be claimed as an exemption by an employee to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty has been increased from ₹ 800 p.m. to ₹ 1,600 p.m. In case of a blind or orthopaedically handicapped employee, the maximum limit has been revised from ₹ 1,600 p.m. to ₹ 3,200 p.m.

## Deduction from GTI

1. **Deduction under section 80C to be available in respect of deposit in Sukanya Samriddhi Account Scheme for the welfare of girl child**

2. **Increase in the limit of deduction in respect of contribution to certain pension funds under section 80CCC [1lac to 1.5lac]**

3. **Additional deduction (50,000) in respect of contribution to NPS of Central Government under section 80CCD(1B) and enhancement of limit of deduction under section 80CCD(1)**

The following table summarizes the ceiling limit under these sections w.e.f. A.Y.2016-17 –

| Section | Particulars | Ceiling limit (₹) |
|---|---|---|
| 80C | Investment in specified instruments | 1,50,000 |
| 80CCC | Contribution to certain pension funds | 1,50,000 |
| 80CCD(1) | Contribution to NPS of Government | 10% of salary **or** 10% of GTI, as the case may be. |
| 80CCE | Aggregate deduction under sections 80C, 80CCC & 80CCD(1) | 1,50,000 |
| 80CCD(1B) | Contribution to NPS notified by the Central Government (outside the limit of ₹ 1,50,000 under section 80CCE) | 50,000 |

**4. Enhancement of the limit of deduction under section 80D and allowability of deduction for incurring medical expenditure in respect of very senior citizen**

(i) On account of the continuous rise in the cost of medical expenditure, the limit of deduction under section 80D has now been increased **from ₹ 15,000 to ₹ 25,000**.

Further, the limit of deduction in respect of amount paid to effect or keep in force an insurance of a person who is a senior citizen, being a resident individual of the age of 60 years or more, has also been raised **from ₹ 20,000 to ₹ 30,000**.

(ii) As a welfare measure towards very senior citizens i.e. person of the age of 80 years or more and resident in India, who are unable to get health insurance coverage, section 80D has been amended to provide that deduction of upto ` 30,000 would be allowed in respect of any payment made on account of medical expenditure in respect of a very senior citizen, if no payment has been made to keep in force an insurance on the health of such person.

(iii) The aggregate deduction available to any individual in respect of health insurance premia and the medical expenditure incurred would, however, be limited to ₹ 30,000.

Similarly, aggregate deduction for health insurance premia and medical expenditure incurred in respect of parents would be limited to ₹ 30,000.

(iv) **'Very senior citizen'** to mean an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.

**5. Increase in the limit of deduction under section 80DD and 80U in respect of persons with disability and severe disability**

Deduction under section 80DD

| Maintenance and medical treatment of: | A.Y.2015-16 | A.Y.2016-17 |
|---|---|---|
| Persons with disability | 50,000 | 75,000 |
| Persons with severe disability | 1,00,000 | 1,25,000 |

**Deduction under section 80U**

| | A.Y.2015-16 | A.Y.2016-17 |
|---|---|---|
| Persons with disability | 50,000 | 75,000 |
| Persons with severe disability | 1,00,000 | 1,25,000 |

6. **Enhanced limit of deduction for expenditure incurred in respect of medical treatment of very senior citizen [Section 80DDB]**

   The maximum limit of deduction under section 80DDB for the various categories of dependent are summarized hereunder:

| | Dependent | Maximum limit (₹ ) |
|---|---|---|
| (1) | A very senior citizen, being a resident individual | 80,000 |
| (2) | A senior citizen, being a resident individual | 60,000 |
| (3) | Dependent, other than mentioned in (1) & (2) above | 40,000 |

7. **Scope of section 80G expanded to allow 100% deduction in respect of donation to Swachh Bharat Kosh, Clean Ganga Fund and National Fund for Control of Drug (Unlimited Category)**

8. **Deduction for employment of new regular workmen extended to all assessees deriving profits and gains from manufacture of goods in a factory [Section 80JJAA]**

   **Effective from: A.Y. 2016-17**

   a. Section 80JJAA(1) provides for deduction to an Indian company, deriving profits from manufacture of goods in a factory. The quantum of deduction allowed is equal to 30% of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.
   b. For the purpose of encouraging generation of employment, section 80JJAA(1) has been amended to **extend the benefit so far available only to corporate assessees to all assessees whose gross total income includes profits and gains derived from manufacture of goods in a factory.**

c. Consequently, section 80JJAA(2)(a) has been amended to provide that no deduction would be allowed if the factory is acquired by the assessee by way of transfer from any other person or as a result of any business reorganization.
d. Clause (i) of the *Explanation* to this section defines "Additional wages" to mean the wages paid to the new regular workmen in excess of 100 workmen employed during the previous year.
e. In order to enable the smaller units to claim the benefit of deduction under this section, clause (i) of the *Explanation* has been amended to provide that "additional wages" shall mean the wages paid to the new regular workmen in excess of 50 workmen employed during the previous year.
f. In effect, the benefit of deduction under this section has been extended to smaller units employing more than 50 new regular workmen.

## Scope of Total Income

**1. Value of Indian assets to determine whether the share or interest of a foreign company or entity is deemed to derive its value substantially from the assets located in India [Section 9(1)(i)]**

**Effective from: A.Y. 2016-17**

(i) Section 9(1) is a deeming provision specifying the incomes which shall be deemed to accrue or arise in India.

(ii) As per section 9(1)(i), all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a **capital asset situated in India shall be deemed to accrue or arise in India.**

(iii) The Finance Act, 2012 had inserted *Explanation* 5 in section 9(1)(i) w.r.e.f. 1.04.1962 to clarify that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the **share or interest derives, directly or indirectly, its value substantially from the assets located in India.**

(iv) *Explanation 6* provides that the **share or interest in a company or entity registered or incorporated outside India, shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India,** if on the specified date, the value of Indian assets,-

(a) exceeds the amount of ₹ 10 crore; and

(b) represents at least 50% of the value of all the assets owned by the company or entity, as the case may be;

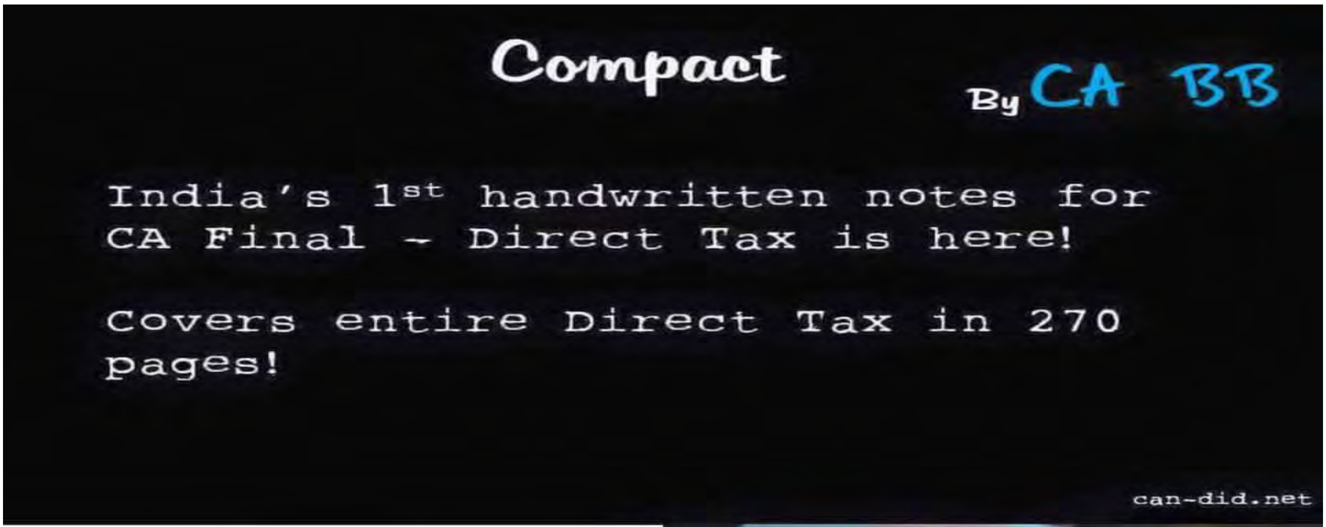
**2. Explanation 7**

No income shall be deemed to accrue or arise to a non-resident, from transfer, outside India, of any share of, or interest in, a company or an entity, registered or incorporated outside India, referred to in the Explanation 5,—

if such transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer, neither holds

(i) the right of management or control in relation to such company or entity,

(ii) nor holds voting power or share capital or interest exceeding 5% of the total voting power or total share capital or total interest, as the case may be, of such company







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