CA – IPCE

Paper 4: Taxation

(Direct Taxation & Indirect Taxation)

FREE Revisionary Notes

Relevant for May 2016 Exams

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Suggested Pattern of Studying Taxation

Paper 4: Taxation

Also refer the Amendment in DT & IDT & Lecture on ICDS

On 7th May	Evening – IDT Except Service Tax & CENVAT (Along with its RTP)
On 8th May –	
Pre Lunch	Service Tax, CENVAT, IFHP, IFS
Post Lunch	PGBP, CG, IFOS & Deductions & other small chapters of DT (by viewing lectures on Youtube & Amendments)
Late Night	Sums of Computation of GTI & RTP Questions
On 9th May – (Exam Day)	Remaining Questions of RTP & Recent Mock Papers

CA – IPCE – Taxation

Direct Tax – 50 Marks

Index

Revisionary Notes contains all the Important Provisions relevant from Exam Point of View.

However, these Notes are meant for REVISION ONLY.

These Notes must be referred only after thorough study of the whole DT Syllabus.

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Basic Concepts

Income Tax Act, 1961 came into force on 1st April, 1962

PERSON [Section 2(31)]

Person includes:

1. An individual;
2. A Hindu Undivided Family (HUF);
3. A Company;
4. A Firm;
5. An Association of Persons (AOP) or a Body of Individuals (BOI),
6. A local authority;
7. Artificial juridical person.

TOTAL INCOME [Section 2(45)]:

Net Total Income/ Net Taxable Income = GTI (-) Deductions

Rates of Tax for A.Y.2016-17:

In case of Individuals (both male & female) (age<60 years),HUF, AOP, BOI & every other artificial judicial person & NON RESIDENT (irrespective of age)

Total income ≤ 2,50,000	Nil
2,50,001 – 5,00,000	10%
5,00,001 – 10,00,000	20%
> 10,00,001	30%

1) In case of Individuals (age 60 - 79 years)

Total income ≤ 3,00,000	Nil
3,00,001 – 5,00,000	10%
5,00,001 – 10,00,000	20%
> 10,00,001	30%

2) In case of Individuals (age ≥ 80 years)

Total income ≤ 5,00,000	Nil
5,00,001 – 10,00,000	20%
> 10,00,001	30%

3) In the case of every co-operative society -

≤10,000	10%
10,001 – 20,000	20%
>20,001	30%

4) In the case of every **firm/Limited Liability Partnership (LLP)/ local authority/domestic company**

On the whole of the total income	30%

5) In the case of a foreign company:

(i) On certain specified income (royalty or technical fees)	50%
(ii) On other income	40%

SURCHARGE ON INCOME – TAX

- **Individual, HUF, BOI, AOP, AJP, Firm, LLP, Co-operative Soc. Or LA**

– 12% if net income exceeds Rs. 1 Crore

- **Domestic Company -**

If net Income exceeds 1 crore but does not exceed Rs. 10 crore - 7%
Net income exceeds Rs. 10 crore – 12%

- **Foreign Company**

Net Income exceeds 1 crore but does not exceed Rs. 10 crore - 2%
Net income exceeds Rs. 10 crore – 5%

CESS @ 3% is applicable to all types of persons.

Provisions relating to rounding off :
Rounding off of income [Sec.288A]
Rounding off of tax [Sec.288B]

New Section 115BBE - Unexplained money, investments etc. to attract maximum marginal rate of tax @30%

Rebate of up to Rs. 2,000 for resident individuals having total income of up to Rs 5lakh [Section 87A]

Certain cases when income of a previous year will be assessed in the previous year itself
(i) Shipping business of non-resident [Section 172]
(ii) Persons leaving India
(iii) AOP / BOI / Artificial Juridical Person formed for a particular event or purpose
(iv) Persons likely to transfer property to avoid tax
(v) Discontinued business

Residential Status & Scope of Total Income

A) <u>RESIDENTIAL STATUS OF AN INDIVIDUAL:</u>

Resident :

if he fulfils **<u>any one</u>** of the following two basic conditions:**[Section 6(1)]**

1) He is in India in that year for a period or periods amounting in all to 182 days or more.

OR

2) 60 days or more during the previous year and 365 days or more during the 4 years immediately preceding that previous year.

<u>Exception [Explanation to Sec.6(1)]</u>

In the case of following special individuals, the 2^{nd} basic condition is not applicable :

1) who leaves India for the purpose of <u>employment outside India</u> or an Indian Citizen who leaves India during the previous year as a <u>member of the crew of an Indian ship</u>.

2) An Indian Citizen or a <u>person of Indian Origin</u>, who comes <u>on a visit to India</u> during the previous year.

Thus, these special individuals shall not be treated as resident unless their stay in India is at least 182 days during the previous year.

CBDT to prescribe the manner of computation of period of stay for an Indian citizen, being a member of the crew of a foreign bound ship leaving India [Section 6(1)]

Basis for determining the period of stay in India for an Indian citizen, being a member of the crew of a foreign bound ship leaving India [Notification No. 70/2015, dated 17.8.2015]

According to Rule 126, in case of an individual, being a citizen of India and a member of the crew of a ship, the **period or periods of stay in India** shall, in respect of an eligible voyage, **not include** the period **commencing from the date** entered into the Continuous Discharge Certificate in respect of **joining the ship** by the said individual for the eligible voyage and **ending on the date** entered into the Continuous Discharge Certificate in respect of **signing off by that individual from the ship** in respect of such voyage.

<u>Resident and Ordinarily Resident:</u>

In addition to fulfilling one of the above basic conditions, the individual shall have to fulfill **<u>both</u>** the following additional conditions for him to be considered as resident and ordinarily resident: **[Section 6(6)]**

1) He has been resident in India in at least 2 out of 10 years preceding the relevant previous year

AND

2) He has been in India for a period of 730 days or more during 7 years preceding the relevant previous year.

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<u>RESIDENTIAL STATUS OF H.U.F.</u> : [Section 6(2)]

<u>Resident:</u> A Hindu Undivided Family is said to be resident in India, if control and management of its affairs is wholly or partly situated in India.

<u>Non-resident</u>

A Hindu Undivided Family is non-resident in India, if control and management of its affairs is wholly situated outside India.

<u>Resident and Ordinarily Resident</u> :

A resident H.U.F. will be treated as Resident and Ordinarily Resident only if its Karta (or manager) has satisfied the two additional conditions of Sec.6(6) during the relevant previous year; otherwise, it will be treated as Resident but not Ordinarily Resident.

<u>RESIDENTIAL STATUS OF A FIRM, AOP AND EVERY OTHER PERSON EXCEPT INDIVIDUAL / HUF & COMPANY. [Section 6(4)]</u>

A Firm, AOP and every other person other than a company is considered as resident if the control and management is wholly or partly situated in India. If the control and management is wholly situated outside India, such firm, AOP or any other person in considered as non-resident.

<u>RESIDENTIAL STATUS OF A COMPANY</u> [Section 6(3)]

An Indian company is always resident in India.

A foreign company is resident in India only if, during the previous year, the Place of Effective Management is in India.

<u>Scope of Total Income [Section 5]</u>

The provisions regarding incidence of a tax may be summarized in the following table:

Particulars of Income	**ROR**	**RNOR**	**NR**
	Whether Taxable		
INDIAN INCOME Income received or deemed to be received in India whether earned in India or elsewhere	Yes	Yes	Yes
Income which accrues or arises or is deemed to accrue or arise in India during the previous year, whether received in India or elsewhere	Yes	Yes	Yes
FOREIGN INCOME : Income which accrues or arises outside India and received outside India from a business controlled from India or Profession set up in India.	Yes	Yes	No
Income, which accrues or arises outside India and received outside India in the previous year from any other source.	Yes	No	No
Past income (whether taxed or untaxed) which accrues or arises outside India and received outside India, remitted to India during the previous year.	No	No	No

<u>INCOME DEEMED TO ACCRUE OR ARISE IN INDIA</u> [Section 9]

<u>Exceptions to 'business connection'</u>

- Operations confined to purchase of goods in India for the purpose of exports;
- Operations confined to collection of news & views for transmission outside India by or on behalf of non-resident who is engaged in the business of running news agency or of publishing newspapers, magazines or journals;
- Operations confined to shooting of cinematograph films in India, subject to the condition that , if such Non-resident is :

  an individual – he should not be a citizen of India ; or

  a firm – the firm should not have any partner who is a citizen of India or who is resident in India ; or

  a company – the company does not have any shareholder who is a citizen of India or who is resident in India.

b) Income from any property, any asset or source of income in India.

c) Income through the sale of a capital asset situated in India.

d) Interest/Royalty/Technical Services Fees payable by:

✓ Government ; or

✓ A person who is resident in India, **except** where Interest/Royalty/Technical Services is payable in respect of money borrowed and used for the purpose of business or profession carried on outside India or earning any income from any source outside India; or

✓ A person who is a non-resident provided Interest/Royalty/Technical Services is payable in respect of money borrowed and used for a business or profession carried on in India.

Incomes which do not form part of Total Income

Agricultural Income [Section 10(1)]

Partial Integration: Income partly agricultural and partly non-agricultural.
For disintegrating a composite business income, which is partly agricultural and partly non-agricultural, the following rules are applicable-

Income	Non-agricultural income	Agricultural Income	Income tax rules
Growing and manufacturing tea in India	40%	60%	Rule 8
Sale of centrifuged latex or cenex (rubber) manufactured from rubber plants grown by the seller in India	35%	65%	Rule 7A
Growing & curing of coffee in India	25%	75%	Rule 7B
Growing, curing, roasting & grounding coffee in India with or without mixing of chicory or other flavouring ingredients	40%	60%	Rule 7B

SECTION 10: AGRICULTURAL INCOME EXEMPT FROM TAX
Agricultural income is exempt from tax under section 10 of the income-tax Act. However, for computation of income tax, the agricultural income is aggregated with non-agricultural income if:

i) Assessee is an individual, HUF, AOP/BOI (taxable at normal rates applicable to n individual)
ii) Assessee had non-agricultural income which exceeds the taxable limit.
iii) Agricultural income exceeds Rs 5,000.

The aggregation of agricultural income with non-agricultural income and computation of income tax for the year 2015-16 shall be in the following manner:

Step-1: = Tax on: Net agricultural income+ Non Agricultural Income
Step-2: = Tax on: Net agricultural income+ BEL
Therefore final tax payable = Step 1 (-) Step 2 (-) Rebate if any (+) Cess if any

Receipts by a member of HUF from HUF is exempt [Section 10(2)]:

Share of profits received by a partner from a partnership firm is exempt [Section 10(2A)]:
Income of a firm is to be taxed in the hands of the firm only and the same can under no circumstances be taxed in the hands of its partners. Therefore, the entire profit credited to the partners' accounts in the firm would be exempt from tax in the hands of such partners, even if the income chargeable to tax becomes Nil in the hands of the firm on account of any exemption or deduction available under the provisions of the Act.

Section 10(7): Any allowance or perquisite paid or allowed outside India by the Government to a citizen of India for rendering service outside India is exempt.

Section 10(10BB): Compensation received by victims of Bhopal Gas Leak Disaster is fully exempt.
Section 10(10BC) : Any amount received or receivable from the central or state government or local authority by an individual or his legal heir by way of compensation on account of any disaster.

Section 10(10D):
Policy issued before 1st April, 2012: 20% of the actual capital sum assured
Policy issued on or after 1st April, 2012: 10% of the actual capital sum assured
Policy issued on or after 1st April, 2013- In case of persons with disability or person with severe disability as per Section 80U or suffering from disease or ailment: 15% of the actual capital sum assured.
(This Section is not applicable to Keyman Insurance Policy)

Section 10(11) to Section 10(14) are covered in Salaries

Interest exempt from tax [Section 10(15)]-
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:
(1) Rs. 3,500 in case of an individual account. (2) Rs. 7,000 in case of a joint account.
Specification of bonds for interest exemption under section 10(15)
Bonds of:
National Highways Authority of India (NHAI), / Rural Electrification Corporation Limited,

Educational scholarships [Section 10(16)]

Payments to MPs & MLAs [Section 10(17)]

Awards for literary, scientific and artistic works and other awards by the Government [Section 10(17A)]

Pension and Family Pension in certain cases [Section 10(18)]

Section 10(19) : Family Pension received by family members of soldiers

Section 10(22B): Press Trust if India - News agency notified:
The income of such news agency will not be included in computing the total income of a previous year of such agency, for three years, provided it applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members.

Exemption of income of Prasar Bharati (Broadcasting Corporation of India) [Section 10(23BBH)]

Section 10(23C) – Exemption of Income of certain Specified Funds
Section 10(23C) provides for exemption from tax in respect of the income of certain charitable funds or institutions like the Prime Minister's National Relief Fund, the Prime Minister's Fund (Promotion of Folk Art), the Prime Minister's Aid to Students Fund and the National Foundation for Communal Harmony.

Income of certain educational institutions, universities and hospitals which exist solely for educational purposes or solely for philanthropic purposes, and not for purposes of profit and **which are wholly or substantially financed by the Government** are exempt under section 10(23C).
<u>Wholly or substantially financed by the Government means:</u>
If the Government grant to such university or other educational institution, hospital or other institution **exceeds 50% of the total receipts including any voluntary contributions**

Taking into consideration, the importance of Swachh Bharat Kosh and Clean Ganga Fund, the scope of section 10(23C) has been expanded to exempt the income of Swachh Bharat Kosh and Clean Ganga Fund, set up by the Central Government, from income-tax.

<u>Section 10 (23D) – Mutual Funds</u>

Section 10(26AAA): **Sikkim:**
Income from any source in the state of Sikkim, dividend income and interest on securities is exempt in the hands of a Sikkimese individual. This exemption is not available to a Sikkimese woman who, on or after 1st April, 2008, marries a non-Sikkimese individual.

<u>Section 10(26BBB)</u> was inserted in the Income-tax Act, 1961 vide Finance Act, 2003 w.e.f. 01.04.2004 to provide that any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India does not form part of the total income.
Such corporations are statutorily not required to file return of income as per section 139 and their income is also unconditionally exempt under section 10. Hence, there would be no requirement for tax deduction at source from the payments made to such corporations, since their income is in any case exempt under the Income-tax Act, 1961.

<u>Section 10(32) – Covered in Clubbing of Income</u>

<u>Section 10(34): Dividend on shares</u>

<u>Exemption of income received by an investor on account of buy-back of unlisted shares of a domestic company [Section 10(34A)]</u>
The income arising to the shareholders in respect of such buy back of unlisted shares by the domestic company would be exempt under section 10(34A) w.e.f. A.Y.2014-15, where the company is liable to pay the additional income-tax on the buy-back of shares.

<u>Income from units of UTI or specified Mutual Fund [Section 10(35)]</u>

<u>Section 10(43): Income/Loan received from Bank in Reverse Mortgage Scheme is fully exempt from Tax</u>

<u>Exemption in respect of income received by certain foreign companies in India in Indian currency from sale of crude oil to any person in India [Section 10(48)]</u>

<u>Section 10AA:</u>

Amount of exemption =

$$\text{Profits from business of the undertaking being the unit} \times \left(\frac{\text{Export turnover of the undertaking of such articles or things or computer software}}{\text{Total turnover of the business carried on by the undertaking}} \right)$$

100% of such profits would be exempt in the first five years, 50% in the next five years and in the last five years, 50% subject to transfer to special reserve.

<u>Taxation of Charitable/Religious Trusts & Institutions</u>

Sec. 2(15) : Charitable Purpose

Includes:

- Relief of poor
- Education
- Medical relief
- Preservation of Environment/Monuments/Places of Artistic or Historic Interest
- ***Yoga***
- The advancement of any other object of general public utility.

"Advancement of any other object of general public utility" would continue to be a "charitable purpose", if the activity in the nature of trade, commerce or business is undertaken in the course of actual carrying out of such advancement of any other object of general public utility and the aggregate 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 20% of the total receipts of the trust or institution undertaking such activity or activities, for the previous year.

Sec. 11(1): Income from Property held for Charitable/Religious Purposes

Following income shall not be included in the total income of trust:

1) 15% of Gross Income
2) 85% of the income derived provided it is **applied** for relevant purposes
3) Corpus Donations (ie Voluntary Contributions made with a specific direction that they shall form part of the corpus of the trust)

Power of Principal Commissioner/Commissioner to cancel registration of trust or institution expanded (Section: 12AA)

It provides that where a trust or an institution has been granted registration, and subsequently it is noticed that its activities are being carried out in such a manner that,—

(i) its income does not ensure for the benefit of general public;

(ii) it is for benefit of any particular religious community or caste;

(iii) any income or property of the trust is applied for benefit of specified persons like author of trust, trustees etc.; or (iv) its funds are invested in prohibited modes

Section 13A:

Any income from house property, income from other sources, capital gains and income by way of voluntary contributions received by the political parties from any person is exempt under section 13A, subject to satisfaction of the following conditions -

(i) maintenance of such books and other documents as would enable the Assessing Officer to properly deduce the income of the political party;

(ii) maintenance of record in respect of each such voluntary contribution in excess of Rs. 20,000;

(iii) audit of accounts by a chartered accountant; and

(iv) submission of a report under section 29C(3) of the Representation of People Act, 1951 for every financial year.

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Income from House Property

i) Let-out property- section 23(1)
ii) Self-occupied property or unoccupied property- section 23(2) (a) and (b); and
iii) Deemed let out property-section 23(4).

1) <u>LET -OUT PROPERTIES</u> (LOP) [SECTION 23(1)]

Following is the format which is used for computation of income from house property in case of a let out property:

	Rs.	Rs.
Gross Annual Value (GAV)		xxxx
Less: Property taxes or municipal taxes paid to local authority and borne by owner.		(xxxx)
Net Annual Value (NAV)		xxxx
Less: Deduction u/s 24-		
a) 30% of net annual value.	xxxx	
b) Interest on loans	xxxx	(xxxx)
Income from house property.		**xxxxx**

<u>METHOD OF CALCULATING GROSS ANNUAL VALUE</u>

(A) <u>R</u>easonable <u>E</u>xpected <u>R</u>ent:
(i) Municipal Value
(ii)Fair Rent
(iii) Higher of (i) & (ii)
(iv) Standard Rent
(v) RER (Lower of (iii) & (iv))

(B) <u>A</u>ctual <u>R</u>ent received or receivable
GAV = Higher of (A) & (B)
(C) This Step is applicable, only if the following 2 conditions are fulfilled:
  (i) Vacancy
  (ii) AR < RER
If Step (C) is applicable, we should find out "c" where c = AR + Rent for Vacancy Period
"c" is never GAV.
If C ≥ RER, then GAV = AR
If C < RER, then GAV = RER – Loss due to Vacancy

<u>DEDUCTIONS FROM INCOME FROM HOUSE PROPERTY [SECTION 24]</u>

<u>2) SELF OCCUPIED PROPERTY OR UNOCCUPIED PROPERTY [SECTION 23(2)]</u>
The annual value of the property shall be taken into NIL

	Rs.
Annual Value as per Section 23(2)	Nil
Less: Interest on loan borrowed as per section 24(b)	(xxx)
Loss from house property	**xxx**

Deduction of interest on loan taken in respect of a self-occupied property:

A	Where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital before 1.4.99.	Actual interest payable subject to maximum of Rs. 30,000
B	Where the property is acquired or constructed with capital borrowed on or after 1.4.99 and such acquisition or construction is completed within 3 years from the end of the financial year in which the capital was borrowed.	Actual interest payable subject to maximum of Rs. ***2,00,000***
C	Where the property is repaired, renewed or reconstructed with capital borrowed on or after 1.4.99.	Actual interest payable subject to a maximum of Rs. 30,000.

It may be noticed that: -

(A)+ (B) ≤ 2,00,000 (A)+ (C) ≤ 30,000 (B)+(C) ≤ 2,00,000

(A)+ (B) + (C) ≤ 2,00,000

3) DEEMED TO BE LET OUT PROPERTIES [SECTION 23(4)]

Only 1 SOP, Others DLOP.

a) Reasonable Expected Rent has to be adopted as gross annual value.

* Standard Deduction as well as deduction in respect of interest are allowed from the NAV in respect of a deemed let out property. The limits applicable to interest in respect of self-occupied property shall not be accepted to be a deemed let out property.

INTEREST NOT DEDUCTIBLE IF TDS NOT DEDUCTED ON INTEREST PAID OUTSIDE INDIA FROM "INCOME FROM HOUSE PROPERTY" [SECTION 25]

Taxability of recovery of unrealised rent & arrears of rent received:

Unrealised – Bad debts recovered – Standard Deduction is not allowed.

Arrears of Rent - Standard Deduction is allowed.

PROPERTY OWNED BY CO-OWNERS [SECTION 26]

In case of LOP – Total Income÷ Share

In case of SOP – Compute Individually & Interest Deduction u/s 24(b) is available to individual co-owners

CASE OF COMPOSITE RENT:

a) Where along with the property, various facilities like lift, gas, water etc are provided:

If separable: Then Rent from HP under the head IFHP & Value of Services under the head IFOS

If not separable: Then total rent (-) cost of services = IFHP

b) Where along with property. Furniture, machinery or plant belonging to the assessee has also been let out:

If separable: Then Rent from HP under the head IFHP & Value of Assets under the head IFOS/PGBP

If not separable: Then total rent = IFOS / PGBP

Income from Salaries

Salary is chargeable to tax either on due basis or on receipt basis whichever is earlier.

FOREGOING OF SALARY – Taxable AND SURRENDER OF SALARY – Not Taxable

DEDUCTIONS FROM SALARY

Entertainment allowances [Section 16 (ii)]

Entertainment allowances is first included in salary income and thereafter, a deduction is given on the following basis only to a Government employee

The *least* of the following is deductible:

a) Rs. 5,000; b) 20% of basic salary; or c) Amount of entertainment allowance granted during the previous year.

Profession Tax: [SECTION 16 (iii)]

Deduction is always available to employee & the amount which is paid by the employer is added in the salary 1st as a perquisite.

EXEMPTION IN RESPECT OF GRATUITY [SECTION 10(10)]

Particulars	**Exemption in case of Govt. Employees**	**Exemption in case of employee covered by Payment of Gratuity Act, 1972**	**Exemption in case of any other employee**
What is the amount of exemption?	Entire amount is exempted	1) 15 days salary x period of service. 2) Actual gratuity received. 3) Maximum Rs. 10,00,000 Whichever is less	1) ½ month salary x period of service. 2) Actual gratuity received. 3) Maximum Rs. 10,00,000 Whichever is less
How to calculate salary for the purpose of exemption?	Not applicable	Basic +D.A. (R) + D.A. (Ord.) last drawn.	Average salary in 10 months preceding the month of retirement, taking only Basic, D.A. (R) and turnover commission.
How to calculate 15 days salary/ ½ months' salary?	Not applicable	$\frac{\text{Above salary x 15}}{26}$	Above salary x ½
How to calculate period of service?	Not applicable	Any part of a year more than 6 months shall be taken as a year.	Any part of a year more than, less than or equal to 6 months shall be totally ignored.

COMMUTED PENSION [SECTION 10(10A)]

1) Uncommuted pension refers to pension periodically received by the employee. Commuted pension means lumpsum amount taken by commuting the pension or part of the pension. Where an employee commutes, under pension rules, part of the pension, the remaining portion will be periodically received.

2) Uncommuted pension is taxable as salary u/s 15 in hands of both Government and non-Government employees.

Exemption u/s 10(10A) is allowed in case of commuted pension. The amount of exemption is as below:

Govt. Employee	**Pvt. Employee receiving Gratuity**	**Pvt. Employee not receiving Gratuity**
Fully exempt	$\frac{\text{Commuted Pension}}{\text{Fraction commuted}} \times \frac{1}{3}$	$\frac{\text{Commuted Pension}}{\text{Fraction commuted}} \times \frac{1}{2}$

LEAVE SALARY [SECTION 10(10AA)]

1. Leave salary received during the period of service is always taxable.
2. Exemption is available in case of leave salary received at the time of retirement.

Particulars	Exemption in case of govt. employees	Exemption in case of any other employee
What is the amount of exemption?	Entire amount is exempted from tax.	1) Average salary x leave credit. 2) Average salary x 10 months. 3) Actual leave encashment. 4) Maximum Rs. 3,00,000 Whichever is less
How to calculate salary for the purpose of exemption?	Not applicable	Average salary in 10 months preceding the retirement, taking only basic, Dearness Allowances to the extent the terms of employment so provide and Turnover Commission.
How to calculate leave credit, which is nothing, but leave eligible but not used?	Not applicable	Maximum 1 month leave for each full year of service minus actual period of leave taken

RETRENCHMENT COMPENSATION [SECTION 10 (10B)]

Compensation received by a workman at the time of retrenchment is exempt to the extent of the lower of the following:

a) 15/26 × Average salary of last 3 months × Completed years of service and part thereof in excess of 6 months

b) Rs. 5, 00,000; or

c) The actual amount received.

COMPENSATION ON VOLUNTARY RETIREMENT [SECTION 10(10C)]

Least of the following is exempt :

(i) Compensation actually received

(ii) Rs. 5,00,000

(iii) Last drawn salary x 3 months x completed years of service

(iv) Last drawn salary x remaining months of service

Section 10(5) [Leave Travel Concession]: Travelling Expenses by Shortest Route & by Economy Class/ 1st Class is totally allowed as Exemption.

The restriction imposed for two children is not applicable in case of multiple births (twins) which takes place after the first child.

TREATMENT OF PROVIDENT FUND (Section 10(11) & 10(12))

	Statutory PF	Recognized PF	Unrecognized PF	PPF
Employer's contribution to provident fund	Exempt from tax.	Exempt upto 12% of salary. Excess is taxable.	Not taxable yearly	N.A.
Deduction under Sec. 80C on employee's contribution	Available u/s 80C	Available u/s 80C	Not eligible for deduction	Available u/s 80C
Amount credited to provident fund.	Exempt from tax.	Exempt from tax if rate of interest does not exceed the rate of 9.5%	Not taxable yearly	Exempt from tax u/s 10(11)
Lumpsum payment at the time of retirement	Exempt from tax u/s 10(11)	Exempt from tax if employee served a continuous period of 5 years or more or retires before rendering 5 years of service because of reason beyond the control of the employee. In other case, it will be taxable.	Employees' own contribution is exempt. Interest on employee's contribution – IFOS. Balance taxable under the head ''Salaries''	Exempt from tax.

Salary for this purpose= Basic + D.A. (R) + Turnover Commission.

APPROVED SUPPERANNUATION FUND [Section 10(13)]

Employer's contribution in excess of Rs. 1,00,000 is considered as perquisite in the hands of the employee. Employee's contribution qualifies for deduction under Section 80C. Interest on accumulated balance is not chargeable to tax.

HOUSE RENT ALLOWANCE [SECTION 10(13A)]

House rent allowance granted to an assessee by his employer is exempt to the extent of least of the following:

i) Excess rent paid over 10% of salary due for the relevant period, or

ii) If the accommodation is in: Calcutta, Chennai, Delhi and Mumbai- 50% of salary and in any other places- 40% of salary; or

iii) Actual allowance received.

SPECIFIC/NOTIFIED SPECIAL ALLOWANCES [SECTION 10(14)]

(A) Allowances which are exempt to the extent of actual amount received or the amount spent for the specified purpose for which these are received, whichever is less.

a) Travelling Allowance(tour) b) Daily Allowance c) Conveyance Allowance(local) d) Helper Allowance e) Academic Allowance f) Uniform Allowance

(B) Allowances which are exempt to the extent of amount received or the limit specified, whichever is less

a) Children Education Allowance: b) Hostel Expenditure Allowance c) Transport Allowance

Amendment for Transport Allowance:

Normal Employee: Increased from 800p.m. to 1600p.m.

Special Employee (blind or deaf and dumb or orthopedically handicapped employee with disability of lower extremities): Increased from 1600p.m. to 3200p.m.

(C) Allowance where exemption is allowed upto certain percentage of amount received

Amount of exemption shall be 70% of such allowance or Rs. 10,000 p.m., whichever is less.

Section 17(2) - Value of Rent Free accommodation:

A) Unfurnished Accommodation

The perquisites in this regard shall be valued as follows:

Situations	Taxable value of perquisite
CG & SG Employees.	License fee determined by such government in accordance with the rules framed by that government.
Other employee-Owned accommodation	i) 15% of salary in cities having population exceeding 25 lakhs as per 2001 census; ii) 10% salary in cities having population exceeding 10 lakhs but not exceeding 25 lakhs as per 2001 census. iii) 7.5% of salary in other areas.
Other employee-Leased accommodation	The actual amount of lease rental period or payable by the employer or 15% of salary whichever is low.

B) Furnished Accommodation

To the value of Unfurnished Accommodation, the following is added:

i) If furniture is owned by the employer- 10% per annum, of the original cost of furniture.

ii) If furniture is hired by the employer- Actual hire charges payable.

''Salary'' includes the basic pay, DA(R) , allowances like HRA & that of Sec. 10(14), bonus or commission payable monthly otherwise or any monetary payment, by whatever name called from one or more employers, as the case may be, but does not include the- following namely:

a) Employer's contribution to the Provident Fund account of the employee;

b) The value of perquisites

c) DA(Ord)

Hotel Accommodation: If any employee has been transferred to any place other than his normal place of duty & he has been provided an accommodation in a hotel, then tax consequences will be as follows:

For ≤ 15 days → Nothing is taxable as perquisite

For > 15 days → Actual Hotel Rent paid or payable by the employer will be chargeable to tax

If New Accommodation is provided while retaining the older accommodation then:
For ≤ 90 days → Any accommodation whose taxable perquisite value is lower
For > 90 days → Both Accommodation

Interest free or concessional loan:
Exempt for Petty Loans upto Rs. 20000 or for Specified Medical Treatments
For Calculation Purpose, Rate of Interest of SBI as on 1st day of Financial Year

Use of Moveable Assets

CIRCUMSTANCES	VALUE OF BENEFIT
a) Use of laptops and computers b) Moveable assets, other than- i) Laptops and computers, and ii) Assets already specified in the rules.	NIL i) 10% per annum of the actual cost of such assets, or ii) The amount of rent or charges paid, or payable by the employer as the case may be

Transfer of any movable assets

ASSETS TRANSFERRED	VALUE OF BENEFIT
a)Computers & electronic items like digital diaries, printers, etc. (Data Storage Devices)	Actual cost (-) 50% of the cost to the employer for each completed year during which such asset was put to use by the employer, on the basis of reducing balance method.
b) Motor cars	Actual cost (-) 20% of the cost to the employer for each completed year during which such asset was put to use by the employer, on the basis of reducing balance method.
c) Any other assets like TV, washing machine, microwave, ovens, mixers, etc.	Actual cost (-) 10% of the cost to the employer for each completed year during which such asset was put to use by the employer, on the basis of straight line method.

ESOP
The value of sweat equity shares chargeable to tax as perquisite shall be the fair market value of such shares on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from, the assessee in respect of such shares.

CAR PERQUISITE
a) Car Owned by Employee – If Repairs & Maintenance Expenses are borne by the employer

Private Journey	Amount Paid by Employer	
Office & Private Journey	Amount borne by Employer	xxxx
	(-) If C.C ≤ 1.6 litres	1800 p.m
	(-) If C.C ≥ 1.6 litres	2400 p.m
	(-) For Driver's salary	900 p.m.
	Taxable Amount	xxxxx

b) Car provided by Employer

i) Expenses borne by Employee

Private Journey	Taxable Amount = Wear & Tear (10% of cost) or Rent/Hire Charges (+) Driver's Salary
Office & Private Journey	If C.C ≤ 1.6 litres 600 p.m If C.C ≥ 1.6 litres 900 p.m For Driver's salary 900 p.m. Taxable Amount xxxxx

ii) Expenses borne by Employer

Private Journey	Taxable Amount = Wear & Tear (10% of cost) or Rent/Hire Charges (+) Driver's Salary (+) Running & Maintenance Expenses
Office & Private Journey	If C.C ≤ 1.6 litres 1800 p.m If C.C ≥ 1.6 litres 2400 p.m For Driver's salary 900 p.m. Taxable Amount xxxxx

Value of gift, voucher or token in lieu of such gift : Upto Rs. 5000 – Exempt, Otherwise Fully Taxable

MEDICAL FACILITY NOT A TAXABLE PERQUISITE [PROVISO TO SECTION 17(2)]

Hospital Maintained by Employer	100% Exempted for employee & family members
Expenses borne by Employer	a) Treatment in Govt. / Recognized Hospital – 100% Exempted for employee & family Members b) Other Hospitals (Private) – Exempted upto 15,000 p.a. Balance Taxable
Mediclaim Insurance paid by Employer	100% Exempted for employee & family members

MEDICAL TREATMENT OUTSIDE INDIA

The following expenditure incurred by employer on treatment of the employee or his family member outside India is also a tax-free perquisite.

1) Expenses on medical treatment of the employee or any other member of his family outside India.

2) Expenses on stay abroad of the employee or any other member of his family for medical treatment with one attendant who accompanies the patient

3) Travel expenses of the patient (employee or his family member) and one attendant who accompany the patient in connection with such treatment. It shall be tax-free in the case of

those employees whose gross total income (before including therein such travel expenditure as perquisite) does not exceed Rs. 2, 00,000.

Family means spouse and children of the individual. Children may be dependent or independent, married or unmarried. It also includes parents, brothers and sisters of the individual if they are wholly or mainly dependent upon him.

PERQUISITE IN RESPECT OF GAS, ELECTRIC, ENERGY AND WATER SUPPLY FOR HOUSEHOLD CONSUMPTION

Provided by Employer's own sources: Cost of the Facilities
Provided by Employer from others: Market Price of such Facilities

VALUATION OF FREE OR CONCESSIONAL EDUCATIONAL FACILITIES:

If the educational facility is provided to any member of the household of the employee - The cost of such education in a similar institution in or near the locality.
If the educational facility is provided to the children of the employee - No perquisite if the cost of such education or the value of such benefit per child does not exceed Rs. 1,000 p.m. If exceeds Rs. 1000 p.m. then Fully Taxable

Value of free meals, tea & snacks: Exempt upto Rs. 50/meal in office.

If nothing is specified about the number of meals, Assume 300 Meals in a year & support it by a Note.

RELIEF U/S 89: Arrears of Salary

Calculation:

A) Calculate Tax incl Cess on (Current Year Income + Arrears)
B) Calculate Tax incl Cess on (Current Year Income excluding Arrears)
C) Take Difference of A – B
D) Calculate Tax incl Cess on (That Year's Income + Arrears)
E) Calculate Tax incl Cess on (That Year's Income excluding Arrears)
F) Take Difference of D – E
G) Relief = C – F

- **That Year's means the Year to which the Arrears of Salary relates to.**

Profits or Gains from Business or Profession

MANNER OF COMPUTATION OF INCOME:

Net Profit as per P & L Account	xxx
Add: Amt. debited to P & L A/c but disallowable or considered separately	xxx
Add: Taxable business Income not credited to P & L A/c.	xxx
Less: Amt credited to P & L A/c but not taxable / taxable under different heads.	xxx
Less: Allowable expenses not debited to P & L A/c.	xxx
Taxable PGBP	xxx

Expenses relating to Building [Section 30]

Expenses relating to Machinery, Plant and Furniture: [Section 31]

Depreciation [Section 32]

TABLE OF RATES AT WHICH DEPRICIATION IS ADMISSIBLE

		%
	PART A : **TANGIBLE ASSETS**	
I	BUILDINGS: a) Buildings which are used mainly for residential purposes b) Buildings - Others c)Purely temporary erections such as wooden structures	 5 10 100
Ii	FURNITURE AND FITTING: Furniture and Fitting including electrical fittings	 10
Iii	MACHINERY AND PLANT 1) Machinery and Plant 2) Motor cars other than those used in a business of running them on hire 3) Aeroplanes - Aeroengines 4) Motor buses, motor lorries and motor taxies used in a business of running them on hire. 5) Computers 6) Specified Air Control Pollution Equipments/Water Control/Pollution Equipments 7) (a) Wind mills and any specially designed devices which run on wind mills (b) Any special devices including electric generators and pumps running on wind energy installed on or after 1.4.2014	 15 15 40 30 60 100 80
	5) i) Books owned by assesses carrying on a profession: a) Books, being annual publication. b) Books other than those covered by entry (a) above. ii) Books owned by assessee's carrying on business in running lending libraries.	 100 60 100
IV	SHIPS	20

	PART B: **INTANGIBLE ASSETS:** Know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature.	25

Normal Depreciation: The product of WDV of the block and rate of depreciation is the amount of depreciation.
Additional Depreciation: An assessee engaged in the business of manufacture/production of any article or thing can claim additional depreciation at the rate of **20 per cent of actual cost** if a few conditions are satisfied.
Balance 50% of additional depreciation to be allowed in the subsequent year, where the plant and machinery is put to use for less than 180 days during the previous year of acquisition and installation [Sections 32(1)] Effective from : A.Y. 2016-17
Balance 50% of the additional depreciation on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the immediately succeeding previous year.

Manufacturing COMPANIES investing more than Rs. 25 crore in new plant and machinery in any previous year during the period from 1.4.2014 to 31.3.2017 entitled to investment allowance@15% [Section 32AC(1A)]
The investment allowance@15% under this section is in addition to the depreciation and additional depreciation allowable under section 32(1). Further, the investment allowance would not be reduced to arrive at the written down value of plant and machinery because it is a Deduction & Not Depreciation. However this deduction is available only to **COMPANIES**

Manufacturing INDUSTRIES (Can be any Assessee) set up in the notified backward areas of specified States - Andhra Pradesh, Bihar, Telangana and West Bengal to be eligible for a deduction @15% of the actual cost of new plant & machinery acquired and installed on or after 1.4.2015 during the previous year [Section 32AD]
Effective from: A.Y. 2016-17

Where the **assessee is a company**, deduction under section 32AD would be available over and above the existing deduction available under section 32AC.
Lock in Period of New Plant & Machinery – 5 Years
If sold before that – Then Deduction allowed earlier shall be Taxable in the year of sale under the head PGBP.

Additional depreciation @35% to be allowed to assessees setting up manufacturing units in notified backward areas of specified States and acquiring and installing of new plant & machinery [Proviso to section 32(1)(iia)] Effective from: A.Y. 2016-17
Such additional depreciation shall be restricted to 17.5% (i.e., 50% of 35%), if the new plant and machinery acquired is put to use for the purpose of business for less than 180 days in the year of acquisition and installation.
The balance 50% of additional depreciation (i.e., 50% of 35%) would, however, be allowed in the immediately succeeding financial year.

Depreciation in case of Succession, Amalgamation or Demerger: Apportion in the ratio of number of days used.

Expenditure on scientific research [section 35]
Expenditure incurred by the assessee:

Type of assessee	**Type of expenditure**	**Deduction**
Any	Revenue and capital expenditure incurred in p.y.(other than land)	100% in that P.Y.
Any	Pre-commencement expenditure: (during 3 years immediately preceding the year of the commencement of business) i. salary to research staff ii. Purchase of materials for research iii. Capital exp. (except Land)	100% in the P.Y. of commencement of business
A company engaged in a business of: a) Bio – technology Or b) Manufacture/ production of any article **{Section 35(2AB)}**	Revenue and capital expenditure incurred in p.y.(other than land and building)	200% in that p.y.

b)

Contribution made to outsiders [section35(1)(ii) &(iii)] Donee institution	**Deduction**
Approved University, College or other institution or research association which has as its object, the undertaking of scientific research to be used for scientific research provided that the university, college, institution or association is approved for this purpose by the Central Government by notification in the Official Gazette.	175%
Approved Indian company, having main object of scientific research and development	125%
Approved university, college, institution or research association to be used for research in social science or statistical research	125%
National laboratory or a university or a Indian institution of technology or specified person	200%

Expenditure for obtaining licenses to operate telecommunication service [section 35 ABB]
Expenditure on specified business [section 35 AD]:
1. Sec 35AD provides **100% deduction of capital expenditure** incurred in specified business. It provides that an assessee carrying on the business of:
(a) cold chain facility

(b) warehousing facility for storage of agriculture product.
(c) Laying and operating a cross country natural gas or a crude or petroleum oil pipeline network for distribution, including storage facility being a integral part of such network.
(d) a new hotel of 2 star or above category as classified by the central govt.
(e)a new hospital with at least 100 beds for patients.
(f) slum redevelopment or rehabilitation scheme framed by the govt. and notify by the board.
(g) affordable housing framed by the central govt. or the state govt.
(h) Production of fertilizers in India
(i) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962;
(j) bee-keeping and production of honey and beeswax; and
(k) setting up and operating a warehousing facility for storage of sugar.
(l) laying and operating a slurry pipeline for the transportation of iron ore;
(m) setting up and operating a semiconductor wafer fabrication manufacturing unit, if such unit is notified by the Board in accordance with the prescribed guidelines.

Above Business shall be allowed 100% deduction in respect of the capital expenditure incurred wholly & exclusively for such business, excluding goodwill, land & financial instruments.

<u>Weighted "investment-linked" tax deduction @ 150% for certain specified businesses:</u>
(i) setting up and operating a cold chain facility;
(ii) setting up and operating a warehousing facility for storage of agricultural produce;
(iii) building and operating, anywhere in India, a hospital with at least 100 beds for patients;
(iv) affordable housing framed by the Central Government or a State Government.
(v) production of fertilizer in India.

Any asset in respect of which a deduction is claimed and allowed under section 35AD shall be used only for the specified business, for a period of eight years beginning with the previous year in which such asset is acquired or constructed. If such asset is used for any purpose other than the specified business, the total amount of deduction so claimed and allowed in any previous year in respect of such asset, as reduced by the depreciation allowable under section 32 as if no deduction had been allowed under section 35AD, shall be deemed to be the business income of the assessee of the previous year in which the asset is so used.

<u>Expenditure by way of payment to associations and institutions for carrying out Rural Development Programmes [section 35CCA]</u>

<u>Weighted deduction @ 150% in respect of expenditure incurred on notified agricultural extension project [Section 35CCC]</u>

<u>Weighted deduction @ 150% in respect of expenditure incurred by companies on notified skill development project [Section 35CCD]</u>

<u>Amortization of certain preliminary expenditure[section 35D]:</u>
Deduction per year = 1/5th of (Lower of Limit Prescribed or Actual Expenses)
Limit Prescribed:
In case of Corporate: 5% of Cost of Project or 5% of Capital Employed whichever is higher.
In case of Non Corporate: 5% of Cost of Project.

Amortization of expenditure in case of amalgamation or demerger [Section 35DD]
Deduction per year = 1/5th of Actual Expenses

Amortization of expenditure under voluntary retirement scheme [Section 35DDA]
Deduction per year = 1/5th of Actual Expenses

<u>Other Deductions [Section 36(1)]</u>

1) Insurance premium paid for stocks or stores or on the life of cattle owned by a member of primary co-operative society or paid by any mode other than cash for insuring the health of employees.
2) Bonus or commission (subject to section 43B)
3) Interest paid in respect of capital borrowed for the purpose of business or profession. ***Interest paid in respect of capital borrowed for acquisition of an asset, for the period upto the date on which the asset is first put to use to be capitalized, even if the acquisition of the asset is not for extension of existing business or profession [Section 36(1)(iii)]***
4) Discount of zero coupon bonds
5) Contribution to recognized provident fund or approved superannuation fund(subject to section 43B)
6) Contribution made to an employee's account, towards a pension scheme referred to in section 80CCD to the extent it does not exceed 10% of the salary of the employee in the previous year.
7) Contribution to an approved gratuity fund (subject to section 43B)
8) Any sum received from any of the employees towards their contribution to the welfare fund account, if such sum is remitted on or before the relevant due date to the concerned fund account (the amount so received from employees is treated as income u/s 2(24) and it is allowed as deduction only if it is paid within the stipulated due date)
9) In respect of animals issued for the purpose of business or profession, the differences' between the actual cost and amount if any realized in respect of the carcasses or animals.
10) Any revenue expenditure incurred by a **company** for promoting family planning among employees. If the expenditure incurred is of a capital nature, deduction shall be allowed over period of 5years in equal installments.
11) Securities/Commodities transaction Tax paid in respect of transactions in securities the income from which is taxable under the head business income. (Only for Dealers & not Investors)
12) Provision for Bad Debts is disallowed. But actual bad debts are allowed.
    Bad debts recovered is taxable.
    Bad debts previously disallowed, now recovered is not taxable.(36(1)(vii))
13) (36(1)(viia)) – Taxation of Bank (Provision for Bad debts)

Indian Bank – 7.5% of total income under this head before any deduction + 10% of aggregate average advances made by rural branches.
PFI & Foreign Bank: 5% of total income under this head before any deduction

General Deduction: [Sec 37(1)]

Any Deduction not allowed under section 30 to 36, which is of revenue nature, related to Business or Profession & not in the nature of penalty

Inadmissibility of expenses incurred in providing freebees to medical practitioner by pharmaceutical and allied health sector industry.

Disallowed for pharmaceutical and allied health sector industry u/s 37(1) as it is prohibited by law (Indian Medical Council (Professional Conduct, Etiquette and Ethics Regulations, 2002). Taxable as Business Income for Medical Practitioner.

It is not an expenditure incurred by the assessee on CSR activities referred to in section 135 of the Companies Act, 2013.

Deduction in respect of cost of production allowable under section 37 in the case of Abandoned Feature Films

Advertisement in publications of a political party [Section 37(2B)] - Disallowed

Building, plant, machinery or furniture not exclusively used for the purpose of business or profession [Section 38]: Only Expense related to use for Business/Profession is allowed.

Inadmissible expenditure

Disallowances in the case of all assessees [Section 40(a)]

40(a)(i)	Any interest, royalty, fees for technical services or other sum chargeable under the Act, payable outside India or to a non corporate nonresident or to a foreign company, on which TDS has not been deducted or after deduction has not been paid on or before the due date specified under section 139(1). However, if such tax has been deducted in any subsequent year or has been deducted in the previous year but paid in the subsequent year after the due date specified under section 139(1), such sum shall be allowed as deduction in computing the income of the previous year in which such tax is paid.
40(a)(ia)	**30% of any sum payable to a resident on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction has not been paid on or before the due date for filing of return of income under section 139(1). However, if such tax has been deducted in any subsequent year or has been deducted in the previous year but paid in the subsequent year after the due date specified under section 139(1), 30% of such sum shall be allowed as deduction in computing the income of the previous year in which such tax is paid.**
40(a)(ii)/(iia)	Any sum paid on account of income-tax or wealth-tax
40(a)(iii)	Any payment chargeable under the head "Salaries", if it is payable outside India or to a non-resident, if tax has not been paid thereon nor deducted therefrom
40(a)(v)	Tax paid by the employer on non-monetary perquisites provided to its

	employees, which is exempt under section 10(10CC) in the hands of the employee.
40(b)	In case of partnership firms or LLPs - (i) Salary, bonus, commission or remuneration, by whatever name called, paid to any partner who is not a working partner; (ii) Payment of remuneration or interest to a working partner, which is not – • authorized by the partnership deed; or • in accordance with the terms of the partnership deed. (iii) Payment of remuneration or interest to a working partner authorized by and in accordance with the terms of the partnership deed, but relates to a period falling prior to the date of such partnership and is not authorized by the earlier partnership deed. (iv) Payment of interest to any partner authorised by and in accordance with the terms of the partnership deed and falling after the date of the partnership deed to the extent of the excess of the amount calculated at 12% simple interest per annum. (v) Payment of remuneration to a working partner which is authorized by and in accordance with the partnership deed to the extent the aggregate of such payment to working partners exceed the following limits - (a) On the first Rs. 3,00,000 of the book-profit or in case of a loss -Rs. 1,50,000 or 90% of the book-profit, whichever is more. (b) On the balance of book-profit -60%

Excessive and unreasonable expenditure: [Section 40A (2)]: Disallowed to the Extent Unreasonable.

Disallowances out of cash expenditure exceeding Rs 20,000 [Section 40A(3)]
In case of Transporters – Rs. 35000
Rule 6 DD – Exceptions

Disallowance in respect of provision for gratuity [Section 40A(7)]
Disallowance in respect of contribution to Non-statutory funds [Section 40A (9)]

Section 43A: Gain or Loss on Foreign Exchange Currency Fluctuation
This section is attracted when an asset is purchased from outside India through a Loan in foreign country.
If any loss has arisen due to fluctuation, such loss must be added back to WDV & depreciation must be provided on such revised WDV & vice versa in case of Gain.

Deduction based on actual payment [Section 43B]

1. Taxes , Duty , Cess etc
2. Bonus or Commission
3. Contribution to Approved Funds
4. Interest on Loan taken from PFI/Corporations

5. Interest on Loan taken from Scheduled Bank
6. Leave Salary

Special provisions [Section 44AA to 44D]

Maintenance of books of accounts [Section 44AA]: Number of years of maintenance: 6

Audit of accounts [Section 44AB]

In the case of any person:

- Carrying on business where the turnover exceeds Rs 1 Crore or
- Carrying on profession where the gross receipts exceed Rs 25 lakhs or
- Carrying on the business referred to in section 44AD or 44AE or 44BBB and claiming his income from any such business to be lower than the income prescribed under the relevant section.

The specified date prescribed for this purpose is as follows:

For all assesses – 30th September of the relevant assessment year.

Presumptive Taxation:

Eligible business [Section 44AD]:

In case of an eligible assessee carrying on eligible business whose gross receipts from such business does not exceed Rs 1 Crore, a sum equal to 8% of the gross receipts shall be deemed to be the income from such business.

Transport operation business [Section 44AE]

In the case of an assessee who carried on the business of plying, hiring,or leasing goods carriages and who owns not more than 10 goods carriages at any time during the previous year

Deemed Income = Rs. 7,500 per month (or part of a month) Per Vehicle.

However, the assessee can claim a higher amount as actually earned from the vehicle(s) as income from the vehicle(s).

Special provisions for computing profits and gains of shipping business in the case of non-residents [Section 44B]

Deemed Income = 7.5% of Income from/due to India

Special provisions for computing profits and gains in connection with the business of exploration etc of mineral oil [Section 44BB]

Deemed Income = 10% of Income

Special provisions for computing profits and gains of business of operation of aircraft in the case of non- residents [Section 44BBA]

Deemed Income = 5% of Income

Special provisions for computing profits and gains of foreign companies engaged in the business of civil construction etc in certain turnkey power projects [Section 44BBB]

Deemed business income = 10% of the amount paid or payable (whether in or out of India)

Capital Gains

Chargeability [Section 45(1)]

Meaning of Capital asset [Section 2(14)]

'Capital asset 'means property of any kind held by an assessee, whether or not connected with his business or profession.

However, the following assets are **excluded** from the definition of 'Capital Assets.' –

a) Any **Stock-in-trade**,

b) **Personal effects**

[***jewellery, archaeological collections, drawings, paintings, sculptures or any work of art are not considered as personal effect. Hence they are capital assets***.];

c) Rural agricultural land in India i.e. agricultural land not situated within specified urban limits.

	Shortest aerial distance from the local limits of a municipality or cantonment board referred to in item (a)	Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.
(i)	≤ 2 kilometers	> 10,000 ≤ 1,00,000
(ii)	≤ 6 kilometers	> 1,00,000 ≤ 10,00,000
(iii)	≤ 8 kilometers	> 10,00,000

Types of Capital Assets: Capital assets are of two types:

1. Short-term capital asset
2. Long-term capital asset

1. Short-term capital asset [section 2(42A)]: Period of Holding should be ≤ 36 months

In case of the following FOUR assets, if the asset is held by an assessee for **≤ 12 months** immediately preceding the date of its transfer, it is known as a short term capital asset.

a) Listed Security

b) Units of the UTI

c) Units of Equity Oriented Mutual fund specified u/s 10(23D)

d) (Except debt oriented fund)

e) Zero coupon bonds.

Clarification:

If the Period of holding of units of debt oriented mutual fund and unlisted securities is more than 36 months then it will be considered as LTCA Effective from: A.Y.2015-16

2. Long-term capital Asset [section 2 (29A)]:

It means a capital asset, which is not a short-term capital asset.

In other words, if the asset is held by the assessee for > 36 months/12 months, such an asset will be treated as a Long-term capital asset:

<u>Section 2 (47) – 'Transfer' in relation to a capital asset includes:</u>

1. Sale, exchange or relinquishment of a capital asset; or
2. Extinguishments of any rights therein; or
3. Compulsory acquisition of a capital asset under any law; or
4. Conversion or treatment of a capital asset into/as stock-in-trade; or
5. Any transaction involving the allowing of the possession of an immovable property to be taken or retained in part performance of a contract of the nature referred to in Section 53A of the transfer of Property Act; or
6. Any transactions whether by way of acquiring shares in or by way of becoming a member of a co-operative society,
7. The maturing or redemption of zero coupon bonds**.**

<u>Section 47 – Transactions which are not regarded as Transfer *(Few Examples)*</u>

1) Transfer of a capital asset in a total or partial partition of a H.U.F.
2) Transfer of a capital asset by way of gift or under a will or an irrevocable trust.
3) Amalgamation/Demerger/Succession/Conversion
4) Conversion of bonds or debentures, debenture stock, deposit certificates of a company into shares or debentures of that company.
5) Any transfer of membership right held by a member of recognised stock exchange in India for acquisition of shares and trading or clearing right of stock exchange in accordance with scheme approved by SEBI.
6) Transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government.

<u>Full Value of Consideration = Selling Price</u>

<u>Expenses on transfer = Selling Expenses</u>
However, **any securities transaction tax** paid is also **not allowed** as deduction.

<u>Cost of Acquisition [Section 55(2)]:</u>

1. Normal Capital Asset: Actual Cost or Cost to the Previous Owner or FMV as on 1.4.1981 if the asset was acquired before 1.4.1981
2. Right Shares: Price Actually paid to acquire the shares
3. Bonus Shares:
   a) If allotted on or after 1.4.1981 - NIL
   b) If allotted before 1.4.1981– NIL or FMV as on 1.4.1981 (at the option of the assessee)
4. Intangibles:
   a) Self Generated - NIL
   b) Purchased – Actual Cost Paid (Option to take FMV as on 1.4.1981 is not avbl)

<u>Cost of Improvement [Section 55]</u>
The cost of improvement incurred on or after 1.4.1981 only can be taken into account for computation.
Cost of Improvement of Previous Owner is also to be considered.

Indexation:

It is available for all Long Term Capital Assets except for Bonds, Slump Sale, Debentures (other than capital indexed bonds issued by the Government)

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Indexed Cost of Acquisition =

$$\text{Cost of acquisition} \times \frac{\text{CII for the year in which the asset is transferred}}{\text{CII for the year in which the asset was first held by the assesse or 1981-82, whichever is later}}$$

Indexed Cost of Improvement =

$$\text{Cost of improvement} \times \frac{\text{CII for the year in which the asset is transferred}}{\text{CII for the year in which the improvement took place}}$$

Capital Gains in case of amount received from an insurer on account of damage or destruction of any capital asset [Section 45(1A)]

Amount Recd from Insurance Company = FVC

If Similar Asset is recd in exchange then FVC = FMV of that Asset.

Capital Gains on conversion of Capital asset into stock-in trade [section 45(2)]

Capital gains on transfer of capital asset by a partner/member to a firm/AOP/BOI as capital contribution [section 45(3)]

Amount recorded in the books of the firm shall be deemed to be the full value of consideration.

Capital gain on transfer of capital asset by way of distribution on dissolution of firm, AOP/ BOI [section 45(4)]

FMV of the asset as on the date of such transfer shall be deemed to be the full value of the consideration received by the firm.

Computation of capital gains in the case of compulsory acquisition of an asset [Section 45(5)]

The taxation of initial compensation and enhanced compensation is as follows:

Amount Received	**Year of Chargeability**	**Full value of consideration**	**Cost of acquisition/cost of improvement**
Initial compensation	Year of receipt of initial compensation or part thereof.	Entire initial compensation (even if received in installments)	As per normal provisions
Enhanced Compensation	Year of receipt	Amount of enhanced compensation	**Nil**

<u>Computation of capital gains- Depreciable asset [Section 50]</u>

a) There must be at least one asset in the block; and

b) There must be some value for the block on which prescribed % can be applied.

Where anyone or both mentioned requirements are not satisfied on transfer of any asset from the block, the provisions of Section 32 cease to apply and automatically be provisions of Section 50 become applicable resulting in short term capital gains/ loss.

The computation of short term capital gain or loss shall be on the following basis:

Full value of consideration		XXX
Less: (a) Expenses for transfer.	XXX	
(b) W.D.V of the block of assets at the beginning of the previous year	XXX	
(c) Assets acquired during the year and belonging to the same block of assets	XXX	XXX
Short-term capital gain/ loss		XXX

Special provision for cost of acquisition in case of depreciable asset for power sector assessee [Section 50A]

1. Since depreciation in such cases is allowable on the actual cost of **each individual asset**, At the time of sale of capital asset,
   If SP > OC, then CG
   SP – WDV, the PGBP (Balancing Charge u/s 41(2)
   If SP < WDV , then deficit is allowable as terminal depreciation u/s 32 in the year of transfer.
2. The capital gain can be STCG or LTCG depending upon period of holding.

<u>Special provision for computation of capital gains in case of slump sale [Section 50B]</u>

Capital Gains = FVC (-) Expenses on Transfer (-) Net Worth of the Undertaking

Period of Holding of the Entire Undertaking will be considered to determine whether it is Long Term Asset or Short Term Asset.

<u>Special provision for land & Building {Section 50C}</u>

Sl. No.	Condition	Deemed Sale Consideration
1.	Actual Consideration < Stamp Duty Value	Stamp Duty Value
2.	Actual Consideration > Stamp Duty Value	Actual Sale Consideration
3.	Value ascertained by Valuation Officer > Stamp Duty Value	Stamp Duty Value
4.	Value ascertained by Valuation Officer < Stamp Duty Value	Value ascertained by Valuation Officer

<u>Section 50D: Where FVC cannot be determined, FVC = FMV</u>

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<u>Section 43CA: (Applicable for other than Capital Assets)</u>

Then Higher of Actual Consideration or the Stamp Duty Value

Stamp Duty Value on the Date of Agreement is to be adopted if at least a part of the consideration has been received by any mode other than cash on or before the date of the agreement.

If not, then Stamp Duty Value on the Date of Registration.

<u>Section 51: Advance Money Forfeited</u>

Advance money received and forfeited upto 31.3.2014 – Deducted from COA & then Indexation

After 1.4.2014 would be taxable under section 56(2) under the head "Income from other sources".

<u>Exemption of Capital Gains arising on compulsory acquisition land [section. 10(37)]</u>

<u>Exemption of long-term capital gains on transfer of specified securities [Section 10(38)]</u>

<u>Tax on Long term Capital Gains [Section 112]</u>

If indexation benefit has been availed = 20%

No indexation (Bonds, Debentures & Slump Sale) = 10%

No deduction can be claimed under Chapter VIA from such STCG.

Surcharge (as applicable) and Education cess of 3% is also payable in respect of long term capital gains u/s 112.

<u>Tax on Short – term Capital Gains in certain cases {Section 111A}</u>

Any short-term capital gains arising on transfer of the following assets shall be taxed @ 15% if the transaction is liable to STT:

Equity shares of a company, or Units of an equity oriented fund

Any other Short term Capital Asset = Basic Exemption Limit.

No deduction can be claimed under Chapter VIA from such STCG.

Exemption of Capital Gains

Particulars	Sec. 54	Sec. 54B	Sec. 54D	Sec. 54EC
Exemption available to:	Individual/HUF	Individual/HUF	Any Assessee	Any Assessee
Property Transferred	Long Term Residential House Property	Urban Agricultural Land	Compulsory Acquisition of Industrial L & B	Transfer of any Long term capital Asset
Exemption if:	1 Residential HP in India is purchased 1 year before or 2 years after the date of transfer or Constructed within 3 years of the date of transfer	New Urban/Rural Agricultural land is purchased within 2 years from the date of transfer	Purchased / Constructs another Land/Bldg within 3 years from the date of transfer	Purchase Bonds issued by: - NHAI - REC Ltd. Within 6 months of transfer
Deduction	Lower of: 1) Capital Gains 2) Amount invested in new HP or amount deposited in CGAS	Lower of: 1) Capital Gains 2) Amount invested in new land or amount deposited in CGAS	Lower of: 1) Capital Gains 2) Amount invested in new land/bldg or amount deposited in CGAS	Lower of: 1) Capital Gains 2) Amount invested in new bonds Deposit in CGAS not allowed
Deduction Cancelled if: (i.e. treated as Capital Gains)	If New HP is transferred within 3 years of purchase or construction OR Amount unutilized in CGAS for 3 years from the date of transfer	If New Property is transferred within 2 years of purchase OR Amount unutilized in CGAS for 2 years from the date of transfer	If New Property is transferred within 3 years of purchase or construction OR Amount unutilized in CGAS for 3 years from the date of transfer	If New Bonds are transferred within 3 years of purchase (Maximum Investment in the financial year in which the original assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees.)

Section 54F have been amended to provide for exemption there under in respect of investment made in <u>one residential house situated in India.</u>

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Particulars	Sec. 54F	Sec. 54G	Sec. 54GA	Sec. 54GB
Exemption to	Individual/HUF	Any Assessee	Any Assessee	Individual/HUF
Property Transferred	Any Long Term Capital Asset other than Residential House Property	Transfer of assets of industrial undertaking due to shifting of industrial undertaking from urban areas to rural areas.	Trf of assets of industrial undertaking due to shifting of industrial undertaking from urban areas to SEZ	Transfer of residential HP / Plot of land
Exemption if:	1 New Residential HP in India is purchased 1 year before or 2 years after the date of transfer or Constructed within 3 years of the date of transfer	New P &M, L & B are purchased within 3 years of transfer	New P &M, L & B are purchased within 3 years of transfer	Purchase of shares of a newly incorporated SME engaged in mfg. sector which should be utlised for P & M within or before the due of filing ROI
Deduction	1) If Net FVC ≤ Cost of new HP, then entire CG = Exempt. 2) If Net FVC > Cost of New HP, then Exemption = $\frac{\text{LTCG * Amt Inv in New HP}}{\text{Net FVC}}$	Lower of: 1) Capital Gains 2) Amount invested in new asset	Lower of: 1) Capital Gains 2) Amount invested in new asset	1) If Net FVC ≤ Cost of new investment, then entire CG = Exempt. 2) If Net FVC > Cost of New Inv, then Exemption = $\frac{\text{LTCG * Amt Inv in New Inv.}}{\text{Net FVC}}$
Deduction Cancelled if: (i.e. treated as Capital Gains)	If New Asset is transferred within 3 years OR Amount unutilized in CGAS for 3 years from the date of transfer	If New Asset is transferred within 3 years OR Amount unutilized in CGAS for 3 years from the date of transfer	If New Asset is trfd within 3 years OR Amount unutilized in CGAS for 3years from the date of trf.	If New Asset is transferred within 5 years from the date of subscription in shares

Income from Other Sources

CHARGEABILITY: Sec. 56(1)

Following gifts-in-kind received ***by an individual or HUF***:

	Nature of asset	Particulars	Taxable value
1	Money	Without consideration	The whole amount if the same exceeds ₹ 50,000 in aggregate.
2	Movable property	Without consideration	The aggregate fair market value of the property, if it exceeds ₹ 50,000.
3	Movable property	Inadequate consideration	The difference between the aggregate fair market value and the consideration, if such difference exceeds ₹ 50,000.
4	Immovable property	Without consideration	The stamp value of the property, if it exceeds ₹ 50,000.
5	**Immovable property**	**Inadequate consideration**	**The difference between the stamp duty value and the consideration, if such difference exceeds ₹ 50,000.**

EXCEPTIONS:

If the amount or property is received-

From a relative or on occasion of the marriage, or Under a will or by inheritance, or in contemplation of the death of the payer, From a local authority, From any fund/ foundation/ university/ other educational institution/ hospital/ medical institution/ any trust or institution registered u/s 12AA; it will not be considered as income.

Meaning of Relative:

For this purpose, the term relative means:

- Spouse of the individual
- Brother or sister of the individual
- Brother or sister of the spouse of the individual
- Brother or sister of either of the parents of the individual
- Any lineal ascendant or descendant of the individual
- Any lineal ascendant or descendant of the spouse of the individual
- The spouse of any of the persons referred to in 2 to 6 above.

Expenses deductible/admissible

Deductible Expenses [Section 57]

1) In respect of dividend income and interest income any reasonable expenditure incurred by way of commission or remuneration for realization of such income is deductible.
2) In respect of family pension, a sum equal to 33.33% of the pension or Rs. 15,000, whichever is less, shall be allowed as deduction.
3) Standard deduction of 50% shall be allowed from interest on compensation or enhanced compensation. No other deduction shall be allowed there from.

Other Points:

(a) Any sum of money or property received by a HUF without consideration or for inadequate consideration from its members to be exempt from tax.

(b) Consideration received in excess of FMV of shares issued by a closely held company to be treated as income of such company, where shares are issued at a premium.

If IP < FV then nothing is taxable. If IP > FV, then compare IP & FMV. IP – FMV would be taxable under this section

Clubbing of Income

Section	Income to be clubbed	Provision
60	Income transferred without transfer of asset	Such income is to be included in the total income of the transferor
61	Income arising from revocable transfer of assets	Such income is to be included in the hands of the transferor.
64(1)(ii)	Income arising to spouse by way of remuneration from a concern in which the individual has substantial interest (20%)	Such income arising to spouse is to be included in the total income of the individual. **Exception: application of technical or professional knowledge and experience of spouse**
64(1)(iv)	Income arising to spouse from assets transferred without adequate consideration	Shall be included in the total income of the transferor.
64(1)(vi)	Income arising to son's wife from an asset transferred without adequate consideration	Shall be included in the total income of the transferor.
64(1)(vii)/ 64(1)(viii)	Income arising from transfer of assets for the benefit of spouse or son's wife	Shall be included in the total income of the transferor.
64(1A)	Income of minor child	The income of the minor child shall be included with the income of that parent, whose total income, before including minor's income, is higher, exemption of **Rs. 1500 per child u/s 10(32)** Exception: (a) Income from manual work done by him or activity involving application of minor's skill, talent or specialized knowledge and experience; and (b) Income of a minor child suffering from any disability specified in section 80U.

Aggregation of Income, Set Off & Carry Forward of Losses

Section	Provision	Exceptions
70	Inter-source set-off under the same head of income Any loss in respect of one source shall be set-off against income from any other source under the same head of income.	(i) Loss from speculative business (ii) Loss from specified business under section 35AD (iii) Long term capital loss and (iv) Loss from the activity of owning and maintaining race horses
71	71 Inter head adjustment Loss under one head of income can be set-off against income assessable under any other head of income.	(i) Loss under the head "Profits and gains of business or profession" cannot be set off against income under the head "Salaries" (ii) Loss under the head "Capital gains" cannot be set-off against income under any other head. (iii) Speculation loss and loss from the activity of owning and maintaining race horses cannot be set-off against income under any other head.

Carry forward and Set-off of brought forward losses

Section	Nature of loss to be carried forward	Income against which the brought forward loss can be set-off	Maximum permissible period for carry forward of losses
71B	Unabsorbed loss from house property	Income from house property	8 assessment years
72	Unabsorbed business loss	Profits and gains from business or profession	8 assessment years
73	Loss from speculation business	Income from speculation business	4 assessment years
73A	Loss from specified business under section 35AD	Profit from any specified business	Indefinite period
74	Long-term capital loss	Long-term capital gains	8 assessment years
74	Short-term capital loss	Short-term/Long-term capital Gains	8 assessment years
74A	Loss from the activity of owning and maintaining race horses	Income from the activity of owning and maintaining race horses.	4 assessment years

Order of set-off of losses

1. Current year depreciation / Current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed.
2. Brought forward loss from business/profession [Section 72(1)]
3. Unabsorbed depreciation [Section 32(2)] (indefinitely)
4. Unabsorbed capital expenditure on scientific research (indefinitely) [Section 35(4)].

Sec. 78(1): Loss in case of retirement or death
(except unabsorbed depreciation)

Loss returns (section 80)

No loss which has been determined in pursuance of return filed in accordance with the provisions of section 139 (3) shall be carried forward under the provisions of section 72 to 74A. This condition does not apply to loss from house property carried forward u/s 71B, 73A and unabsorbed depreciation carried forward u/s 32(2).

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Deductions from GTI

Deductions in respect of certain payments

Deduction u/s 80C (For investment in LIC, PF, etc.)

1. Eligible Assessees:

a) An individual; or b) Hindu Undivided Family

2. Eligible Investments/ Contributions:

Life insurance premium

Contribution made by an individual towards Statutory Provident Fund and Recognised Provident Fund.

Contribution made by a person towards 15 year Public Provident Fund ***(Max. 1.5L)***

Contribution made by an individual towards approved superannuation fund

Any sum paid by a person as subscription to National Saving Certificates, VIII issues

Contribution made by a person for participating in the unit Linked Insurance Plan of LIC Mutual Fund u/s 10 (23D)

Any tuition fees (excluding donation, development fees, etc.) Paid to university, college, school or other educational institution situated within India for the full time education of any two children.

Any specified payment made by person towards the cost of purchase/ construction of new residential house property, the income from which is chargeable to tax under the head IFHP (or loss, in case of SOP).

Notified Bonds of NABARD

Term Deposit of a Bank ***(Max. 1.5L)***

Deduction under section 80C to be available in respect of deposit in Sukanya Samriddhi Account Scheme for the welfare of girl child Related amendment in section: 10(11A) Effective from: A.Y.2015-16

The following are the tax benefits envisaged in the Sukanya Samriddhi Account scheme:
(a) The investments made in the Scheme will be eligible for deduction under section 80C.
(b) The interest accruing on deposits in such account will be exempt from income tax.
(c) The withdrawal from the said scheme in accordance with the rules of the said scheme will be exempt from tax.
Accordingly, the interest accruing on deposits in, and withdrawals from any account under the said scheme would be exempt.

Other conditions:

1) Deduction will be allowed only if "actual payments" are made i.e. outstanding are not allowed.
2) Amount of deduction= 100% of Qualifying investment or **Rs. 1,50,000** whichever is lower.

Contribution to certain pensions Funds / Annuity Plans {section 80CCC}

Permissible Deduction – 1,50,000/-

Contribution to pension Scheme notified by Central Government {Section 80CCD}

a) Contribution made by an employee/individual and employer to the pension scheme, each to the extent of 10% of the salary or GTI would be entitled to deduction. For the purpose of this section, "Salary" includes Basic Salary, DA (R) and turnover commission.

b) Employee's Contribution is covered in 80CCD(1) & Employer's in 80CCD(2)

c) It would continue to be subject to the overall limit of Rs. 1.50 lakh under section 80CCE.

d) Additional deduction in respect of contribution to NPS of Central Government under section 80CCD(1B) and enhancement of limit of deduction under section 80CCD(1)

e) The deduction of upto Rs. 50,000 under section 80CCD(1B) is in addition to the overall limit of Rs. 1.50 lakh provided under section 80CCE.

80CCE:

Limit on deductions under sections 80C, 80CCC and 80CCD(1): The aggregate amount of deductions under section 80C, Section 80CCC and employees' contribution u/s 80CCD shall not, in any case, exceed Rs. 1,50,000."

Limit of 80CCD(1B) is over & above Rs. 50000

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

80CCG - Investment made under notified equity savings scheme

Resident Individual, being a new retail investor:

Payment made for acquisition of listed equity shares or **listed units of equity oriented fund** by new retail investor in accordance with the scheme notified by the Central Government. For availing this deduction, gross total income of the individual ≤ Rs. **12 lacs**.

Permissible Deduction:

50% of the amount invested in such listed equity shares or listed units **(or)** Rs. 25,000, whichever is **lower**.

The deduction is available for three consecutive assessment years beginning with the assessment year in which equity shares or units were first acquired.

Health Insurance Premium [Section 80D]

S. No.	Nature of payment/ expenditure	Expenditure on behalf of		Deduction for A.Y. 2015-16	Deduction for A.Y. 2016-17
I	(i) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health (ii) Contribution to Central Government Health Scheme (CGHS) (iii) Preventive health check up expenditure	In case of individual	Self, spouse and dependent children	₹ 15,000	₹ 25,000
		In case of HUF	Family member		
		In case any of the above persons is of the age of 60 years or more + resident in India		₹ 20,000	₹ 30,000
II	(i) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health (ii) Preventive health check up	For Parents		₹ 15,000	₹ 25,000
		In case either or both the parents is of the age of 60 years or more + Resident in India		₹ 20,000	₹ 30,000
	Maximum ₹ 5,000 allowed as deduction for aggregate of preventive health check up expenditure mentioned in I and II (Subject to overall limit of ₹ 25,000 or ₹ 30,000, as the case may be)				
III	Amount paid on account of medical expenditure	For self/ spouse/ parents + who is of the age of 80 years or more + Resident in India + no payment has been made to keep in force an insurance on the health of such person		NA	₹ 30,000

Maintenance and medical treatment of handicapped dependent [Section 80DD]

Flat deduction of Rs. 75,000. Severe disability Rs. 1,25,000

Medical treatment for certain specified disease or ailment [Section 80DDB]

Eligible assessee- Individual or HUF, resident in India.

Amount paid for specified diseases or ailment:

In case the assessee is an individual	For himself or his dependent spouse, children, parents, brothers or sisters
In case the assessee is a HUF	For any member of his family

	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

Actual sum paid or the Limit Specified whichever is less, ***minus*** the amount reimbursed from the insurance company or the employer.

<u>Deduction in respect of payment of interest on loan taken for higher education</u> [Section 80E]

<u>Deduction in respect of donations to certain funds, charitable institutions, etc.</u> [Section 80G]

A. Donations made of following are eligible from 100% deduction without any qualifying limit:

Newly Added:

Swachh Bharat Kosh, Clean Ganga Fund and National Fund for Control of Drug Abuse

B. Donations made to the following are eligible for 50% deduction without any qualifying limit:

C. Donations made to the following are eligible for 100% deduction subject to qualifying limit.

D. Donations made to the following are eligible for 50% deduction subject to qualifying limit.

For applying qualifying limit, all donations made to funds/ institutions covered under (C) and (D) above shall be aggregated and the aggregate amount shall be limited to 10% of Adjusted Gross Total Income.

Adjusted Gross total Income- Adjusted Gross total Income for this purpose means the Gross total Income as reduced by-

1. Long term capital gains, if any, which have been included in the gross total income;
2. All deductions permissible u/s 80C to 80U except deduction under Section 80G.
3. Short term Capital Gain liable to tax u/s 111A.

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Aggregate deduction: The quantum of deduction shall be the aggregate of the deductions permissible under clause (A), (B), (C) and (D).

No deduction in respect of cash donation exceeding of Rs. 10,000 [Section 80G & Section 80GGA]

Donations for scientific research, rural development, etc. [Section 80GGA]

Deduction in respect of interest on deposits in savings accounts [New Section 80TTA] :
Deduction = Actual Interest or Maximum Rs. 10000 whichever is Lower.

Deduction in respect of contributions given by companies to political parties [Section 80GGB]

Deduction in respect of contributions given by any person to political parties [Section 80GGC]

Deduction in case of a person with disability [Section 80U]
Resident Individual
Deduction in case of a person with disability
Any person, who is certified by the medical authority to be a person with disability.

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

Provisions Concerning Advance Tax & Tax Deducted at Source

Sec. 211 - ADVANCE TAX IN CASE OF COS.

Due Dates	**Amount Payable**
On or Before 15th June	Atleast 15% of tax
≤ 15th September	Atleast 45% of tax (-) Anything Paid Before
≤ 15th December	Atleast 75% of tax (-) Anything Paid Before
≤ 15th March	Whole of the Advance Tax

Sec. 211 - ADVANCE TAX IN CASE OF OTHER THAN CORPORATES

Due Dates	Amount Payable
≤ 15th September	Atleast 30% of tax
≤ 15th December	Atleast 60% of tax (-) Anything Paid Before
≤ 15th March	Whole of the Advance Tax

If Tax is paid between 15th – 31st march, it will be considered as Advance tax, but Interest u/s. 234C will be applicable.

U/S 234B: For default in payment of Advance Tax.

- That is:
- If assessee has failed to pay AT or
- Advance tax paid is less than 90% of Assessed tax.
- Interest @ 1% p.m./ part of month.
- Interest from 1st April, next following such F.Y. to the date of determination of income/assessment.
- On which amount??

If no advance tax paid then on assessed tax.
If paid less than 90% then on: Assessed tax (-) Advance tax paid.

U/S 234C: For deferment of advance tax (ie. AT paid is < limit specified in Sec. 211)

- That is: Interest is levied if the assessee fails to pay % of advance tax as prescribed u/s. 211
- Interest @1% p.m. for 3 months on amount of shortfall & for 1 month on last installment

RELAXATION IN CASE OF COMPANIES:

If Companies have before 15th June/ 15th sep paid atleast 12% & 36% respectively of the tax due, then no interest u/s. 234C
Notes:
If shortfall is due to underestimation of

- Capital Gains
- lottery income/puzzle/races/gambling ,betting ***(Since these are unexpected incomes)***

then **no interest.**

Section	192
Description	**Salary**
Threshold Limit	Basic exemption limit (Rs. 2,50,000 / Rs. 3,00,000, as the case may be)
Payer	Any person
Type of Payee	Individual
Rate of TDS	Average rate of income tax computed on the basis of the rates in force.
Time of deduction	At the time of payment
Payments / Income exempted from TDS	Allowances, to the extent exempt under section 10, and exempt perquisites would be excluded.

Amendment:

Person responsible for paying income chargeable under the head "Salaries" to obtain proof or evidence or particulars of prescribed deductions/ exemptions/setoff of losses claimed by the assessee [Section 192(2D)]

Tax to be deducted@10% on premature taxable withdrawal from employees provident fund [Section 192A]

Tax deduction at source under this section has to be made only if the amount of such payment or aggregate amount of such payment of the payee is Rs. 30,000 or more.

Further, any person entitled to receive any amount on which tax is deductible under this section has to furnish his PAN to the person responsible for deducting such tax. In case he fails to do so, tax would be deductible at the maximum marginal rate.

Section	193
Description	**Interest on Securities**
Threshold Limit	- 8% Savings (Taxable) Bonds, 2003 – Rs. 10,000 - Interest on debentures issued by a company in which the public are substantially interested, paid or credited to a resident individual or HUF – Rs. 5,000
Payer	Any person
Type of Payee	Any resident
Rate of TDS	10%
Time of deduction	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
Payments / Income exempted from TDS	Some exempted interest payments are interest – - On any security of the Central Government or a State Government. - Payable to LIC, GIC or any of the four public sector insurance companies formed by GIC. - Payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India.

Section	**194**
Description	**Dividend**
Threshold Limit	Rs. 2,500 in a financial year
Payer	The Principal Officer of a domestic company
Type of Payee	Resident Individual
Rate of TDS	10%
Time of deduction	At the time of payment
Payments / Income exempted from TDS	Dividend credited or paid to LIC, GIC or any of the four public sector insurance companies formed by GIC, Dividend referred to in section 115-O, since the domestic company distributing dividend has paid dividend distribution tax on such dividend.

Section	**194A**
Description	**Interest other than interest on securities**
Threshold Limit	Rs. 10,000 in a financial year, in case of interest paid by – (i) a banking company on Term/Recurring Deposits; (ii) a cooperative society engaged in banking business; (iii) deposits with post office. Rs. 5,000 in a financial year, in other cases.
Payer	Any person, other than an individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year.
Type of Payee	Any Resident
Rate of TDS	10%
Time of deduction	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
Payments / Income exempted from TDS	Interest credited or paid to: - any banking company, or a cooperative society engaged in the business banking - any financial corporation established or under a Central, State or Provincial Act - the Life Insurance Corporation of India. - the Unit Trust of India; - any company and cooperative society carrying on the business of insurance. - notified institution, association, body class of institutions, associations bodies -Interest credited or paid by a firm to a partner -Interest credited or paid by a co-operative society to its member or to any other coperative society, etc.

Amendment:

1) ***Threshold limit to be reckoned with reference to the aggregate interest credited or paid by all branches of a banking company/co-operative bank/public company which has adopted core banking solutions***

2) ***Tax deduction from interest on compensation awarded by the Motor Accidents Claims Tribunal to be made at the time of payment, where the interest or aggregate interest paid exceeds Rs. 50,000.***

Section	**194B**
Description	**Winnings from any lottery crossword puzzle or card game or other game of any sort**
Threshold Limit	Payment of an Amount exceeding Rs. 10,000
Payer	Any Person
Type of Payee	Any Person
Rate of TDS	30%
Time of deduction	At the time of payment
Payments / Income exempted from TDS	-

Section	**194BB**
Description	**Winnings from horse race**
Threshold Limit	Payment of an amount exceeding Rs. 5,000
Payer	Book Maker or a person holding licence for horse racing, wagering or betting in any race course.
Type of Payee	Any Person
Rate of TDS	30%
Time of deduction	At the time of payment
Payments / Income exempted from TDS	-

Section	**194C**
Description	**Payments to Contractors**
Threshold Limit	Single sum credited or paid exceeding Rs. 30,000 **or** The aggregate of sums credited or paid during the financial year exceeding Rs. 75,000
Payer	Central / State Govt., Local authority, Central/ State/Provincial Corpn., company, firm, trust, cooperative society, individuals/ HUFs liable to tax audit in the immediately preceding financial year.
Type of Payee	Any Resident contractor for carrying out any work (including supply of labour)
Rate of TDS	1% of sum paid or credited, if the payee is an Individual or HUF 2% of sum paid or credited, if the payee is any other person
Time of deduction	At the time of credit of such sum to the account of the contractor or at the time of payment, whichever is earlier.
Payments / Income exempted from TDS	(i) Any sum credited or paid to a contractor in transport business ***owning not more than 10 Vehicles***, if the

	contractor furnishes his PAN to the person paying or crediting such sum. (ii) Any sum credited or paid by an individual or HUF exclusively for personal purposes of such individual or HUF.

Exemption from applicability of TDS provisions under section 194C to be available only in respect of payments to transport operators owning ten or less goods carriages at any time during the previous year, on furnishing of PAN

Section	**194D**
Description	**Insurance Commission**
Threshold Limit	Rs. 20,000 in a financial year
Payer	Any person
Type of Payee	Any Resident
Rate of TDS	10%
Time of deduction	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier
Payments / Income exempted from TDS	-

Section	**194DA**
Description	**Any sum under a Life Insurance Policy**
Threshold Limit	Less than Rs. 1,00,000 (aggregate amount of payment to a payee in a financial year)
Payer	Any person
Type of Payee	Any resident
Rate of TDS	2%
Time of deduction	At the time of payment
Payments / Income exempted from TDS	Sums which are exempt under section 10(10D)

Section	**194H**
Description	**Commission or brokerage**
Threshold Limit	Rs. 5,000 in a financial year
Payer	Any person, other than an individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year.
Type of Payee	Any Resident
Rate of TDS	10%
Time of deduction	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
Payments / Income exempted from TDS	Commission or brokerage payable by BSNL or MTNL to their PCO franchisees.

Section	**194-I**
Description	**Rent**
Threshold Limit	Rs. 1,80,000 in a financial year
Payer	Any person, other than an individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year.
Type of Payee	Any Resident
Rate of TDS	For P & M or equipment- 2% For land, building, furniture or fixtures - 10%
Time of deduction	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
Payments / Income exempted from TDS	-

Section	**194-IA**
Description	**Payment on transfer of certain immovable property**
Threshold Limit	Rs. 50 lakh (Consideration for transfer)
Payer	Any person, being a transferee
Type of Payee	Resident transferor
Rate of TDS	1%
Time of deduction	At the time of credit of such sum to the account of the transferor or at the time of payment, whichever is earlier.
Payments / Income exempted from TDS	Payment for transfer of agricultural land

Section	**194J**
Description	**Fees for professional or technical services/ Royalty/ Non compete fees/ Director remuneration**
Threshold Limit	Rs. 30,000 in a financial year, for each category of income. (However, this limit does not apply in case of payment made to director of a company).
Payer	Any person, other than an individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year
Type of Payee	Any Resident
Rate of TDS	10%
Time of deduction	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
Payments / Income exempted from TDS	Any sum by way of fees for professional services credited or paid by an individual or HUF exclusively for personal purposes of such individual or any member of HUF.

Section	**194LA**
Description	**Compensation on acquisition of certain immovable property**
Threshold Limit	Rs. 2,00,000 in a financial year

Payer	Any person
Type of Payee	Any Resident
Rate of TDS	10%
Time of deduction	At the time of payment
Payments / Income exempted from TDS	Compensation on acquisition of agricultural land.

Section	**194E**
Description	**Payment to non-resident sportsmen or sportsmen association or entertainer**
Threshold Limit	-
Payer	Any Person
Type of Payee	Any non - resident sportsmen not citizen of India and non resident sports association or non - resident entertainer
Rate of TDS	20.6%
Time of deduction	At the time of credit or payment, whichever is earlier
Payments / Income exempted from TDS	-

Section	**194G**
Description	**Commission, etc. on the sale of lottery tickets**
Threshold Limit	No TDS where amount does not exceed Rs. 1,000 during a Financial Year
Payer	Any Person
Type of Payee	Any Person
Rate of TDS	10%
Time of deduction	At the time of credit or payment, whichever is earlier
Payments / Income exempted from TDS	-

Section 195: TDS on payments to Non – Residents – Compulsory TDS

SECTION 196:

No TDS shall be deducted from any sum payable to:

(i) Government

(ii) RBI

(iii) Mutual Funds

(iv) Corp. established under any Central Act whose income is exempt from tax.

SECTION 206AA : REQUIREMENT TO FURNISH PERMANENT ACCOUNT NUMBER - TAX DEDUCTION AT HIGHER RATE FOR FAILURE TO FURNISH PAN.

Non-deduction of tax at source on the service tax component comprised in payments made to residents, if the service-tax component is indicated separately [Circular No. 1/2014, dated 13.1.2014]

Difference between TDS and TCS:

	TDS	TCS
(1)	TDS is tax deduction at source	TCS is tax collection at source.
(2)	Person responsible for paying is required to deduct tax at source at the prescribed rate.	Seller of certain goods is responsible for collecting tax at source at the prescribed rate from the buyer. Person who grants licence or lease (in respect of any parking lot, toll plaza, mine or quarry) is responsible for collecting tax at source at the prescribed rate from the licensee or lessee, as the case may be.
(3)	Generally, tax is required to be deducted at the time of credit to the account of the payee or at the time of payment, whichever is earlier. However, in case of payment of salary and payment in respect of life insurance policy, tax is required to be deducted at the time of payment.	Generally, tax is required to be collected at source at the time of debiting of the amount payable by the buyer of certain goods to the account of the buyer or at the time of receipt of such amount from the said buyer, whichever is earlier. However, in case of sale of jewellery or bullion, tax collection at source is required at the time of receipt of sale consideration in cash.

Provisions for filing Return of Income

Voluntary Return:

The following persons are under statutory obligation to file return of income by virtue of Section 139(1), (4A), (4C), (4D):

Taxpayer	Minimum income to attract the provision of filing return of income
Company or Firm (Sec 139 (1))	Any Income or Loss
A person other than a company or a firm (Sec 139 (1))	If Gross Total Income exceeds Basic Exemption Limit
For Charitable or religious trusts (Sec 139 (4A))	If Gross Total Income (without giving exemption u/s 11 & 12) exceeds Basic Exemption Limit
Chief executive officer of every political party (Sec 139 (4B))	If Gross Total Income (without giving exemption u/s 13) exceeds Basic Exemption Limit
Other institutions like Research Assoc., News Agency, Educational/Medical Institution, trade union, Mutual Fund, securitization trust, VCC/VCF etc (Sec 139 (4C))	If Gross Total Income (without giving exemption u/s 10) exceeds Basic Exemption Limit
Any University/college/other institution referred to in Sec. 35(i), (ii) (iii) (Sec 139 (4D))	Any Income or Loss

Time limit for filing ROI (Section 139 (1))

The Due dates for filing ROI & Tax Audit Report are given below:

Situations	Due date of filing ROI
1) Company/ Persons other than company Covered by Audit/ 'Working Partner'	30^{th} September
2) In any other case	31^{st} July

Return of Loss (Section 139(3))

1) If loss from PGBP or Capital Gains should be carried forward - Assessee shall furnish a Return of Loss within the time allowed in 139(1)
2) Section 80 states that, if Return of Loss is not filed within the time prescribed, the loss cannot be carried forward. (Exception – Depreciation & Loss from House Property)

Belated Return (Section 139(4))

Assessee can file a belated return for any PY at any time before one year from the end of the AY or before the Assessment is completed, whichever is earlier.

Revised Return (Sec 139(5))

Such revised return can be furnished at any time before the expiry of one year from the end of the relevant AY or before completion of assessment, whichever is earlier.

Where belated return is filed u/s 139(4), assessee cannot file a revised return u/s 139(5).

Defective return (Sec 139(9))

Return of income filed without payment of self-assessment tax (along with interest) under section 140A considered defective [Section 139(9)]

(i) Under section 139(9), if the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of fifteen days or such further period which the Assessing Officer may allow at his discretion on an application made in this behalf by the assessee. If the defect is not rectified within the time allowed by the Assessing Officer, the return is treated as an invalid return. The provisions of the Income-tax Act, 1961 would apply as if the assessee had failed to furnish the return. The *Explanation* to section 139(9) provides the conditions, the non-fulfilment of which would render the return defective.

Permanent Account Number [Section 139A]:

Transaction prescribed by the Board – The Board has prescribed the following transactions where a person has to quote his PAN:

(a) sale/purchase of an immovable property or Rs 5 lakh or more.

(b) sale/purchase of a motor vehicle.

(c) Time deposit in a bank of more than Rs.50,000.

(d) Deposit in post office of more than Rs.50,000.

(e) sale/purchase of securities exceeding Rs. 1 lakh

(f) Opening a bank account (other than time deposit account).

(g) applying for a telephone or cellular telephone

(h) making payment of hotel / restaurant bill of more than Rs. 25,000,

(i) payment in cash for purchase of Bank Draft/ Pay Order / Banker's Cheque of Rs. 50,000 or more

(j) cash deposit of Rs. 50,000 or more in a bank in one day

(k) payment in cash in connection with travel to a foreign country of Rs. 25,000 or more at any one time.

(l) making an application for the following purposes involving payment of an amount exceeding Rs. 50,000 -

- for purchase of units of a mutual fund;
- for acquiring shares of a company through public issue;
- for acquiring debentures of a company or institution;
- for acquiring bonds of Reserve Bank of India.

(m) payment of an amount aggregating Rs. 50,000 or more in a year as life insurance premium to an insurer;

(n) payment to a dealer –

-of an amount of Rs. 5,00,000 or more at any one time; or

- against a bill for an amount of Rs. 5,00,000 or more, for purchase of bullion or jewellery.

Scheme to facilitate submissions of return through Tax Return Preparers (Section 139B)

Following persons cannot act as a TRP:

a) Any officer of a scheduled bank in which the assessee maintains a current account or has regular dealings
b) A legal practitioner
c) CA

Return by whom to be signed (Sec 140)

	Assessee	**Signatory**
(1)	Individual	Himself
	When absent from India	Himself or any other person duly authorized by him(holding a valid power of attorney)
	Mentally Incapacitated	His guardian or any other person competent to act on his behalf
	For any other reason he is not able to sign	Any other person duly authorized by him(holding a valid power of attorney)
(2)	H.U.F	Karta
	Where Karta is absent from India or is mentally incapacitated	Any other adult member of the family
(3)	Company	M.D.
	Where MD is unable to sign or where there is no MD	Any other Director
	When company is not resident in India	Any person who holds a valid power of attorney from the company
	When company is in liquidation	The Liquidator
	When the company's management is taken over by the Govt.	The Principal Officer
(4)	Partnership Firm	Managing Partner or any other partner not being a minor
(5)	LLP	Designated Partner or any other partner not being a minor
(6)	Local Authority	Principal Officer
(7)	Political Party	Chief Executive Officer
(8)	Association of Persons	Any member or principal officer
(9)	Any other person	That person or some other person who is competent to sign

Manner of filing return of Income:

It may be filed in:

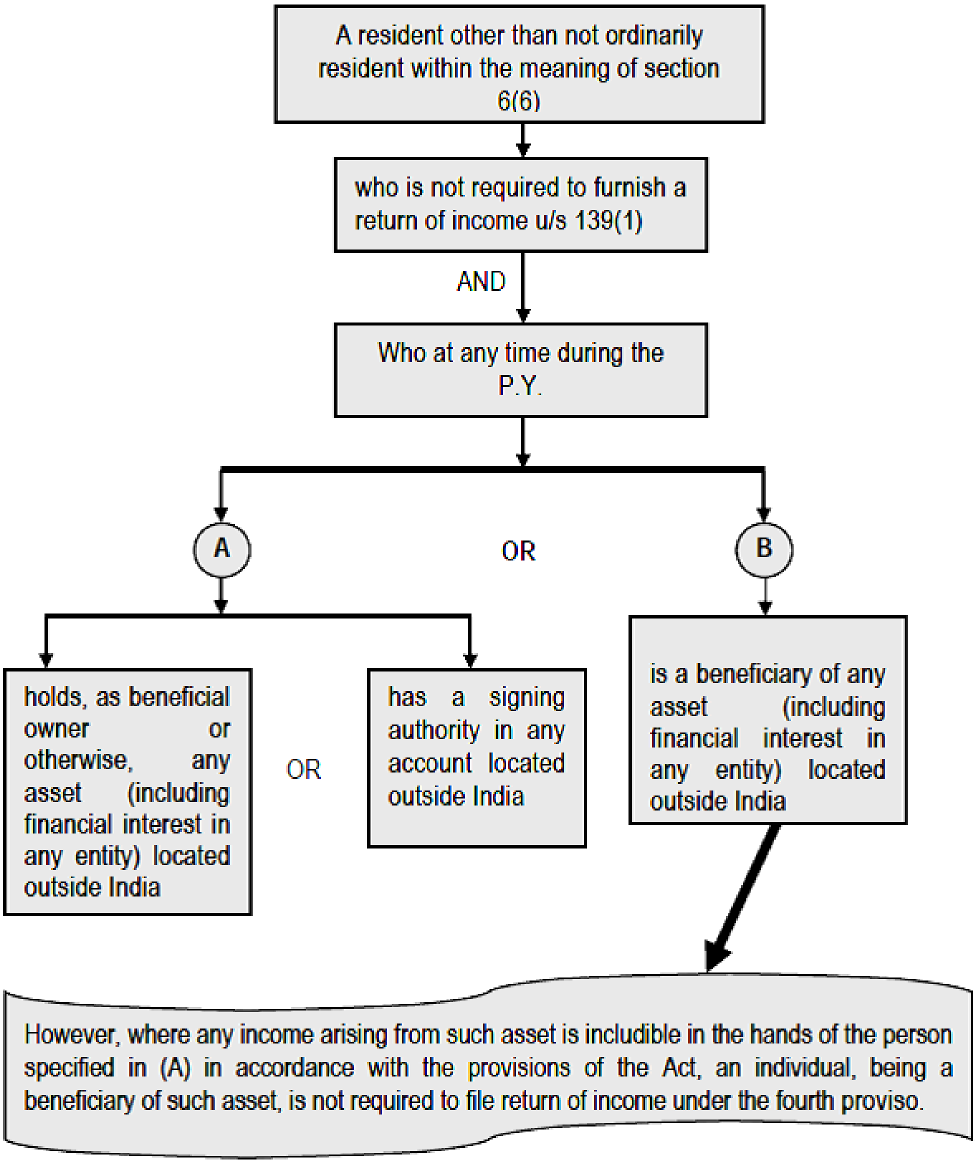
- Paper form
- Electronically using Digital Signature
- Submitting return electronically, then submitting verification of return in Form ITR-V

Exceptions:

- An Individual/HUF/Firm to whom Audit is applicable, shall furnish the return electronically with digital signature
- A company has to furnish the return electronically under digital signature

Mandatory filing of ROI by every resident having any asset (including financial interest in any entity) located outside India [Section 139(1)]

Requirement of filing of return of income as per the new fourth and fifth proviso to section 139(1)



<u>Interest u/s 234A:</u> For default in furnishing ROI.

- That is:

If furnished late or not furnished.

- Interest @ 1% p.m./ part of month.
- Interest calculated on tax amount due from Due Date to Actual Filing Date.

Interest under section 234A not chargeable on self assessment tax paid before the due date of filing of return of income.

Income Computation & Disclosure Standards (ICDS's)

ICDSs vis-à-vis AS and ICDSs vis-à-vis Judicial Rulings: There are significant deviations between the notified ICDSs, Accounting Standards & Judicial Rulings which are likely to have the effect of advancing the recognition of income or gains or postponing the recognition of expenditure or losses.

ICDS I : Accounting Policies:

(1) Non-consideration of the concepts of Prudence and Materiality:

ICDS I on Accounting Policies, while recognizing the fundamental accounting assumptions of going concern, consistency and accrual, does not recognize the concepts of "materiality" and "prudence" in selection and application of accounting policies.

The concept of prudence requires that provisions should be made for all known liabilities and losses even though the amount cannot be determined with certainty and represents only a best estimate in the light of available information. Non consideration of prudence in selection and application of accounting policies may have the impact of earlier recognition of income and gains or later recognition of expenses or losses for tax computation.

(2) Requirement of "reasonable cause" for change in accounting policy:

AS 5 vis-à-vis ICDS I: AS 5 which deals with changes in accounting policies, permits change in accounting policies if adoption of different accounting policies is required by:

(a) statute; or (b) for the purpose of compliance with an accounting standard; or

(c) if such change results in a more appropriate presentation of financial statements.

ICDS I, however, states that an accounting policy should not be changed without any 'reasonable cause'. The term "reasonable cause" has not been defined and would involve exercise of judgment by management and tax authorities.

ICDS II : Valuation of Inventories:

(1) Standard cost method not recognized for measurement of cost of inventories:

AS 2 vis-à-vis ICDS II: AS 2 permits standard cost method as one of the techniques for the measurement of the cost of inventories, for convenience if the results approximate the actual cost. However there is no enabling para in ICDS II permitting adoption of standard cost as a technique for measurement of the cost of inventories.

(2) Valuation of inventory on the date of dissolution of a firm, where the business is continued by a partner(s): ICDS II: In case of dissolution of a partnership firm requires the inventory on the date of dissolution to be valued at the **net realisable value, notwithstanding whether business is discontinued or not**.

This requirement in ICDS II is in deviation from the Supreme Court ruling where it was held that if the firm is dissolved due to death of a partner and the surviving partners reconstitute the firm and continue the business as before, **the firm is entitled to adopt cost or market price, whichever is lower**.

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ICDS III: Construction Contracts:

(1) Point in time of recognition of expected loss on construction contracts

AS 7 vis-à-vis ICDS III: AS 7 permits recognition of expected loss on construction contract as well as contract costs, recovery of which is not probable, as an expense immediately.

It also permits recognition of expected loss immediately as an expense, when it is probable that total contract costs will exceed total contract revenue.

The absence of specific requirement in ICDS III to recognize such expected losses on construction contracts immediately as expense represents a significant deviation from AS 7.

By implication, such losses are also to be recognized on Percentage of Completion Method as per ICDS III. Consequently, recognition of losses for tax purposes is postponed.

(2) Treatment of penalties arising from delays caused by the contractor in completion of the contract: AS 7 vis-à-vis ICDS III: AS 7 permits decrease in contract revenue as a result of penalties arising from delays caused by the contractor in the completion of the contract. However, ICDS III does not permit such reduction in contract revenue. Non-recognition of decrease in contract revenue as a result of such penalties would have the effect of inflating the taxable income and consequent tax liability.

(3) Point in time of recognition of retention money:

AS 7 vis-à-vis ICDS III: As per ICDS III, "Contract Revenue" shall comprise of the initial amount of revenue agreed in the contract, **including retentions**.

However, as per AS 7, contract revenue should comprise the initial amount of revenue agreed in the contract.

While there is a specific requirement in ICDS III to include retentions, there is no such requirement in AS 7.

ICDS IV: Revenue Recognition:

(1) Revenue recognition in case of rendering of services and use by others of person's resources yielding interest, dividend or royalty, where there is significant uncertainty as to collectability: AS 9 vis-à-vis ICDS IV: AS 9 requires recognition of revenue only if no significant uncertainty exists regarding the amount of consideration that will be derived from sale of goods, rendering of services or use by others of enterprise resources yielding interest, royalties and dividends.

ICDS IV also requires revenue from sale of goods to be recognized when there is reasonable certainty of its ultimate collection.

However, "reasonable certainty for ultimate collection" is not a criterion for recognition of revenue from rendering of services or use by others of person's resources yielding interest, royalties or dividends. By implication, revenue recognition cannot be postponed in case of uncertainty regarding collectability of consideration to be derived from rendering of services or use by others of person's resources yielding interest, dividend or royalty.

(2) Recognition of revenue from service transactions:

AS 9 vis-à-vis ICDS IV: AS 9 permits revenue from service transactions to be recognised as the service is performed, either by the proportionate completion method or by the completed service contract method, whichever relates the revenue to the work accomplished. ICDS IV requires revenue from service transactions to be recognised only on the basis of percentage completion method.

ICDS VI: Effects of changes in Foreign Exchange Rates:

(1) Treatment of exchange differences in translation of financial statements of non integral foreign operations: AS 11 vis-à-vis ICDS VI: AS 11 requires the resulting exchange differences in translating the financial statements of a non-integral foreign operation to be accumulated in a foreign currency translation reserve until the disposal of the net investment. ICDS VI on the other hand requires such exchange differences to be recognized as income or as expenses in that previous year.

ICDS VII: Government Grants:

(1) Recognition of Government Grants:

AS 12 vis-à-vis ICDS VII: AS 12 provides that Government Grants should not be recognized until there is a reasonable assurance that the enterprise will comply with the conditions attached to them and the grants will be received.

ICDS VII also provides that Government Grants should not be recognized until there is a reasonable assurance that the enterprise will comply with the conditions attached to them and the grants will be received. However, ICDS VII goes on to provide that recognition of government grant shall not be postponed beyond the date of actual receipt.

(2) Treatment of Government Grants of capital nature and Government Grants in the nature of promoter's contribution:

AS 12 vis-à-vis ICDS VII: AS 12 permits government grants in the nature of promoters' contribution, to be treated as capital reserve which can neither be distributed as dividend nor considered as deferred income.

ICDS VII, however, does not contain specific requirement to capitalize government grants in the nature of promoter's contribution. Except in case of government grant relating to a depreciable fixed asset, which has to be reduced from written down value or actual cost, all other grants have to be recognized as upfront income or as income over the periods necessary to match them with the related costs which they are intended to compensate.

Accordingly, new sub-cluase has been inserted in the definition of income under section 2(24) to provide that assistance in the form of a subsidy or grant etc., by the Central Government or a State Government or any authority in cash or kind to the assessee would be considered as income. It is only the subsidy or grant or reimbursement which has been reduced from the actual cost of the asset in accordance with section 43(1) which would not be considered as income.

ICDS VIII: Securities:

(1) Manner of comparison of cost and NRV for valuation of securities held as stock-in-trade: ICDS VIII requires securities held as stock-in-trade to be valued at lower of actual cost initially recognized or net realizable value at the end of the year, whichever is lower. Further, such comparison has to be done **category-wise** and not for each individual security. This requirement in the ICDS deviates from the judicial position that comparison should be done stock wise.

(2) Valuation of unlisted or irregularly traded securities at actual cost initially recognized.

ICDS VIII requires valuation of the following securities only at actual cost initially recognized:

(i) Securities not listed on a recognized stock exchange; or

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(ii) Securities listed but not quoted on a recognized stock exchange with regularity from time to time.

ICDS IX: Borrowing Costs:

(1) Minimum period for classification of an asset as a qualifying asset:

AS 16 vis-à-vis ICDS IX: As per AS 16, "qualifying asset" has been defined to mean an asset that necessarily takes a substantial period of time to get ready for its intended use or sale. AS 16 clarifies that ordinarily a period of 12 months is considered as substantial period of time unless a shorter or longer period can be justified on the basis of facts and circumstances of the case.

ICDS IX, however, does not provide any minimum period for treating an asset as a qualifying asset (except in the case of inventories). Consequently, borrowing costs in respect of assets have to be capitalized even if the asset, say, land or building or plant or machinery, does not take a substantial period of time to get ready for intended use.

(2) Treatment of income earned from temporary investment of borrowed funds:

AS 16 vis-à-vis ICDS IX: AS 16 permits income earned on temporary investment of borrowed funds pending their expenditure on the qualifying asset to be deducted from borrowing costs incurred. ICDS IX however, does not permit such reduction from borrowing costs.

(3) Suspension of capitalization of borrowing costs:

AS 16 vis-à-vis ICDS IX: AS 16 permits suspension of capitalization of borrowing costs during extended periods in which active development is interrupted. ICDS IX does not permit suspension of capitalization of borrowing costs in such cases.

ICDS X: Provisions, Contingent Liabilities & Contingent Assets:

(1) Condition for recognition of Provision:

AS 29 vis-à-vis ICDS X: AS 29 requires recognition of a provision when it is **probable** that an outflow of resources embodying economic benefits will be required to settle the obligation. ICDS X requires recognition of a provision only when it is **reasonably certain** that an outflow of resources embodying economic benefits will be required to settle the obligation.

The requirement of "reasonable certainty" in ICDS X to recognize a provision is more stringent as compared to the requirement of "probability" in AS 29. This will have the effect of postponing the recognition of provision for tax purposes and consequently, result in earlier payment of taxes.

(2) Condition for recognition of Contingent Asset:

AS 29 vis-à-vis ICDS X: Both AS 29 and ICDS X provide that a contingent asset should not be recognized. Further, both AS 29 and ICDS X require contingent assets to be assessed continually.

Thereafter, recognition of contingent assets and related income is required in:

AS 29, if inflow of economic benefits is **"virtually certain"**;

ICDS X, if inflow of economic benefits is **"reasonably certain"**.

The requirement of "reasonable certainty" in ICDS X to recognize a contingent asset and the related income is more stringent as compared to the requirement of "virtual certainty" in AS 29. This deviation between AS 29 and ICDS X would have the effect of advancing recognition of income for tax purposes and consequently, result in earlier payment of taxes.

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CA – IPCE : Indirect Taxation

(Free Revisionary Notes)

(Relevant for May 2016)

Compiled by:

CA Arpita S. Tulsyan

CA Vinesh R. Savla

CA – IPCE : Indirect Taxation

Index

Revisionary Notes contains all the Important Provisions relevant from Exam Point of View.
However, these Notes are meant for REVISION ONLY.

Unit 1: Basic Concepts of Service Tax

Service Tax Law:

(a) Finance Act, 1994: Chapter V & VA of the Finance Act, 1994.

(b) Rules on service tax: Rules are made for carrying out the provisions of the Act. The rules can never override the Act. E.g. Services Tax Rules 1994, Service Tax (Registration of Special Category of Persons) Rules, 2005, Service Tax (Determination of Value) Rules, 2006, Point of Taxation Rules, 2011 and Place of Provision of Service Rules, 2012.

(c) Notifications on service tax: Finance Act, 1994 **empower the Central Government to issue notifications to exempt any service from service tax and to make rules to implement service tax provisions.**

(d) Circulars or Office Letters (Instructions) on service tax: The Central Board of Excise and Customs (CBEC) issues circulars **to explain the scope of taxable services and the scheme of service tax administration etc.** However, the provisions of any Act cannot be altered or contradicted or changed by the circulars.

Persons involved: **1) Service Provider** – Generally collects & pays ST to the govt. Even if he fails to collect ST, he has to pay to govt.

2) Service recipient – Final burden of service tax is on him.

Extent, Commencement and Application [Section 64]:

The Act extends to whole of **India** except the state of Jammu & Kashmir (Section 64(1)).

Provisions of the Act do not extend to Jammu & Kashmir:

(a) Service provided in Jammu & Kashmir not liable to service tax.

(b) Services provided from Jammu & Kashmir outside Jammu & Kashmir liable to service tax.

India means: (a) The territory of the Union (States and the Union Territories)

(b) Its territorial waters (up to 12 nautical miles from the Indian land mass), continental shelf, exclusive economic zone or any other maritime zone.

(c) The seabed and the subsoil underlying the territorial waters;

(d) The air space above its territory and territorial waters; and

"India" includes Continental Shelf and Exclusive Economic Zones (200 NM) for following purpose: 1) Service provided for construction of installation, structure and vessel for extraction of mineral oil or natural gas.

2) Any service to such installation, structure and vessel.

Charge of Service Tax [Section 66B]:

- Tax shall be levied at the rate of 14%
- on the value of **all services**,
- **other than** those services specified in the **negative list**,
- **provided or agreed to be provided**
- in the **taxable territory**,
- **by one person to another**,
- and collected in such manner as may be prescribed.

Definition of service [Section 65B(44)]:
Service means: (i) any **activity for consideration** (ii) carried out **by a person for another** and (iii) includes a **declared service**.
Exclusions: (Not a Service - So Not taxable)
However, a service **shall not include**:-
(a) Activity which constitutes merely,—
(i) **Transfer of title** in goods or immovable property, by way of **sale, gift** etc; or
(ii) Transfer, delivery or supply of any goods which is **deemed to be a sale** within article 366 of the Constitution; (Eg. Hire Purchase) or
(iii) **Transaction in money or actionable claim** (Unsecured debts)
(b) S**ervice by an employee** to the employer in the course of or in relation to his employment;
(c) **Fees taken in any Court** or tribunal.

Explanation 1:
(Functions performed by below are not considered as service and hence not taxable):
(A) the functions performed by the **Members of Parliament** / State Legislative / Panchayats / Municipalities / local authorities as such member; or
(B) the duties performed by any **person who holds any post in pursuance of the provisions of the Constitution** in that capacity; or
(C) the duties performed by any person as a Chairperson or a **Member or a Director in a body established by the Central Government** or State Governments or local authority.

Explanation 2: If a transaction is only in money, then it is not a service and hence not taxable. But any activity relating to the use of money or its conversion from one form, currency or denomination, to another for which a **fee or commission is charged,** then it is not a transaction only in money and hence such fee or commission charged is **taxable**.
Following are not transaction in money and hence taxable:
Any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out—
(a) by a lottery distributor or selling agent in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner;
(b) by a foreman of chit fund for conducting or organising a chit in any manner.

Explanation 3: (Only services provided by one person to another are taxable. Therefore services provided by one branch of a company to another or to its head office or vice-versa are not taxable as they are not provided by one person to another.)
However for the purposes of this Chapter,
(a) an unincorporated association or a body of persons, as the case may be, and a member thereof shall be treated as **distinct persons; (So Taxable)**
(b) an establishment of a person in the taxable territory and any of his other establishment in a non-taxable territory shall be treated as establishments of **distinct persons.** A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory. **(So Taxable)**

Monetary consideration and non-monetary consideration:

1. Monetary consideration means any consideration received in the form of money. **Money** means legal tender, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument but shall not include any currency that is held for its numismatic value.

2. Non-monetary consideration essentially means compensation in kind such as the following:

• Supply of goods and services in return for provision of service.
• Refraining or forbearing to do an act in return for provision of service
• Tolerating an act or a situation in return for provision of a service
• Doing or agreeing to do an act in return for provision of service.

Examples of an activity without consideration (not taxable) are as follows:-

• Tourism information free of charge
• Access to free TV channels
• An artist performing on a street where passersby may drop some coins in his bowl kept either after feeling rejoiced or out of compassion
• Large number of governmental activities for citizens

Examples of consideration without an activity (not taxable) are as follows:-

• Personal obligations e.g. pocket money
• Amount paid as alimony for divorce
• Donations without conditions
• Pure gifts
• Tips and ex-gratia payments

Negative list of services [Section 66D]: This 'Negative List' is of importance because every activity not covered under this list is chargeable to service tax.

(a) Services provided by Government or a local authority:

Definition of Government incorporated in the Act [Section 65B(26A)]:

"Government means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder".

[Effective from 14.05.2015]

Not taxable (Negative List):

- Basic mail, inland letter, registered post, transfer of money through money orders, operation of savings accounts, issue of postal orders, pension payments.
- All other service by Government if not specified in taxable list below.

Taxable:

(i) Services by the Department of Posts by way of **speed post, express parcel post, life insurance, and agency services** (distribution of mutual funds, bonds, passport applications, collection of telephone and electricity bills) **provided to a person other than Government;**

(ii) **Services in relation to an aircraft or a vessel**;

(iii) **Support services provided to business entities;**

<u>Exempt by Notification (Not a part of negative list) (Normally taxable but exempt due to notification):</u>
(i) Services provided to Government, a local authority or a Governmental authority by way of: (a) Water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or
(b) Repair or maintenance of a vessel is exempt from service tax.
(ii) Services provided to Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession; from a provider of service located in a non- taxable territory
(iii) Services by a governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution are exempt from service tax.

(b) Services provided by the Reserve Bank of India – Not taxable (Negative List)

<u>Exemption by Notification (Not a part of negative list) (Normally taxable but exempt due to notification):</u> Services received by RBI, from outside India in relation to management of foreign exchange reserves are exempt from service tax.

(c) Services provided by a foreign diplomatic mission located in India - Not taxable (Negative List)

<u>Exemption by Notification (Not a part of negative list) (Normally taxable but exempt due to notification):</u>
(i) All taxable services provided by any person to foreign diplomatic missions or consular posts in India for their official use.
(ii) All taxable services provided by any person for personal use or for the use of the family members of diplomatic agents or career consular officers posted therein.

(d) Services relating to agriculture or agricultural produce:
<u>Not taxable (Negative List):</u>
(i) Agricultural operations including cultivation, harvesting, threshing, plant protection or testing; pisciculture (Fish), sericulture (Silk), floriculture (Flower), horticulture (Vegetable), forestry etc.
(ii) Supply of farm labour;
(iii) Processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the **primary market;**
(iv) Renting of agro machinery or vacant land with or without a structure incidental to its use;
(v) Loading, unloading, packing, storage or warehousing of agricultural produce;
(vi) Agricultural extension services (farmer education or training)
(vii) Services by any Agricultural Produce Marketing Committee (APMC) or by a commission agent for sale or purchase of agricultural produce;

Taxable:
Process which makes agricultural produce marketable in the retail market

Agriculture means the cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products [Section 65B(3)].

Agricultural produce means any produce of agriculture on which either no further processing is done or such processing is done as is **usually done by a cultivator or producer** which does not alter its essential characteristics but makes it marketable for primary market

Circular No.177/03/2014 ST dated 17.02.2014 has clarified that the above definition of agricultural produce covers 'paddy'; but excludes 'rice'. It implies that benefits available to agricultural produce in the negative list are not available to rice.

Exemption by Notification (Not a part of negative list) (Normally taxable but exempt due to notification):

(i) Many such benefits have been extended to rice by way of appropriate entries in the mega exemption notification as follows:-

(a) Services by way of transportation of food grain by rail/vessel/goods transport agency is exempt from service tax. Food grain includes rice.

(b) Services by way of loading, unloading, packing, storage or warehousing of rice are exempt from service tax.

(c) Carrying out an intermediate production process as job work in relation to agriculture is exempt from service tax. It is clarified that paddy milled into rice, on job work basis is also exempt from service tax since such milling of paddy is an intermediate production process in relation to agriculture.

(ii) Services by way of loading, unloading, packing, storage or warehousing of cotton ginned or baled are exempt from service tax.

Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables exempted (Amendment):

Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables are exempt.

(e) Trading of goods:

Not taxable (Negative List):

(i) Normal Trading
(ii) Forward / Future contracts in commodities

Taxable:

(i) Activities of a commission agent
(ii) Auxiliary services relating to future contracts or commodity futures

(f) Any process amounting to manufacture or production of goods – Not taxable (Negative List): This entry also covers **manufacturing activity carried out on contract or job work basis**, which does not involve transfer of title in goods, **provided** duties of excise are leviable on such processes under the Central Excise Act, 1944 or the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.

Exemption by Notification (Not a part of negative list) (Normally taxable but exempt due to notification):

Carrying out an intermediate production process as job work in relation to -

(a) Agriculture, printing or textile processing;

(b) Cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals;

(c) Any goods ***excluding alcoholic liquor for human consumption*** on which appropriate duty is payable by the principal manufacturer; or

(d) Processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of Rs 150 lakh in a financial year subject to the condition that such aggregate value had not exceeded Rs 150 lakh rupees during the preceding financial year is exempt from service tax.

Paddy milled into rice, on job work basis is exempt from service tax since such milling of paddy is an intermediate production process in relation to agriculture [Circular No.177/03/2014 ST dated 17.02.2014].

(g) Selling of space or time slots for advertisements (Negative List):

Selling of space for advertisements in print media will be covered in negative list of services.

"Print media" means:

(i) "book" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867, but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;

(ii) "newspaper" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867.

Thus, sale of space for advertisements in business directories, yellow pages and trade catalogues would attract service tax.

Making or preparing advertisements: Taxable.

Canvassing advertisement for publishing on a commission basis: Taxable.

(h) Service by way of access to a road or a bridge on payment of toll charges – Not taxable (Negative List) (Collection charges paid to any toll collecting agency – taxable)

(i) Betting, gambling or lottery – Not taxable (Negative List) (However auxiliary services that are used for organizing or promoting betting or gambling events are not covered in this entry - So Taxable.)

(j) Deleted: Entry to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks and theme parks would be liable to service tax. However, simultaneous exemption has also been provided in respect of admission to certain specific events/programmes etc. by inserting a new entry in the Mega Exemption Notification.

(k) Transmission or distribution of electricity by an electricity transmission or distribution utility – Not taxable (Negative List)

(l) Education Services:

Not taxable (Negative List): (i) Pre-school education and education up to higher secondary school or equivalent; (CBSC, ICSE, SSC, HSC, International School)
(ii) Education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force (B.Com etc)
(iii) Education as a part of an approved vocational education course.

Taxable: (1) Private Tuitions, Coaching Class etc
[Boarding school (may or may not be taxable) – Refer section 66F]
(2) Services provided by way of education as a part of a prescribed curriculum for obtaining a qualification recognized by a law of a foreign country are NOT covered in the negative list entry.

Exempt (Not a part of negative list) (Normally taxable but exempt due to notification):
(i) Recreational coaching or training: Services by way of training or coaching in recreational activities relating to arts, culture or sports are exempt from service tax. The term 'recreational activities' is very wide. However, under this head, the scope of training or coaching in recreational activities is restricted to the area of:-
(a) Arts (b) Culture (b) Sports
Hence, the training or coaching in recreational activities in the areas other than arts, culture or sports shall be chargeable to service tax.

(ii) Educational services: Services provided-
(a) BY an educational institution to its students, faculty and staff;
(b) TO an educational institution, by way of,-
(i) Transportation of students, faculty and staff;
(ii) catering, including any mid-day meals scheme sponsored by the Government;
(iii) Security or cleaning or house-keeping services performed in such educational institution;
(iv) Services relating to admission to, or conduct of examination by, such institution are exempt from service tax.

(iii) Skill development services: Services provided by:-
(i) The National Skill Development Corporation (NSDC) set up by the Government of India;
(ii) A Sector Skill Council (SSC) approved by the NSDC;
(iii) An assessment agency approved by the SSC or the NSDC;
(iv) A training partner approved by the NSDC or the SSC in relation to:-
(a) The National Skill Development Programme implemented by the NSDC; or
(b) A vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or
(c) Any other Scheme implemented by the NSDC,
are exempt from service tax.

(iv) Services of public libraries by way of lending of books, publications or any other knowledge- enhancing content or material are exempt from service tax.

(v) Services of conducting admission tests for admission to colleges are exempt in case the educational institutions are providing qualification recognized by law.

Note: Educational institutes such as IITs, IIMs charge a fee from prospective employers like corporate houses/ MNCs, who come to the institutes for recruiting candidates through campus interviews. Service tax is liable on services provided by such institutions in relation to campus recruitment as such services are not covered in the negative list

(m) Renting Services by way of renting of residential dwelling for use as residence – Not taxable. (Negative List)
However:
(1) But does not include hotel, motel, inn, guest house, camp– site, lodge, house boat, or like places meant for temporary stay - **taxable**
(2) Houses allotted by Government department to its employees and a license fee is charged - Such service would be covered in the negative list entry relating to services provided by Government -**Not taxable**
(3) Furnished flats given on rent for temporary stay (a few days): Such renting as residential dwelling for the **bonafide use of a person or his family for a reasonable period** shall be **residential use**; but if the same is given for a **short stay for different persons** over a period of time the same would be **liable to tax**.

(n) Financial Service:
<u>**Not taxable (Negative List):**</u>
(i) Extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount; (CP,CD,Repo)
(ii) Inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers;
<u>**Taxable:**</u>
(i) Any charges/commission charged (ii) Brokerage for dealing in foreign exchange with client.

(o) Service of transportation of passengers:
<u>**Not taxable (Negative List):**</u>
(i) A stage carriage (Vehicles which can carry more than six passengers for hire for separate fares paid by individual passengers i.e Public transport)
(ii) Railways - 2nd class or general class, sleeper class
(iii) Metro, monorail or tramway;
(iv) Inland waterways;
(v) Public transport, other than predominantly for tourism purpose, **in a vessel** between places located in India; and
(vi) metered cabs or auto rickshaws;

<u>**Exempt (Not a part of negative list) (Normally taxable but exempt due to notification)::**</u>
Passenger transportation services: Transport of passengers, with or without accompanied belongings, by -
(a) Air, embarking from or terminating in an airport located in the state of Arunachal Pradesh,

Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;

(b) Non air-conditioned contract carriage other than radio taxi, for the transportation of passengers, excluding tourism, conducted tour, charter or hire; or

(c) Ropeway, cable car or aerial tramway is exempt from service tax.

(p) Services by way of transportation of goods:

Not Taxable (Negative List):

(i) By road except the services of a goods transportation agency & a courier agency;

(ii) By an aircraft or a vessel from a place outside India up to India; or

(iii) By inland waterways;

Taxable:

(i) Goods transportation agency services (person who provides service in relation to transport of goods by road) (ii) Courier agency (Angadia)

Exempt (Not a part of negative list) (Normally taxable but exempt due to notification)::

Transportation of specified goods, by road/rail/vessel: Exemptions granted to transport of goods through rail or vessel or a goods carriage are presented in the following table: -

Transportation of the following goods by rail / vessel is exempt from service tax	**Transportation of the following goods in a goods carriage by a goods transport agency is exempt from service tax**
Railway equipments or materials	(i) goods where gross amount charged for the transportation of goods on a consignment transported in a single goods carriage does not exceed ₹ 1500; or
	(ii) goods, where gross amount charged for transportation of all such goods for a single consignee does not exceed ₹ 750.
Transportation of the following goods by rail / vessel / goods carriage is exempt from service tax	
(a) agricultural produce ***(b) milk, salt and food grain including flours, pulses and rice*** (c) chemical fertilizer, oilcakes and organic manure (d) newspaper or magazines registered with the Registrar of Newspapers (e) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap (f) defence or military equipments (g) cotton, ginned or bailed	

Services by way of loading, unloading, packing, storage or warehousing of rice, cotton ginned or baled are exempt from service tax.

(q) Funeral, burial, crematorium or mortuary services including transportation of the deceased – Not taxable (Negative List).

Unit 2: Point of Taxation

RULE 3 - DETERMINATION OF POINT OF TAXATION

RULE 3(a):

Point of taxation shall be the time when **invoice** for service provided or agreed to be provided is **issued.**

In case the invoice is **not issued** within 30 DAYS (or 45 days in case of a banking institution or NBFC) the time period specified in Rule 4A of the service tax rules, 1994, Point of taxation shall be the date of the **completion of such service.**

RULE 3(b)

In case service provider receives payment **before (a)**, the Point of Taxation shall be the **receipt of payment** to the extent of such payment.

Explanation: In case service provider receives any **advance** towards provision of taxable service, the Point of Taxation shall be the **date of receipt of** each such advance.

"Date of payment": It shall be the earlier of the dates on which the payment is entered in the books of accounts or is credited to the bank account of the person liable to pay tax.

RULE 4 - Change of rate of tax

The rule 4 is notwithstanding anything contained in Rule 3. In case of a change of rate of tax in respect of service, Point of taxation to be determined in the following manner (Rule 4):

Provision of Service	**Issuance of Invoice**	**Payment**	**Point of Taxation**
Before change of rate	After change of rate	After change of rate	**Date of invoice or payment, whichever is earlier**
	Before change of rate	After change of rate	Date of invoice
	After change of rate	Before change of rate	Date of payment
After change of rate	Before change of rate	After change of rate	**Date of Payment**
	Before change of rate	Before change of rate	Date of invoice or payment, whichever is earlier
	After change of rate	Before change of rate	Date of invoice

RULE 5- NEW SERVICE In case of service taxed for the first time, no service tax is payable if:

In case invoice as well as payment are received against such invoice before such service became taxable

or

In case payment is received before such service became taxable & the service provider has issued invoice within the period of **14** days of the date when the service is taxed for the first time.

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"Date of payment for Rule 4 and Rule 5":
The Date of payment shall be the date of credit in bank account when:
There is a change in effective rate of tax or when a service is taxed for the first time during the period between such entry in books of accounts & its credit in the bank account;

and

The credit in the bank account is after four workings days from the date when there is a change in effective rate of tax on when a service is taxed for the first time;

and

The payment is made by way of an instrument which is credited to a bank account.

"Continuous supply of service": Rule 2 (c) defines "Continuous supply of service" means any services which is provided or to be provided continuously under a contract, for a period exceeding 3 months with an obligation of payment periodically or where the Central Government, by a notification in Official Gazette, prescribes provisions of a particular service to be a continuous supply of service, whether or not subject to any condition. (i.e. Telecommunication Services & Works Contract Service)
For rule 3(a)& (b): In case of "Continuous supply of service Where provision of whole or part of the service is determined periodically on the completion of an event in terms of a contract, which requires the service receiver to make any payment to service provider, the date of completion of each such event as specified in the contract shall be deemed to be the date of completion of provision of service.

Rule 7: Determination of point of taxation in case of person liable to pay service tax under reverse charge or in case of associated enterprises (Notwithstanding anything contained in rules 3, 4, and 8)
In respect of the persons required to pay tax as recipients under the rules made in this regard in respect of services notified under section 68(2) of the Finance Act, 1994, POT is:
(a) date of payment to service provider

or

(b) first day that occurs immediately after a period of three months from the date of invoice whichever is earlier.

In case of "associated enterprises", where the person providing the service is located outside India, the POT is

(a) date of debit in the books of service receiver

or

(b) the date of payment,

whichever is earlier.

RULE 8 - ROYALTIES, COPYRIGHT ETC: In respect of royalties & payments pertaining to copyrights, trademarks, designs or patents, where the whole amount of the consideration for the provision of service is not ascertainable at the time when service was performed and subsequently the use or the benefit of these services by a person other than the provider gives rise to any payment, **the service shall deemed to have been provided each time when a payment in respect of such use or the benefit is received by the provider or an invoice is issued by the provider, whichever is earlier.**

Unit 3: Valuation of Taxable Service

SECTION 67 - VALUATION OF TAXABLE SERVICES [read with Service Tax (determination of Value) Rules, 2006]

1) If consideration wholly in money, then value = gross amount charged (GAC) by SP.

2) If consideration not wholly in money, then value = amount with the addition of service tax charged is equivalent to the consideration.

3) If consideration is not ascertained, then value = amount as determined in the prescribed manner [**Rule 3 STVR**]

4) Where the gross amount charged (GAC) by SP is **inclusive of service tax** payable,

$$\text{Value of taxable services} = \frac{\text{amount charged} \times 100}{100 + \text{Rate of service tax}}$$

(Default : exclusive of service tax)

Consideration includes:

(i) any amount that is payable for the taxable services provided or to be provided;

(ii) any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed;

(iii) any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket.

Service Tax (Determination of value) rules, 2006:

RULE 3: Where the consideration received is not ascertainable, the value shall be :-

1) Gross amount charged (GAC) by the SP to provide **similar service** to any other person in ordinary course of business and where the gross amount charged is the sole consideration.

2) When above cannot be determined, value = **equivalent money value of such consideration** which shall, in **no case be less than the cost** of provision of such taxable service.

FORMULA: 67(1) + Rule 5(1) – Rule 5(2) + Rule 6(1) –Rule 6(2)

RULE 5 (1): Include all expenses and cost incurred by SP and charged to SR.

RULE 5 (2): But exclude expenditure incurred by SP as **"Pure Agent"**

"Pure agent" means a person who:

- o Enters into a **contractual agreement** with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service;
- o **Neither intends to hold nor holds any title** to the good or services so procured or provided as pure agent of the recipient of service;
- o **Does not use such goods or services** so procured; and
- o Receives only the **actual amount** incurred to procure such goods or services.

RULE 6(1): The following will be **included** in value of taxable services;

- **Insurance**: Amount of premium charged by the insurer from the policy holder.

- **Authorised Service Station**: Reimbursement received from the manufacture of motor vehicles for carrying out any service.
- **The amount realised as demurrage or by any other name whatever called for the provision of a service beyond the period originally contracted or in any other manner relatable to the provision of service.**

RULE 6(2): The following will be **excluded** from value of taxable services;

- **Taxes Levied by any govt**. on any passenger travelling by air if shown separately om ticket.
- **Interest on delayed payment of any consideration for the provision of service or sale of property, whether moveable or immoveable.**
- **Accidental damages due to unforeseen actions not relatable to the provision of service.**
- **Subsidies and grants disbursed by the Government, not directly affecting the value of service**

Determination of value of service in relation to money changing [Rule 2B]
For a currency, when exchanged from, or to, Indian Rupees (INR):
For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

***Note: Where the RBI reference rate for a currency is not available:**
Where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money.
Where neither of the currencies exchanged is Indian Rupee: Where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

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Unit 4: Exemptions and Abatements

Exemptions: Mega Exemption Notification [Notification No 25/2012- ST]

1. Services to United Nations/specified international organization Exempted. However, it is important to note that services provided BY these organizations are chargeable to service tax.

2. Health care services:

(a) Health care services **BY** a clinical establishment, an authorized medical practitioner or Para-medics, and

(b) Services **BY** a veterinary clinic in relation to health care of animals or birds are exempt from service tax.

Health care services

(a) means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any **recognised system of medicines** in India and

(b) Includes services by way of transportation of the patient to and from a clinical establishment, but

(c) Does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Following systems of medicines are recognized systems of medicines:-

• Allopathy • Yoga • Naturopathy • Ayurveda • Homeopathy • Siddha • Unani

• Any other system of medicine that may be recognized by Central Government.

Ambulance services provided by all service providers (whether or not by clinical establishment or an authorised medical practitioner or paramedics) exempted (Amendment)

3. Stem cell banking services: Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exemp from service tax.

4. Common bio-medical waste treatment: Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto are exempt from service tax. **Treatment of effluent by Common Effluent Treatment Plant operator exempted (Amendment) [Effective from 01.04.2015]**

5. Services by an entity registered under section 12AA of the Income tax Act, 1961 by way of charitable activities:

In order to claim exemption under this head, following two conditions must be satisfied:-

(i) The entity is registered with income tax authorities under section 12AA of the Income tax Act, 1961, and

(ii) The entity carries out one or more of the specified charitable activities.

6. Religious places/ceremonies

Services BY a person by way of Conduct of any religious ceremony are exempt from service tax.

Religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage, and death involve elaborate religious ceremonies.

Pilgrimage services: Religious pilgrimage organized by the Haj Committee and Kumaon Mandal Vikas Nigam Ltd. are not liable to service tax.

7. Legal services: Services provided **BY -**

An arbitral tribunal or an individual as an advocate or a partnership firm of advocates by way of legal services to-

(i) An advocate or partnership firm of advocates providing legal services ;

(ii) Any person other than a business entity; or

(iii) A business entity with a turnover up to Rs 10 lakh in the preceding financial year.

8. Sports services: Services provided **TO** a recognized sports body **BY**-

(a) An individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;

(b) Another recognized sports body

are exempt from service tax.

Recognized sports body means –

(i) Indian Olympic Association

(ii) Sports Authority of India

(iii) A national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations

(iv) National sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government

(v) International Olympic Association or a federation recognised by the International Olympic Association, or

(vi) A federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India.

9. Artist performance: Artist performance: Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre are exempt from service tax, if the consideration charged for such performance is not more than Rs. 1,00,000. However, exemption will not apply to service provided by such artist as a brand ambassador.

Brand ambassador means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person.

10. Services by way of collecting or providing news: By an independent journalist, Press Trust of India or United News of India are exempt from service tax.

11. Insurance business services:
A. General Insurance: General insurance provided under Pradhan Mantri Suraksha Bima Yojna exempted (Amendment)
B. Life Insurance: Services of life insurance business provided under following schemes are exempt from service tax: (a) Janashree Bima Yojana (JBY); or (b) Aam Aadmi Bima Yojana (AABY) **(c)** Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of Rs 50,000
Life insurance provided under Varishtha Pension Bima Yojna, Pradhan Mantri Jeevan Jyoti Bima Yojna and Pradhan Mantri Jan Dhan Yojna exempted (Amendment)

Collection of contribution under Atal Pension Yojna (APY) exempted (Amendment) [Effective from 30.04.2015]

12. Services provided by an incubatee up to a total turnover of Rs 50 lakh in a financial year subject to the following conditions, namely:-
(a) The total turnover had not exceeded Rs 50 lakh during the preceding financial year; and
(b) a period of three years has not elapsed from the date of entering into an agreement as an incubate,
are exempt from service tax.

13. Services by the following persons in respective capacities are exempt from service tax –
(a) Sub-broker or an authorized person to a stock broker;
(b) Authorized person to a member of a commodity exchange;
(c) Selling agent or a distributer of SIM cards or recharge coupon vouchers;
(d) Business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; or

14. Services by an organizer to any person in respect of a business exhibition held outside India is exempt from service tax.

15. Services by way of slaughtering of animals are exempt from service tax.

16. Services received from a provider of service located in a non- taxable territory by -
(a) Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
(b) An entity registered under section 12AA of the Income tax Act, 1961 for the purposes of providing charitable activities; or
(c) A person located in a non-taxable territory
are exempt from service tax.

17. Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets are exempt from service tax.

18. Services provided by a tour operator to a foreign tourist in relation to a tour wholly conducted outside India are exempt from service tax. For example, service provided by an Indian tour operator to a Chinese National for a tour conducted in Sri Lanka will be exempt from service tax under this entry.

19. Admission to museum/animal habitats/entertainment events:

A. Admission to museum/animal habitats: Services by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve are exempt from service tax.

B. Admission to entertainment events: Services by way of right to admission to-

(i) exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet;

(ii) recognized sporting event;

(iii) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event, where the consideration for admission is not more than Rs. 500 per person are exempt from service tax.

Other Exemptions:

(I) Small service provider's (SSP) exemption: Central Government has exempted the taxable services of aggregate value not exceeding Rs10 lakh in any financial year from the whole of the service tax leviable thereon under section 66B of the Finance Act, 1994 in case the aggregate value of taxable services rendered by the service provider from one or more premises, does not exceed Rs 10 lakh in the preceding financial year.

Services in respect of which SSP exemption is not available:

(i) Taxable services provided under brand name of another person

(ii) Services taxed under reverse charge mechanism

(II) Exemption from service tax equal to R&D cess payable on import of technology:

The amount of Research and development cess payable shall be allowed as a deduction from the service tax payable on the taxable service involving the import of technology.

Conditions to be fulfilled:-

(a) The Research & Development Cess is paid at the time of or before payment for the service subject to maximum of 6 months period from the **date of invoice**.

(b) Necessary records will have to be maintained so as to establish a linkage between the invoice or the credit entry (as the case may be) and the cess payment challan.

Abatements in respect of various taxable services: When full exemption from service tax is not granted but only a part of the tax is exempted, it is generally referred to as abatement (partial exemption). Notification No. 26/2012 ST dated 20.06.2012

S. No.	Description of taxable service	Percentage of abatement	Conditions
1.	Transport of goods by rail	70	***CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of CENVAT Credit Rules, 2004.***
2.	Transport of passengers, with or without accompanied belongings by rail	70	***Same as above***
3.	Transport of goods in a vessel	***70***	Same as above.
4.	Services of goods transport agency in relation to transportation of goods.	***70***	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken by the service provider under the provisions of the CENVAT Credit Rules, 2004.

5.	***Transport of passengers by air, with or without accompanied belongings in*** ***(i) economy class*** ***(ii) other than economy class***	 ***60*** ***40***	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
6.	Transport of passengers, with or without accompanied belongings, by- a. a contract carriage other than motor cab b. a radio taxi	60	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of CENVAT Credit Rules, 2004.
7.	Renting of motorcab	60	(i) CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004; (ii) CENVAT credit on input service of renting of motorcab has been taken under the provisions of the CENVAT Credit Rules, 2004, in the following manner: (a) Full CENVAT credit of such input service received from a person who is paying service tax on 40% of the value; or (b) Up to 40% CENVAT credit of such input service received from a person who is paying service tax on full value; (iii) CENVAT credit on input services other than those specified in (ii) above, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
8.	Services by a tour operator in relation to,- (i) a package tour	75	(i) CENVAT credit on inputs, capital goods and input services other than the input service of a tour operator, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour.
	(ii) a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour	90	(i) CENVAT credit on inputs, capital goods and input services other than the input service of a tour operator, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation. (iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a

			tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation.
	(iii) any services other than specified at (i) and (ii) above.	60	(i) CENVAT credit on inputs, capital goods and input services other than the input service of a tour operator, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.

RTP May 2016 Amendments:

(1) Services provided under the Power System Development Fund Scheme of the Ministry of Power exempted from service tax.

(2) Yoga included in the definition of charitable activities

(3) Services provided by (i) business facilitator/business correspondent with respect to Basic Savings Bank Deposit Accounts covered by Pradhan Mantri Jan Dhan Yojana and (ii) an intermediary to business facilitator/business correspondent with respect to such services, exempt from service tax.

(4) 70% abatement available also on ancillary services provided by a GTA in the course of transportation of goods.

Unit 5: Service Tax Procedures

Registration (Premise wise) [Section 69 & rule 4 of the Service Tax Rules, 1994]
(1) Persons requiring registration:
(i) Every person liable to pay service tax
(ii) An input service distributor; and
(iii) Any provider of taxable service whose aggregate value of taxable service in a financial year exceeds Rs 9, 00,000.

(2) Procedure for registration: Application for registration is to be made by every person liable for paying the service tax in Form ST-1:
(i) Within 30 days from the date on which service tax is levied or
(ii) Within 30 days from the date of commencement of business whichever is later, to the concerned Superintendent of Central Excise having jurisdiction.

Application by provider of taxable service whose aggregate value of taxable service in a financial year exceeds Rs 9, 00,000: Within a period of 30 days of exceeding the aggregate value of taxable service of Rs 9,00,000.

Centralised registration: Where a person, liable for paying service tax on a taxable service has more than one premise & has **centralised billing system or centralised accounting system** he may, at his option, register such premise or office where centralized billing or centralised accounting systems are located [Sub-rule (2)].

Documentation, time limits and procedure for registration (Amendment):
It has also been prescribed that henceforth registration for **single premises will be granted within two days of filing the application.**
General procedure
1. Applicants seeking registration for **single premises** shall file an online application for registration on ACES website in Form ST-1.
2. Following details are to be mandatorily furnished in the application form:
(a) Permanent Account Number (PAN) of the proprietor or the legal entity being registered (except Government Departments)
(b) E-mail and mobile number
3. Registration would be granted online within 2 days of filing the complete application form.
4. Registration Certificate downloaded from the ACES website would be accepted as proof of registration and there would be no need for a signed copy.
Documentation required: A self attested copy of the following documents will have to be submitted by registered post/ speed post to the concerned Division, within 7 days of filing the Form ST-1 online, for the purposes of verification:
1. Copy of the PAN Card of the proprietor or the legal entity registered
2. Photograph and proof of identity of the person filling the application

3. Document to establish possession of the premises to be registered such as proof of ownership, lease or rent agreement, allotment letter from Government, No Objection Certificate from the legal owner
4. Details of the main Bank Account
5. Memorandum/Articles of Association/List of Directors
6. Authorisation by the Board of Directors/Partners/Proprietor for the person filing the application
7. Business transaction numbers obtained from other Government departments or agencies such as Customs Registration No. (BIN No), Import Export Code (IEC) number, State Sales Tax Number (VAT), Central Sales Tax Number , Company Index Number (CIN) which have been issued prior to the filing of the service tax registration application.

Revocation of registration certificate
The registration certificate may be revoked by the Deputy/Assistant Commissioner in any of the following situations, after giving the assessee an opportunity to represent against the proposed revocation and taking into consideration the reply received, if any:
1. the premises are found to be non existent or not in possession of the assessee.
2. no documents are received within 15 days of the date of filing the registration application.
3. the documents are found to be incomplete or incorrect in any respect.
[Effective from 01.03.2015]

Issue of invoice, bill or challan or consignment note [Rule 4A & 4B of the Service Tax Rules, 1994]: Every person providing taxable service shall issue an invoice or a bill, or a challan signed by such person or a person authorized by him in respect of such taxable service provided or agreed to be provided. The invoice, bill or challan shall be serially numbered.

TIME LIMIT FOR ISSUE OF INVOICE/BILL/CHALLAN
Such an invoice has to be issued within 30 days from the date of:-
(i) Completion of such taxable service or
(ii) Receipt of any payment towards the value of such taxable serwhichever is earlier.

Time limit for issue of invoice/bill/challan in case of:
(a) Continuous supply of service: Within 30 days of the date when each event specified in the contract, which requires the service receiver to make any payment to service provider, is completed.
(b) Banking and other financial institution including NBFC: 45 days

Provisions introduced for authentication of invoices by digital signatures [New rule 4C]:
New rule 4C provides that any invoice, bill or challan issued under rule 4A or consignment note issued under rule 4B may be authenticated by means of a digital signature.
[Effective from 01.03.2015]

Person liable to pay service tax [Section 68 & Rule 2(1)(d) of the Service Tax Rules, 1994]: Generally - Service provider

Services where entire service tax is payable by the person other than service provider:-

1. Insurance agent's services: The taxable services provided or agreed to be provided by an insurance agent to any person carrying on the insurance business;

2. Goods transport agency's services: The taxable services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person liable to pay freight is,—

(a) Any factory registered under or governed by the Factories Act, 1948.

(b) Any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India.

(c) Any co-operative society established by or under any law.

(d) Any dealer of excisable goods, who is registered under the Central Excise Act, 1944 or the rules made thereunder.

(e) Anybody corporate established, by or under any law, or

(f) Any partnership firm whether registered or not under any law including association of persons.

Note: However, when such person is located in a non-taxable territory, the provider of such service shall be liable to pay service tax.

3. Sponsorship services: The taxable services provided or agreed to be provided by way of sponsorship to anybody corporate or partnership firm located in the taxable territory.

4. Legal services: The taxable services provided or agreed to be provided to any business entity located in the taxable territory by,-

(a) An arbitral tribunal, or

(b) An individual advocate or a firm of advocates by way of legal services.

5. Support services by Government: The taxable services provided or agreed to be provided to any business entity located in the taxable territory by Government or local authority by way of support services excluding:

(i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Government;

(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;

(iii) transport of goods or passengers;

6. Renting of a motor vehicle: The taxable services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on **abated value** to any person who is not engaged in the similar line of business by any individual/HUF/partnership firm (whether registered or not) including association of persons, located in the taxable territory to a business entity registered as body corporate,located in the taxable territory.

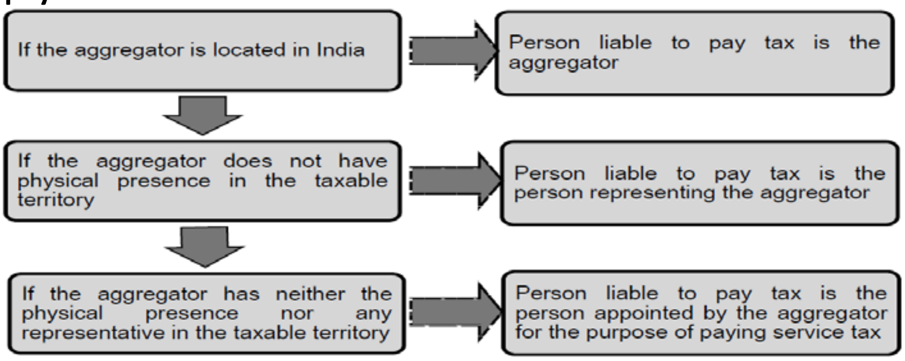
7. Services provided by a person located in non-taxable territory: The taxable services provided or agreed to be provided by any person which is located in a non-taxable territory and received by any person located in the taxable territory.

8. Director's services: The taxable services provided or agreed to be provided by a director of a company **or a body corporate** to the said company **or the body corporate**.

9. Recovery agent's services: The taxable services provided or agreed to be provided by a recovery agent to a banking company or a financial institution or a non-banking financial company.

10. Supply of manpower services: The taxable services provided or agreed to be provided by way of supply of manpower for any purpose by any individual/HUF/partnership firm (whether registered or not) including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory.
11. Security services: The taxable services provided or agreed to be provided by way of security services by any individual/HUF/partnership firm (whether registered or not) including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory.
12. Mutual fund agent/distributor's services: The taxable services provided or agreed to be provided by a mutual fund agent or distributor, to a mutual fund or asset management company.
13. Lottery selling or marketing agent's services: The taxable services provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent.
14. Services involving an aggregator: The taxable services provided or agreed to be provided by a person involving an aggregator in any manner.

There are many online websites that follow 'aggregator' model. Under this model, an entity collects or aggregates information on a particular service from several sources on a single platform and draws customers to its platform to connect them with the service provider. It may also facilitate the customers in comparing the prices and specifications of a particular service offered by multiple service providers. Therefore, companies which act as aggregator for service providers like travel portals, food portals or cab services will now be liable to pay service tax.



Services where service tax is partially payable by service provider And partially by any person liable for paying service tax [other than Service provider]:

S.No.	Service provided by any individual/ HUF/ partnership firm (whether registered or not) including association of persons, located in taxable territory to a business entity registered as body corporate, located in the taxable territory	% of service tax payable by the service provider	% of service tax payable by *any person liable for paying service tax (other than service provider)*
1	provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on **non abated value** to any person who is not engaged in the similar line of business	50%	50%

Service tax collected from the recipient of service must be paid to the Central Government [Section 73A]: Service tax collected has to be paid to the credit of the Central Government in the following cases—
(a) Person liable to pay service tax has collected service tax in excess of the service tax assessed or determined and paid on any taxable service or
(b) Any person has collected the service tax which is not required to be collected

Interest on amount collected in excess [Section 73B]
Rate of interest: 18% p.a
Period for which interest would be charged: From the first day of the month succeeding the month in which the amount ought to have been paid till the date of payment of such amount.
Concession of 3% for specified assesses: In the case of a service provider, whose value of taxable service provided in a financial year does not exceed Rs60 lakh during the preceding financial year

Due date for payment of service tax on the service which is deemed to be provided (as per the Point of Taxation Rules, 2011) by an individual or a proprietary firm or a partnership firm:-

S.No.	Particulars	Due date for payment of service tax
1.	If the service tax is paid electronically through internet banking	6th day of the following **quarter**
2.	In any other case	5th day of the following **quarter**
3.	In the case service is deemed to be provided in the quarter ending in March	31st day of March

Due date for payment of service tax on the service which is deemed to be provided (as per the Point of Taxation Rules, 2011) in any other cases (company and HUF):-

S.No.	Particulars	Due date for payment of service tax
1.	If the service tax is paid electronically through internet banking	6th day of the following **month**
2.	In any other case	5th day of the following **month**
3.	In the case service is deemed to be provided in the month of March	31st day of March

Individuals/partnership firms with aggregate value of taxable services of Rs.50 lakh or less in previous year allowed to pay service tax on receipt basis in current year upto a total of Rs.50 lakh [Third proviso to sub-rule (1)]

S.No.	Particulars	Due date for payment of service tax
1.	If the service tax is paid electronically through internet banking	6th day of the following quarter in which the payment is received
2.	In any other case	5th day of the following quarter in which the payment is received
3.	In the case payment is received in the quarter ending in March	31st day of March

SPECIAL PROVISION FOR PAYMENT OF SERVICE TAX

A. In case of air travel agent [Sub-rule (7)]: Person liable for paying the service tax in relation to the services provided by an air travel agent, shall have the option to pay following amounts instead of paying service tax at the rate of 14%:-

In the case of	Option to pay an amount calculated at the rate of
Domestic bookings of passage for travel by air	*0.7%* of the basic fare
International bookings of passage for travel by air	*1.4%* of the basic fare

Points to be noted

The option once exercised, shall apply uniformly in respect of all the bookings of passage for travel by air made by him and shall not be changed during a financial year under any circumstances.

B. In case of insurer carrying on life insurance business [Sub-rule (7A)]

An insurer carrying on life insurance business shall have the option to pay tax:

(i) On the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of policy holder, if such amount is intimated to the policy holder at the time of providing of service;

(ii) Where amount of the gross premium allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service equivalent to:

First year	at *3.5%* of the gross amount of premium charged
Subsequent year	at *1.75%* of the gross amount of premium charged

towards the discharge of his service tax liability instead of paying service tax at the rate of 14%.

Option not available in certain cases: Such option shall not be available in cases where the entire premium paid by the policy holder is only towards risk cover in life insurance.

C. In case of sale/purchase of foreign currency including money changing [Sub-rule (7B)]

Person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing, has an option to pay an amount at the following rates instead of paying service tax at the rate of 14%:-

S.No.	For an amount	Service tax shall be calculated at the rate of
1.	Upto ₹ 100,000	***0.14%*** of the gross amount of currency exchanged or ***₹ 35*** whichever is higher
2.	Exceeding ₹ 1,00,000 and upto ₹ 10,00,000	***₹ 140 + 0.07%*** of the (gross amount of currency exchanged-₹ 1,00,000)
3.	Exceeding ₹ 10,00,000	***₹ 770 + 0.014%*** of the (gross amount of currency exchanged-₹ 10,00,000) or ***₹ 7,000*** whichever is lower

However, the person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

D. In case of service of promotion, marketing or organising/assisting in organizing lottery [Sub-rule (7C)]

An optional mode of payment of service tax has been provided for the taxable service of promotion, marketing or organising/assisting in organising lottery in the following mannerinstead of paying service tax at the rate of 14%:-

Where the guaranteed lottery prize payout is > 80%	**₹ 8200/-** on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.
Where the guaranteed lottery prize payout is < 80%	**₹ 12,800/-** on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.

Points to be noted:-

1. In case of online lottery, the aggregate face value of lottery tickets will be the aggregate value of tickets sold.
2. The distributor/selling agent will have to exercise such option within a period of one month of the beginning of each financial year. The new service provider can exercise such option within one month of providing the service.
3. The option once exercised cannot be withdrawn during the remaining part of the financial year.

Interest on delayed payment of service tax [Section 75]:

Extent of delay	*Simple interest rate per annum*
Up to 6 months	*18%*
More than 6 months & upto 1 year	*18% for first 6 months, and 24% for the period of delay beyond 6 months*
More than 1 year	*18% for first 6 months, 24% for second 6 months, and 30% for the period of delay beyond 1 year*

Period for which interest is payable: Interest is payable for the period by which such crediting of the tax or any part thereof is delayed.

Concession of 3% for specified assesses: In case of a service provider, whose value of taxable service provided in a financial year does not exceedRs60 lakh during the preceding financial year.

Returns [Section 70, Rule 7, Rule 7B & Rule 7C of the Service Tax Rules, 1994]

(a) Manner of filing return

1.	**Form of return**	Return/revised return has to be furnished in **Form ST-3**.
2.	**Periodicity of filing return**	Service tax return has to be filed on a **half-yearly basis**.
3.	**Details to be furnished**	Return must indicate *inter alia*, monthwise: (i) the value of taxable services charged/billed; (ii) the value of taxable service realised; (iii) the amount of service tax payable/paid etc.

(b) Due dates for filing of service tax returns:

Half year	Due date
1st April to 30th September	25th October
1st October to 31st March	25th April

(c) Late fee for delayed return [Rule 7C]:

S. No.	Period of delay	Late fee
(a)	15 days from the date prescribed for submission of the return	₹ 500
(b)	Beyond 15 days but not later than 30 days from the date prescribed for submission of the return	₹ 1,000
(c)	Beyond 30 days from the date prescribed for submission of the return	An amount of ₹ 1,000 plus ₹ 100 for every day from the 31st day till the date of furnishing the said return

Maximum late fees: Total late fee for delayed submission of return shall not exceed Rs 20,000.

(d) Revised return [Rule 7B]: An assessee can submit a revised return, in **Form ST-3**, in **triplicate**, to correct a mistake or omission, within a period of **90 days** from the date of submission of the original return.

(e) Single return for multiple service providers: For an assesee who provides more than one taxable service, only a single return will be sufficient. However, the details in each of the columns of the Form ST-3 have to be furnished separately for each of the taxable service rendered by him.

(f) Nil return: Even if no service has been provided during a half year and no service tax is payable; the assessee has to file a Nil return within the prescribed time limit.

(g) E-filing of returns: E-filing of returns is mandatory for the assessees. With effect from 01.10.2011, every assessee will have to submit half-yearly service tax return electronically, irrespective of the amount of service tax paid by him in the preceding financial year.

CENVAT Credit

The CENVAT Credit Rules, 2004 extend to the whole of India. However, the provisions of these rules in relation to availment and utilization of credit of service tax do not apply to the State of Jammu and Kashmir.

Rule 2 – Definitions:
(1) Capital Goods [Rule 2(a)]: Capital goods means:
(A) (i) All goods falling under Chapter 82 (Tools), Chapter 84 (Machinery, Mechanical Appliance), Chapter 85 (Electrical Machinery), Chapter 90 (Optical, Photographic, Medical instrument) etc
(ii) Pollution control equipment;
(iii) Components, spares and accessories of the goods specified at (i) and (ii);
(iv) Moulds and dies, jigs and fixtures;
(v) Refractories and refractory materials;
(vi) Tubes and pipes and fittings thereof;
(vii) Storage tank, and
(viii) Motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711** and their chassis, but including dumpers and tippers.
used -
(1) In the factory of the manufacturer of the final products, but does not include any equipment used in an office; or
(1A) outside the factory of the manufacturer of the final products for generation of electricity for captive use within the factory; or
(2) For providing output service.

(B) Motor vehicle for transportation of goods registered in the name of the service provider, when used for- (i) Providing an output service of renting of such motor vehicle; or
(ii) Transportation of inputs and capital goods used for providing an output service; or
(iii) Providing an output service of courier agency.

(C) Motor vehicle designed to carry passengers, registered in the name of the provider of service, when used for providing output service of- (i) Transportation of passengers; or
(ii) Renting of such motor vehicle; or
(iii) Imparting motor driving skills.

(D) Components, spares and accessories of motor vehicles which are capital goods for the assessee.

****Tariff headings 8702, 8703, 8704, 8711 are as follows:-**
(i) Motor vehicles for the transport of 10 or more persons, including the driver.
(ii) Motor cars and other motor vehicles principally designed for the transport of persons (Other than those covered in (i) above), including station wagons and racing cars.
(iii) Motor vehicles for transport of goods.
(iv) Motorcycles

(2) Exempted Goods [Rule 2(d)]: Exempted goods means excisable goods which are exempt from the whole of the duty of excise and goods which are chargeable to "Nil" rate of duty. **Note:** Excise duty @ 2% is paid under Notification No.1/2011 and @ 1% on coal & fertilizers under Notification No.12/2012. This goods are also considered as exempt goods.

(3) Exempted Service [Rule 2(e)]: Exempted service means a-
(i) Taxable service which is exempt from the whole of the service tax leviable thereon; or
(ii) Negative list services; or
(iii) Taxable service whose part of value is exempted (abetment) on the condition that no credit of inputs and input services, used for providing such taxable service, shall be taken; But shall not include a service which is exported.

(4) First Stage Dealer [Rule 2(ij)]:
First Stage Dealer means a dealer who purchases the goods directly from-
(i) The manufacturer or from the depot or from premises of the consignment agent under the cover of an invoice or
(ii) An importer under cover of an invoice.

(5) Inputs [Rule 2(k)]:
Input means- (i) All goods used in the factory by the manufacturer of the final product; or
(ii) Any goods including accessories, cleared along with the final product, the value of which is included in the value of the final product and Goods used for providing free warranty for final products; or
(iii) All goods used for generation of electricity or steam for captive use; or
(iv) All goods used for providing any output service;
But **excludes**-
(A) Light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol;
(B) Any goods used for -
(a) Construction or execution of works contract of a building or a civil structure or a part thereof; or
(b) Laying of foundation or making of structures for support of capital goods;
(C) Capital goods except when used as parts or components in the manufacture of a final product;
(D) Motor vehicles;
(E) Any goods, such as food items, goods used in a guesthouse, residential colony, club or a recreation facility and clinical establishment, when such goods are used primarily for personal use or consumption of any employee; and
(F) Any goods which have no relationship whatsoever with the manufacture of a final product.

(6) Input Service [Rule 2(l)]:
I. Meaning: Input service means any service, -
(i) Used by a provider of output service for providing an output service; or
(ii) Used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal, and

II. Inclusions: Input service includes:- Services used in relation to modernisation, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal;

III. Exclusions: Input service excludes:- (A) If they are used for construction or execution of works contract of a building or a civil structure or a part thereof; or laying of foundation or making of structures for support of capital goods

(B) Services provided by way of renting of a motor vehicle, in so far as they relate to a motor vehicle which is not a capital goods

(BA) Service of general insurance business, servicing, repair and maintenance, in so far as they relate to a motor vehicle which is not capital goods, except when used by -
(a) A manufacturer of a motor vehicle in respect of a motor vehicle manufactured by such person; or
(b) An insurance company in respect of a motor vehicle insured or reinsured by such person

(C) Services such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee.

Rule 3 – CENVAT Credit:
Duties/tax eligible for CENVAT credit:
A manufacturer or an output service provider can take CENVAT credit of-
(i) Basic excise duty; (Can be used for any eligible payment)
However, CENVAT credit of basic excise duty is not allowed if paid under Notification No.1/2011 or 12/2012.
(ii) National calamity contingent duty; (Can be used to pay only NCCD)
(iii) Additional duty leviable under section 3 of the Customs Tariff Act (CVD), equivalent to the duty of excise; (Use depends on i,ii above)
(iv) Additional duty leviable under section 3(5) of the Customs Tariff Act (Special CVD);
(can be used to pay for any eligible payment except service tax)
(v) Service tax; (Can be used for any eligible payment)
(vi) Additional duty of excise leviable on pan masala and tobacco products under the Finance Act, 2005 (Can be used to pay only the same)
Paid on-
(i) Any input or capital goods **received** in the factory of manufacture of final product or by the provider of output service; and
(ii) Any input service received by the manufacturer of final product or by the provider of output services.

Utilization of CENVAT credit:

(i) Eligible payments: As per Rule 3(4), CENVAT credit can be utilized for payment of:

(a) **Any** excise duty on any final products; or

(b) An **amount** equal to CENVAT credit taken on inputs if such inputs are removed as such or after being partially processed; or

(c) An **amount** equal to the CENVAT credit taken on capital goods if such capital goods are removed as such; or

(d) Service tax on any output service.

Since, the credit can be utilized for payment of any excise duty on any final product or service tax on output service, 'one to one' co-relation between inputs/input services and final product/output services is not required.

(ii) Non-eligible payments: CENVAT credit cannot be utilized/used for payment of:

(a) Any duty of excise on goods in respect of which the benefit of an exemption under Notification No. 1/2011 is availed.

(b) Service tax in respect of services where the person liable to pay tax is the service recipient.

(c) Clean energy cess

(iii) CENVAT credit available on the last day of the month/quarter only to be utilized:
While paying excise duty or service tax, the CENVAT credit can be utilised only to the extent such credit is available on the last day of the month or quarter for payment of duty or tax relating to that month or the quarter [First proviso to rule 3(4)].

Reversal of CENVAT credit on inputs/capital goods/input services:

(i) Inputs/capital goods removed as such: Rule 3(5) states that if the inputs or capital goods on which CENVAT credit has been taken are removed as such, the manufacturer of the final products or provider of output service has to pay an amount equal to the credit availed in respect of such inputs or capital goods. Such removal shall be made under the cover of an invoice referred to in Rule 9. The buyer will be able to take credit of such amount by virtue of rule 3(6).

Exceptions: The payment referred to in rule 3(5) above is not required to be made if:

(i) Inputs or capital goods are removed outside the premises of the provider of output service for providing the output service;

(ii) Inputs are removed outside the factory for providing free warranty for final products. .

(ii) Capital goods removed after being used: As per clause (a) of sub-rule (5A), if the capital goods, on which CENVAT credit has been taken, are removed after being used, the manufacturer or provider of output services shall pay an amount equal to the CENVAT credit taken on the said capital goods reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of taking the CENVAT credit, namely:-

S.No.	Type of capital goods	Percentage points calculated by straight line method	
1.	Computers and computer peripherals	For each quarter in	Percentage
		Year* 1	10 %
		Year 2	8 %
		Year 3	5 %
		Year 4 & 5	1 %
2.	Other capital goods	2.5% for each quarter	

However, if the amount so calculated is less than the amount equal to the duty leviable on transaction value, the amount to be paid shall be equal to the duty leviable on transaction value.The buyer will be able to take credit of such amount by virtue of rule 3(6).

(iii) Capital goods removed as waste or scrap: As per clause (b) of sub-rule (5A), if the capital goods are cleared as waste and scrap, the manufacturer shall pay an amount equal **to the duty leviable on transaction value. The buyer will be able to take credit ofsuch amount by virtue of rule 3(6).**

(iv) Inputs/capital goods written off before use: Sub-rule (5B) provides that if the value of any (a) Input, or (b) Capital goods before being put to use, on which CENVAT credit has been taken is written off fully or partially or where any provision to write off fully or partially has been made in the books of account, then the manufacturer or service provider is required to pay an amount equivalent to the CENVAT credit taken in respect of the said inputs or capital goods. However, if such inputs or capital goods are subsequently used in the manufacture of final products or the provision of output services, the manufacturer or output service provider can take credit of the amount paid earlier.
Clarification regarding availment of CENVAT credit after one year: It has been clarified by CBEC that the limitation period of 1 Year for availing CENVATcredit would not apply when re-credit is taken of amount reversed

(v)Remission of duty on final product: Sub-rule (5C) provides that where on any goods manufactured or produced by an assessee, the payment of duty is ordered to be remitted under rule 21 of the Central Excise Rules, 2002, the CENVAT credit taken on the inputs used in the manufacture or production of said goods **and the CENVAT credit taken on input services used in or in relation to the manufacture or production of said goods** shall be reversed.

Rule 4 – Conditions for allowing CENVAT credit:
A. INPUTS:
(1) Sub-rule 1 allows instant credit on inputs after receipt in the:
- factory of the manufacturer, or
- premises of the provider of output service, **or**
- **premises of job worker, in case goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be .**

(2) Credit to be availed within 1 year of the date of invoice (Amendment)

B. CAPITAL GOODS
(1) Upto 50% credit on capital goods in the year of receipt & Balance in one or more subsequent financial years provided the capital goods are still in the possession of the manufacturer or the output service provider.
Credit in case of components, spares accessories etc the condition regarding possession of the capital goods in the second year is not applicable.
(2) Cases where 100% credit on capital goods is allowed in the year of receipt:
(i) Receipt of capital goods by SSI (An **"eligible" unit** is one whose aggregate value of clearances of all excisable goods for home consumption did not exceed Rs. 400 lakh in the preceding financial year)

(ii) Capital goods cleared as such in the year of acquisition
(iii) Credit of CVD leviable under section 3(5)
(3) Credit vis a vis depreciation on capital goods: Manufacturer or provider of output service cannot enjoy the benefit of both depreciation allowance under income tax as well as CENVAT credit under indirect tax laws.

C. INPUT SERVICE
(1) Credit allowed on receipt of invoice
(2) Credit to be reversed if value of input service and service tax payable not paid within 3 months of the date of invoice/bill/challan(except in case where service tax has been paid under reverse charge – Partial or Full)
But In case the said payment is made, the manufacturer or output service provider, as the case may be, shall be entitled to take the credit of the amount equivalent to the CENVAT credit paid earlier.
(3) Proportionate credit to be reversed in case of partial refund of payment made towards input service or receipt of credit note by the manufacturer/service provider
(4) Credit to be availed within 1 Year of the date of invoice (Amendment)
(5) CENVAT credit of service tax paid under partial reverse charge or full reverse charge by the service receiver will be allowed on payment of service tax alone without linking it to the payment to the service provider.
(6) Clarification regarding availment of CENVAT credit after one year: It has been clarified by CBEC that the limitation period of 1 Year for availing CENVATcredit would not apply when re-credit is taken of amount reversed.

Job Work provisions [Rule 4(5) and 4(6)]:
(1) Credit allowed on goods sent to job-worker when the same are received back within 180 days
(2) Credit to be reversed when goods sent to job-worker not returned within 180 days. However, credit can be retaken once the goods come back.
(3) Earlier, a common time limit of 180 days for return of inputs and capital goods sent to a job-worker for the purpose of availing CENVAT credit.
Time limit for return of capital goods from a job worker to manufacturer/output service provider increased from 180 days to 2 years
(4) Credit allowed on jigs, fixtures, moulds and dies sent to another manufacturer/job worker without the condition of being returned.
(5) Clarification regarding availment of CENVAT credit after one year: It has been clarified by CBEC that the limitation period of 1 Year for availing CENVATcredit would not apply when re-credit is taken of amount reversed

Rule 5 – Refund of CENVAT credit:
(1) Credit to be refunded where goods/services are exported without payment of duty/service tax. Refund amount is calculated as follows:-

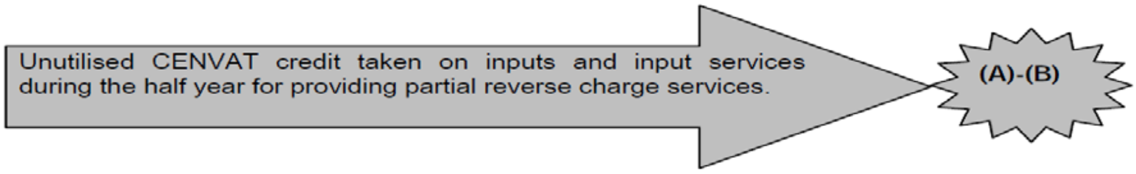
$$\left[\frac{\text{Export turnover of goods} + \text{Export turnover of services}}{\text{Total Turnover}} \times \text{Net CENVAT credit}\right]$$

(2) Credit not to be refunded when rebate of tax/duty claimed or drawback allowed

(3) The amount of refund claimed shall not be more than the amount lying in balance at the end of quarter for which refund claim is being made or at the time of filing of the refund claim, whichever is less.

Rule 5B – Refund of CENVAT credit to service providers providing services taxed on reverse charge basis:

This section is applicable only for partial reverse charge and not full reverse charge



where

$$A = \text{CENVAT credit taken on inputs and input services during the half year} \times \frac{\text{Turnover of output service under partial reverse charge duirng the half year}}{\text{Total turnover of goods and services during the half year}}$$

B = Service tax paid by the service provider for such partial reverse charge services during the half year.

Rule 6 – Obligation of manufacturer or producer of final products and a provider of output service:

(1) Sub-rule (1): CENVAT is not allowed on:-

(i) Such quantity of input used in or in relation to the manufacture of exempted goods or for provision of exempted services or

(ii) Input service used in or in relation to the manufacture of exempted goods or for provision of exempted services except in the circumstances mentioned in sub-rule (2).

Inputs and input services used in the manufacture of non-excisable goods to attract reversal provisions under rule 6 and non-excisable goods shall be considered as exempt goods for the purpose of this rule only.

(2) CENVAT credit on inputs/input services allowed where separate accounts are maintained [Sub-rule (2)]:

Where a manufacturer or provider of output service avails of CENVAT credit in respect of any inputs or input services and manufactures such final products or provides such output service which are chargeable to duty or tax as well as exempted goods or services, then, the manufacturer or provider of output service shall maintain separate accounts for:

(i) Receipt, consumption and inventory of following INPUTS:

(a) Used for Exempted goods and services

(b) Used for Dutiable goods and taxable services

AND

(ii) Receipt and use of following INPUT SERVICES—

(a) Used for Exempted goods and services

(b) Used for Dutiable goods and taxable services

The manufacturer or output service provider shall take CENVAT credit only (i)(b) and (ii)(b).

(3) Options where separate accounts are not maintained [Sub-rule(3)]:
Notwithstanding anything contained in sub-rules (1) and (2), the manufacturer of goods/the provider of output service, **opting not to maintain separate accounts**, shall follow **any one of the following options**, as applicable to him, namely:-

(i) Option to pay 6% of value of exempted goods & 7% of value of exempted services [Clause (i)]:
The manufacturer of goods/the provider of output service has an option to pay the following amount:-

Particulars	**Amount (Rs.)**
6% / 7% of value of the exempted goods and/or exempted services Less: Duty of excise, if any, paid on the exempted goods	XXXX <u>XXXX</u>
Amount payable under rule 6(3)(i)	<u>XXXX</u>

Points to be noted:
(a) 7% of the abated value of the service to be paid in case of partially exempted services with no facility of credits.
(b) Reversal of 2% in case of transport of goods/passengers by rail

(ii) Option to pay proportionate amount determined under sub-rule (3A) [Clause (ii)] [Given in point 4 below]

(iii) Option to maintain separate accounts only in respect of inputs and payment of amount under sub-rule (3A) in respect of input services [Clause (iii)]

(4) Method of computation of amount payable under sub-rule 3(ii) [Sub-rule (3A)]:
(a) While exercising this option, the manufacturer of goods or the provider of output service shall intimate in writing to the Superintendent of Central Excise.

(b) Manufacturer of goods or the provider of output service shall, determine and pay, provisionally, for every month:
(i) CENVAT credit attributable to **inputs** used in relation to manufacture of **exempted goods (EG) =A**

(ii) CENVAT credit attributable to **inputs** used for provision of **exempted services (ES)**:
= (B/C) * D
B = Total value of ES (PFY),
C = (Total value of DG + Total value of OS provided + Total value of ES provided) (PFY),
D = CENVAT credit taken on inputs during the month - A;

(iii) CENVAT cerdit attributable to **input services** used in relation to manufacture of **EG** or provision of **ES**
= (E/F) * G
E = Total value of ES (PFY) + Total value of EG (PFY)
F = (Total value of DG + Total value of EG + Total value of OS provided + Total value of ES provided) (PFY)
G = CENVAT credit taken on input services during the month;

(c) Manufacturer of goods or the provider of output service, shall determine finally the amount of CENVAT credit attributable to exempted goods and exempted services for the whole financial year
(d) The manufacturer of goods or the provider of output service, shall pay an amount equal to the difference between (c) and (b), on or before the 30th June of the succeeding financial year or else interest @24%
(e) Where the amount determined as per condition (c) is less than the amount determined and paid as per condition (b), the said manufacturer of goods or the provider of output service may adjust the excess amount on his own, by taking credit of such amount;

(5) Banking company & financial institution (including NBFC) required to pay 50% of credit availed on inputs and input services in that month [Sub-rule (3B)]

(6) CENVAT credit not allowed on capital goods used exclusively in manufacture of exempted goods/for provision of exempted services. Note: A SSI unit can avail the CENVAT credit of the capital goods used exclusively in manufacture of the exempted final product, but the same can be utilised for payment of duty only when the clearances cross Rs. 150 lakh.
Reversal of credit under rule 6 not required in case of ethanol produced from molasses generated from cane crushed in the sugar season 2015-16 [Amendment]

Rule 7 – Manner of distribution of credit by input service distributor:
(a) The credit distributed against a document referred to in rule 9 does not exceed the amount of service tax paid thereon;
(b) Credit of service tax attributable to service used **by one or more such units** exclusively engaged in manufacture of exempted goods or providing of exempted services shall not be distributed;
(c) Credit of service tax attributable to service used wholly **by** a unit shall be distributed only to that unit; and
(d) Credit of service tax attributable to service used **by** more than one unit shall be distributed pro rata on the basis of the turnover **of such units during the relevant period to the total turnover of all its units, which are operational in the current year, during the said relevant period.**

CENVAT credit returns (Mandatory to file Electronically):
Monthly return for a manufacturer: 10 days from the close of each month. [ER-1]
Quarterly Return for SSI units: 10 days after the close of the quarter. [ER-3]
Quarterly return for a first / second stage dealer: 15 days from the close of each quarter.
Half-yearly return for an output service provider: By the end of the month following the particular half year.
Half-yearly return for an input service distributor: By the end of the month following the half year.
Revision of return: Within 60 days from the date of filing of original return.

Unit – 1: Basic Concepts of Indirect Taxation

Direct Tax	Indirect Tax
Direct tax is imposed directly on the taxpayer and paid directly to the Government by the persons on whom it is imposed. Its burden cannot be shifted. *E.g.: Income-tax and Wealth tax.*	The incidence of indirect tax is borne by the consumers who ultimately consume the product or the service, while the immediate liability to pay the tax may fall upon manufacturer or provider of service or seller of goods. Its burden can be shifted by the taxpayer to someone else. *E.g.: Excise Duty, Customs Duty, Service Tax, Central Sales Tax (CST), Value Added Tax (VAT), etc.*
Progressive in Nature: High rates of taxes for people who have the ability to pay	Regressive in Nature: All the consumers equally bear the burden, irrespective of their ability to pay

Features of IDT:

Important Source of Revenue: Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.

Tax on Commodities & Services: It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.

Shifting of burden: There is a clear shifting of tax burden in respect of indirect taxes. For example, VAT which is paid by the seller of the goods is recovered from the buyer by including the tax in the cost of the commodity.

No perception of direct pinch: Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the tax payer pays the same without actually knowing that he is paying tax to Government

Inflationary: IDT create an all round price spiral which leads to inflationary trend

Wider tax base (applicable to majority products/services)

Promotes Social Welfare (higher rate on harmful products) like alcohol, tobacco products etc.

Regressive in Nature (Rich & Poor have to pay same rate of tax on commodities)

Unit – 2: Central Excise Duty

Excise duty is a tax upon manufacture of goods and not upon sale of goods.
Central excise duty is levied vide Entry 84 of the Union List.
Entry 84 includes excise duty on
- Tobacco, Other goods manufactured or produced in India , Medicinal and toilet preparations containing alcohol, opium, Indian hemp or other narcotic drugs and narcotics
Entry 84 excludes excise duty on
- Alcoholic liquors for human consumption & Opium, Indian hemp and other narcotic drugs and narcotics

<u>Applicable excise duties:</u>
Basic Excise Duty (CENVAT) - 12.5%
EC & SHEC exempted w.e.f. 01.03.2015

<u>Levy of duty:</u>
Application of central excise law:
CEA and CETA apply to whole of India (including Jammu and Kashmir) and - also extends to designated areas in the Continental Shelf and Exclusive Economic Zone of India (EEZ). The EEZ extends upto 200 nautical miles inside the sea from base line

Though the levy of excise duty arises on manufacture but the same is collected on removal of goods from the factory

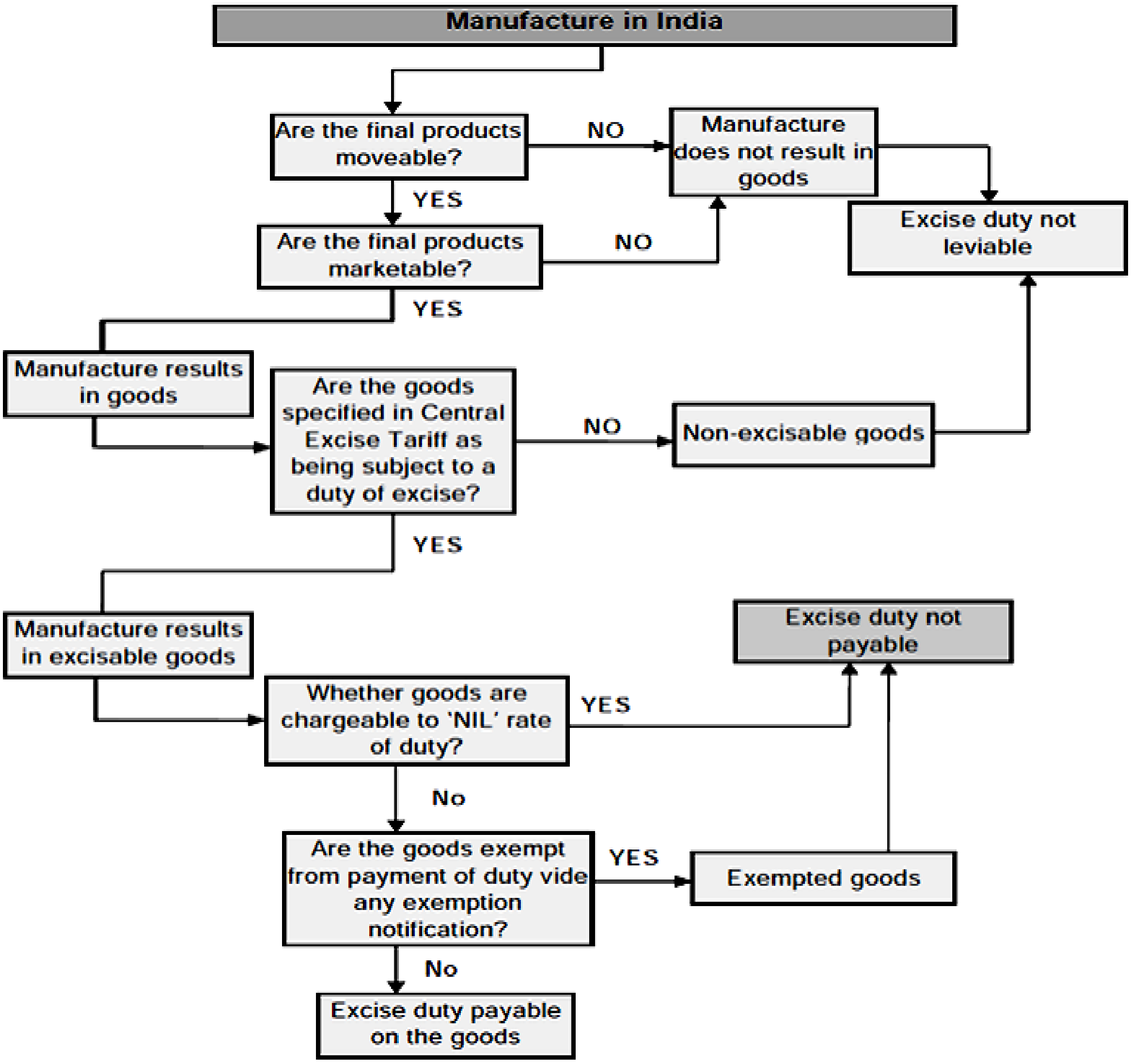
Other propositions of charging section:
- No distinction between excisable goods produced by Government and those produced by others, with regard to payment of excise duty.
- Excise duty leviable on goods sold by an EOU in DTA = Total customs duties leviable under the Customs Act/other applicable law on like goods produced/manufactured outside India, if imported into India.
-*Value of such goods is determined in accordance with Customs Act, 1962 if the duty to be levied is based on the value of such goods (ad valorem).*
-*Where in respect of any such like goods, customs duty is leviable at different rates, then, highest of those rates is taken.*

<u>Goods, Excisable goods, Non-excisable goods, Non-dutiable goods, Exempted Goods</u>
Goods:
Two fundamental aspects of the term 'goods' are that they should be **(a) 'moveable' and (b) 'marketable'**.

Marketability
- Explanation to section 2(d) of CEA provides that 'goods' includes any article, material or substance which is being capable of brought and sold for a consideration and such goods shall be deemed to be marketable.
- Even one purchaser is enough for establishing marketability.

- Actual sale is not necessary for being marketable.
- Marketability is a question of fact to be decided on the basis of the facts of each case.
- Goods of short-shelf life will be deemed to be marketable only if they are capable of being brought and sold during that period.

Excisable goods – Taxable Goods, Goods with Nil Rate, Non-dutiable goods with 100% Exemption
Non Excisable goods – Goods with Blank Rate



Levy of excise duty on captive consumption
- Intermediate goods produced will be chargeable to duty if they arise in the course of manufacture/production, are moveable and marketable in such intermediate stage, listed in the Tariff, and are subject to duty of excise in the Tariff.
- However, if duty is payable on final product, excise duty is exempted on intermediate product used in manufacture of such final products.

Assembly vis a vis manufacture
- Assembly would not amount to manufacture in as much as an already manufactured item may be put in a readily usable form.

- However, if the assembly results in new commercial commodity with a distinct name, character and use, then it would amount to manufacture.

(iii) Dutiability of site-related activities: The goods manufactured at site will be liable to duty if they have a new identity, character and use, distinct from the inputs/ components that have gone into its production. Further, such resultant goods should be specified in the Central Excise Tariff as excisable goods besides being marketable i.e. they can be taken to the market and sold (even if they are not actually sold). The goods should not be immovable.

Dutiability of waste and scrap

- Waste/scrap can be 'excisable goods' if they are known in commercial parlance, are marketable and specified in Central Excise Tariff.
- Since excise duty is leviable on manufacture, waste and scrap (which are excisable goods) actually generated in the course of manufacture alone is chargeable to duty and waste and scrap generated without any process is not liable to excise duty.
- Waste of exempted goods is exempt from excise duty.

Who is a manufacturer?

A person carrying out manufacture in terms of any of the three clauses of section 2(f) of CEA is the manufacturer. Following are also included in the definition of manufacturer:

- a manufacturer who manufactures through hired labour
- a manufacturer who manufactures on his own account

Raw material supplier/ Brand name owner vis a vis manufacturer

- Person carrying out actual manufacturing process is manufacturer even if raw material is supplied by someone else and goods have been manufactured as per his specifications.
- Person actually undertaking manufacturing process is the manufacturer and not the brand name owner under whose brand name, such person manufactures the final product.
- If the relationship between raw material supplier/brand name owner and person carrying out actual manufacturing process is that of a principal and agent, raw material supplier will be the manufacturer.
- A person supplying raw material/brand name owner will be considered as hiring job worker only if he supervises and controls the activities of the job worker.

<u>**Collection of duty**</u>

Time for payment of duty

- Taxable event for levy of excise duty is manufacture, but collection thereof is postponed to the stage of removal.

Person liable to pay duty

- Every person who produces or manufactures any excisable goods, or who stores such goods in a warehouse is liable to pay excise duty.

Exception: Where molasses are produced in a Khandsari sugar factory, the person who procures such molasses (not the person who produces the same) for use in the manufacture of any commodity is liable to pay duty on such molasses.

Relevant date for determination of rate of duty

Particulars	Person liable to pay excise duty	Event for duty payment	Relevant date
1. Excisable goods (other than khandsari molasses) produced and stored in the factory of the manufacturer	Manufacturer	Removal of goods from the factory	Date of removal of such goods from the factory
2. Khandsari molasses produced and stored in the factory of the manufacturer	Procurer of the khandsari molasses	Receipt of such molasses by the procurer	Date of receipt of such molasses in the factory of the procurer of such molasses
3. Excisable goods produced and cleared for captive consumption in the factory of production	Manufacturer	Issuance of goods for further production	Date on which the goods are issued for such use
4. Excisable goods produced in the factory and stored in a warehouse without payment of duty	Person who stores such goods in the warehouse	Removal of goods from the warehouse	Date of removal of goods from the warehouse

Some special aspects

On the date of manufacture	On the date of removal	Leviability of excise duty
Goods not listed in the Tariff or rate column blank	Goods listed in Tariff and chargeable to duty @ 12%	Duty not leviable since goods were not excisable at the time of manufacture.
Goods liable to duty @ 10% in Tariff	Duty rate increased to 12%	Duty payable @ 12% since goods were excisable goods at the time of manufacture.
Nil rate in Tariff/Exempt	Duty imposed @ 10%	Duty chargeable @ 10% as goods were excisable goods at the time of manufacture *(NIL rate is also considered to be a rate of duty)*

Rate of duty - Rate of duty in respect of each tariff entry is specified in CETA.
- Effective rate of duty is ascertained by considering the exemption(s) available in respect of a particular item.

Valuation of excisable goods- Basis of computing duty payable

Specific duty - Duty payable on units like length, weight, volume etc (Eg.: Cigarettes)

Compounded levy scheme - - **Optional** duty payable on the basis of specified factors relevant to production of the goods covered under the scheme at specified rates for specified period.

Duty based on capacity of production

- **Mandatory** duty payable on notified goods on the basis of production capacity, without any reference to the actual production.
- Goods are notified having regard to the nature of the process of manufacture or production of excisable goods of any specified description, the extent of evasion of duty in regard to such goods etc.

Duty based on value

- Duty payable on the basis of Tariff Value [Section 3(2) of CEA]
- Duty payable on the basis of Retail Sale Price [Section 4A of CEA]
- Duty payable on the basis of Transaction Value [Section 4 of CEA]

Tariff value [Section 3(2)]

- Central Government fixes/alters tariff values in respect of notified goods. Duty payable is a percentage of such tariff value.
- Different tariff values may be fixed for different classes or descriptions of the same excisable goods.
- Different tariff values may also be fixed for same class or description of the goods but produced or manufactured by different classes of producers or manufacturers or sold to different classes of buyers.
- Tariff values may be fixed on the basis of wholesale price or average price of various manufacturers as the Government may consider appropriate.

Retail sale price (RSP) based valuation [Section 4A]

Applicable in respect of excisable goods

- which are notified by Central Government as goods in relation to which duty will be paid on the basis of RSP less abatements, if any; and
- declaration of RSP on package of such goods is required under Legal Metrology Act, 2009.

Value = RSP printed on the package – Abatement, if any, notified by the Government

- More than one RSP on package of excisable goods - Maximum of such price to be deemed as the RSP.
- Different RSPs on different packages meant for sale in different areas - Each such RSP to be the RSP in the relevant area.
- RSP increased after clearance from the place of manufacture - Increased RSP to be deemed as the RSP.
- RSP declaration is not mandatory on wholesale packages, packaged commodities for institutional/ industrial consumers, agricultural farm produce etc.

Transaction value [Section 4] - Residual method of valuation – If goods cannot be valued by any of the methods described above, they are to be valued as per provisions of section 4.

Definition of Transaction Value

- Transaction value means the price actually paid or payable for the goods, when sold, **and includes** in addition to the amount charged as price,

Inclusions in transaction value	**Exclusions from transaction value**
- Outward handling upto place of removal - All forms of packing (special, general,	- Durable/reusable packing as it is amortized and included in the cost of product itself

protective, etc.) - Dharmada or charity - Design, development and engineering charges specific to goods produced - Bought out essential items if the same are fitted to the main article at the time of removal. - Consultancy charges relating to design, layout, etc. of final product done upto place of removal - Testing & inspection charges - Pre-delivery inspection charges and after sales service charges **collected by the manufacturer** - Freight from factory to depot if sale is from depot	- Optional bought out items and accessories - Independent testing done by the buyer himself or through a third party - All forms of discount if actually passed on to the buyers. - Notional interest on deposits, advances unless it can be proved that price has been lowered on account of receipt of such advance from the buyer - Interest on delayed payment of receivables - Bank charges for collection of sale proceeds - Delayed payment charges - Outward freight from factory/depot to place of customer. - Transit insurance

Price-cum-duty

Price actually paid for the goods sold + Money value of the additional consideration = Price-cum-duty - Sales tax and other taxes actually paid = Price-cum-duty deemed to be inclusive of the duty payable on such goods

Assessable Value = $\dfrac{\text{Price - cum- duty (exclusive of sales tax/local tax)} \times 100}{(100 + \text{Rate of excise duty})}$

Price charged (exclusive of sales tax/local tax) will be taken as price cum- duty:
- If the assessee has collected less duty from the buyer than what is due; or
- If the assessee has not collected any duty from the buyer even though the product is liable to duty; or
- If the assessee has paid duty on lesser value due to receipt of additional consideration.
- Amount of duty should be indicated prominently in all the documents/invoice, etc.
- Person liable to pay duty should forthwith deposit any sum collected from the buyer in name of excise duty with the Government.

Small scale industry (SSI) exemption

- SSI exemption is not available in respect of clearances bearing a brand name of another person. However, goods manufactured in rural area, packing material, account books, registers, writing pads etc. are entitled to SSI exemption even though they bear the brand name of other person.

General procedures:

(1) Registration: Every manufacturer of excisable goods other than the ones specifically exempted is required to get his premises registered under the central excise law. Registration is also required for every prescribed person who carries on trade or holds private store-room or warehouse or otherwise uses excisable goods or an importer who issues an invoice on which CENVAT credit can be taken.

(2) Payment of excise duty: The due dates and other provisions relating to payment of duty have been tabulated below:

Type of Assessee	Periodicity	Due date for payment of duty	
		In case of e-payment	Other than e-payment
Assessee eligible for SSI exemption (An eligible unit is one whose aggregate value of clearances does not exceed ₹ 400 lakh in the preceding financial year)	Quarterly payment of duty	**6th** day of the month following the relevant **quarter**.	**5th** day of the month following the relevant **quarter**.
		For goods removed during the **quarter ending in March, 31st day of March.**	
Other assessees	Monthly payment of duty	**6th** day of the month following the relevant **month**.	**5th** day of the month following the relevant **month**.
		For goods removed **during the month of March, 31st day of March.**	

The following points merit consideration in this regard:

· **E-payment of duty:** ***All assessees are mandatorily required to pay the excise duty electronically through internet banking. However, the Assistant/Deputy Commissioner of Central Excise may for reasons to be recorded in writing, allow the assessee to deposit excise duty by any mode other than internet banking.***

· **Interest @ 18% on delayed payment of duty:** Failure to pay the amount of duty by due date attracts interest at the rate @ 18% per annum on the outstanding amount.

· **Duty may be paid in cash or by utilizing CENVAT credit:** Duty may be paid in cash through account current, popularly known as PLA (Personal Ledger Account). Duty can also be paid by utilizing the CENVAT credit balance available at the end of the month, even though duty is payable by 5th/6th of following month.

(3) Invoice: An invoice is the document under cover of which the excisable goods are to be cleared by the manufacturer. Therefore, excisable goods cannot be removed from a factory or a warehouse except under an invoice signed by the owner of the factory or his authorized agent.

Serially numbered: The invoice should be serially numbered. The serial number shall commence from 1st April every year (beginning of a financial year). Such serial numbers need to be intimated to the Superintendent of Central Excise having jurisdiction over the factory of the assessee, before issuing the invoices.

Contents: The invoice should contain the registration number, address of the jurisdictional

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Central Excise Division, name of consignee, description, classification, time and date of removal, rate of duty, quantity, mode of transport, vehicle registration number and value of goods and the duty payable thereon.

Number of copies: The invoice has to be prepared in triplicate in the following manner, namely:-

i. the original copy being marked as ORIGINAL FOR BUYER;

ii. the duplicate copy being marked as DUPLICATE FOR TRANSPORTER;

iii. the triplicate copy being marked as TRIPLICATE FOR ASSESSEE.

(4) Returns under central excise: A central excise assessee is required to file certain periodic returns, which relate to his tax liability and other transactions. Some significant returns to be filed by different categories of central excise assessees and their respective due dates are given in the following table:

Form of Return	Category of assessee	Periodicity	Due date
ER-1	All assessees except SSI	Monthly	By 10th day of the month following the relevant month
ER-3	Assessees **eligible** for SSI concession (even if he does not avail the concession)	Quarterly	By 10th day of the month following the relevant quarter
ER-4 [Annual Financial Information Statement	Assessees paying duty of ₹ 1 crore or more per annum either through PLA or CENVAT or both together	Annually	By 30th November of the succeeding year

Note: All the above returns have to be filed electronically.

Central excise registration to be granted online within 2 working days:

With effect from 01.03.2015, only an online application can be made for obtaining central excise registration and the same will be granted within two working days of the receipt of a duly completed application form. Verification of documents and premises, as the case may be, can be carried out after the grant of the registration [Notification No. 7/2015 CE (NT) dated 01.03.2015].

[Effective from 01.03.2015]

Authentication of invoices by digital signatures*

An invoice issued under central excise law by a manufacturer may now be authenticated by means of a digital signature. However, where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for transporter and self attested by the manufacturer would be used for transport of goods [Notification No. 8/2015 CE (NT) dated 01.03.2015].

[Effective from 01.03.2015]

Unit – 3: Customs Duty

Meaning of customs duty
A duty or tax, which is levied by the Central Government on:-
♦ import of goods into, and
♦ export of goods from, India
Power to levy customs duty is conferred by Entry 83 of the Union List *[Duties of customs including export duties]*

<u>LEVY OF CUSTOMS DUTY:</u>
Applicability of the Act:
♦ The Customs Act, 1962 applies to the whole of India. India includes territorial waters of India.
♦ Besides, the Customs Act, 1962 and Customs Tariff Act, 1975 have been further extended to:-
(i) the notified designated areas in the Continental Shelf of India (CSI) and Exclusive Economic Zone of India (EEZI) and
(ii) whole of EEZI and CSI for the purpose of processing for extraction or production of mineral oils and supply of any goods in connection thereto.

Charging section [Section 12]:
♦ Customs duties shall be levied
♦ at such rates as may be specified under the Customs Tariff Act, 1975. *[The two schedules of the Tariff specify the rates: First schedule specifies import duty rates and Second schedule specifies export duty rates]*
♦ on goods *[whether belonging to Government or not]*
♦ imported into and exported from India.
Determination of duty where goods consist of articles liable to different rates of duty
Where goods consist of a set of articles, duty shall be calculated as follows: -

Articles which are liable to duty with reference to:	**shall be chargeable to**
quantity	that duty
value and liable to duty at same rate	duty at that rate
value and liable to duty at different rates	duty at the highest of such rates
Articles not liable to duty	**shall be chargeable to duty at the rate at which articles liable to duty with reference to value are liable**

♦ Accessories, spare parts or maintenance and repairing implements for any article are chargeable at the same rate of duty as that article.
♦ If the importer produces evidence to the satisfaction of the proper officer or the evidence is available regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.

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Taxable event in case of import/export:

Imports:

In case of	**taxable event is**
goods cleared for home consumption	time when the goods become part of the mass of goods within the country.
goods cleared for warehousing	time when the goods are cleared from the warehouse.

Clearance for home consumption: It implies that customs duty on imported goods has been paid and thus, goods can be removed by the importer for utilization or consumption within the country.

Clearance for warehousing: In case where the goods are not immediately cleared for home consumption, they may be deposited in a warehouse and cleared at a later point of time. In such a case, the collection of customs duty will be deferred till such goods are cleared from warehouse for home consumption.

Exports:

Export of goods is complete when the goods cross the territorial waters of India.

Goods derelict, wreck etc coming into India:

♦ Customs duty is payable on all goods, derelict, jetsam, flotsam and wreck brought or coming into India.

♦ If such goods are entitled to be admitted duty-free, duty would not be levied provided it is shown to the satisfaction of the proper officer that they are so entitled.

Basis	Pilferage of goods under section 13	Loss or destruction of goods under section 23(1)
Meaning	The word 'pilfer' means to steal, especially in small quantities; petty theft.	The word 'lost' or 'destroyed' refers to total loss of goods i.e. loss is forever and beyond recovery.
Duty on goods	Duty is not at all leviable on such goods.	The duty paid on the goods shall be remitted to the importer.
Subsequent restoration of goods	Where the pilfered goods are restored to the importer after pilferage, the importer becomes liable to duty.	In case of destruction of goods, the restoration of goods is not possible.

Warehoused goods	Provisions of section 13 are not applicable to warehoused goods.	Provisions of section 23(1) apply to warehoused goods also.
Onus to prove the pilferage/destruction or loss of goods	The onus to prove the pilferage does not lie on the importer.	The importer has to prove the loss/destruction to the satisfaction of the Assistant/ Deputy Commissioner of Customs.
Time of occurrence of pilferage or loss/destruction	The imported goods must have been pilfered after the unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse.	The imported goods should have been lost/destroyed at any time before clearance for home consumption.

No duty in case of relinquishment of the title to the goods:

♦ The owner of any imported goods may,

♦ at any time before an order for clearance of goods for home consumption or an order for permitting the deposit of goods in a warehouse has been made,

♦ relinquish his title to the goods and thereupon,

♦ he shall not be liable to pay the duty thereon.

Such relinquishment is not allowed in respect of such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force. "Relinquish" means to give over possession/control of, to leave off.

Abatement of duty on damaged or deteriorated goods:

♦ The importer has an option to pay the reduced duty

♦ if it is shown to the satisfaction of the Assistant Commissioner/ Deputy Commissioner of Customs that

♦ the goods are damaged/deteriorated under any of the following circumstances:

<table>
<tr><th colspan="2">In case</th></tr>
<tr><td colspan="2">any imported goods had been damaged or had deteriorated at any time before or during the unloading of the goods in India</td></tr>
<tr><td>any imported goods, other than warehoused goods, had been damaged on account of any accident, at any time after the unloading thereof in India but before their examination for assessment by the customs authorities</td><td rowspan="2">Provided such accident is not due to any wilful act, negligence or default of the importer, his employee or agent.</td></tr>
<tr><td>any warehoused goods had been damaged on account of any accident at any time before clearance for home consumption</td></tr>
<tr><td colspan="2">$$= \frac{\text{Value of damaged/deteriorated goods *}}{\text{Value of goods before damage/deterioration}} \times \text{Duty on goods before damage/ deterioration}$$
*Valuation of the damaged or deteriorated goods shall be as follows:-
(a) Value ascertained by the proper officer
or
(b) The proper officer may sell such goods by public auction/tender or if the importer agrees, in any other manner and the gross sale proceeds shall be deemed to be the value of such goods.</td></tr>
</table>

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EXEMPTION FROM CUSTOMS DUTY:

Central Government may grant exemption from customs duty if it is satisfied that it is necessary in the public interest to do so.

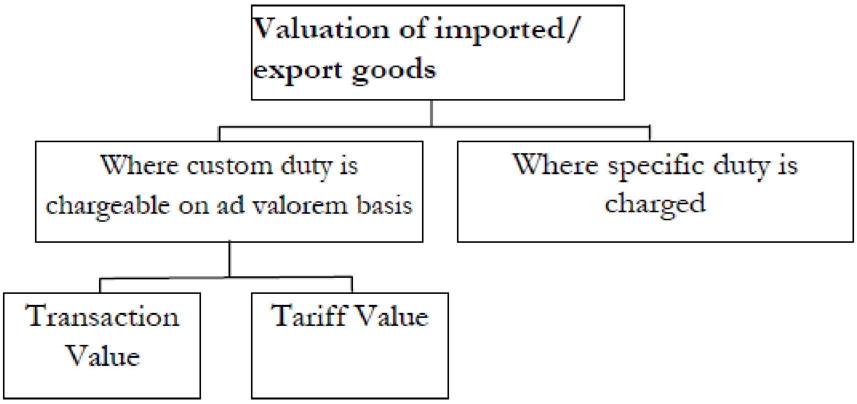
General exemption:

Central Government may, by notification in the Official Gazette, exempt generally either absolutely or subject to specified conditions

Special Exemption:

Central Government may, by special order, exempt from payment of duty, any goods on which duty is leviable only under circumstances of an exceptional nature to be stated in such order.

VALUATION OF IMPORTED AND EXPORT GOODS:



Transaction value, in case of imported/export goods shall be

♦ the price actually paid or payable for the goods

♦ when sold for export to/from India

♦ for delivery at the time and place of importation/exportation

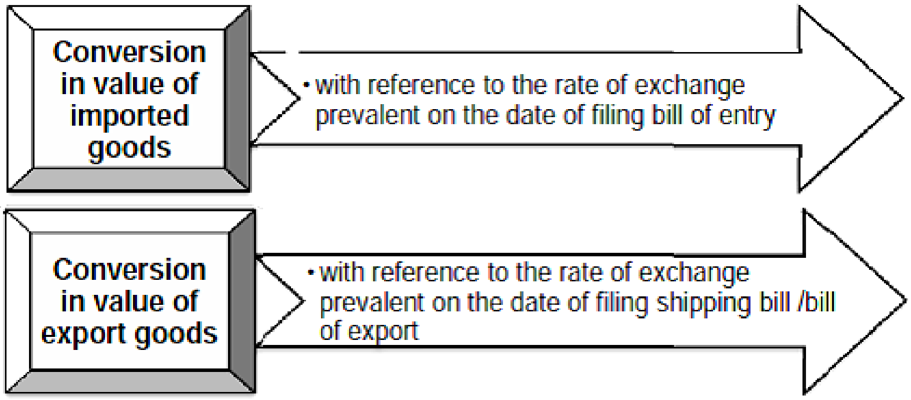
♦ where the buyer and seller of the goods are not related and

♦ price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf.

CBEC may fix tariff values for any class of imported books or export goods by notification.

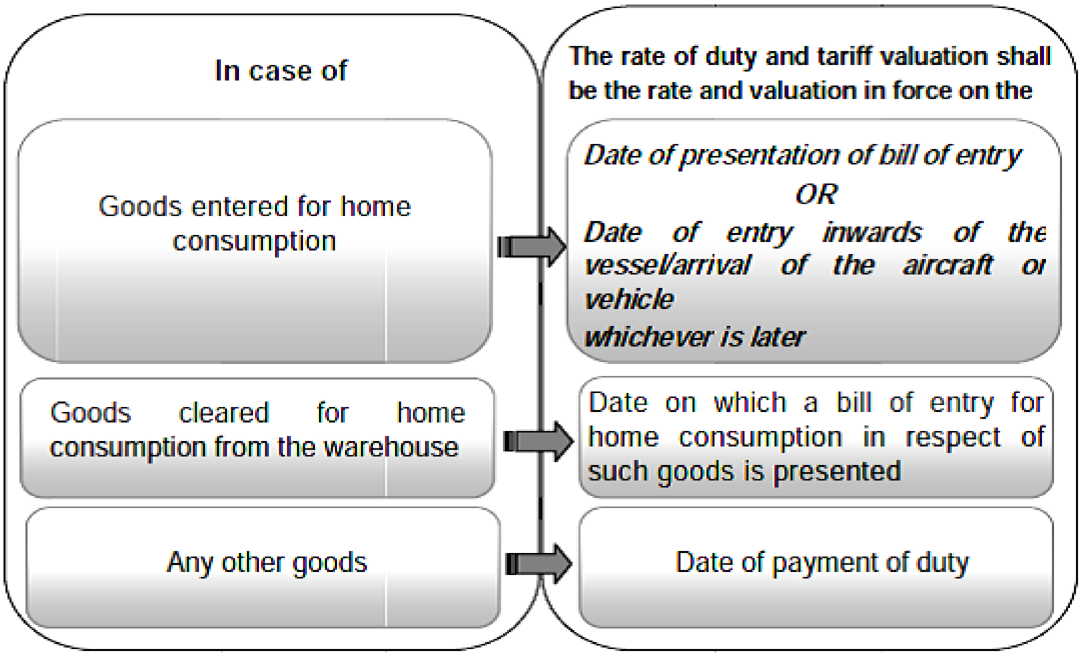
In such a case, duty is chargeable with reference to such tariff values.

Date relevant for determination of rate of exchange:

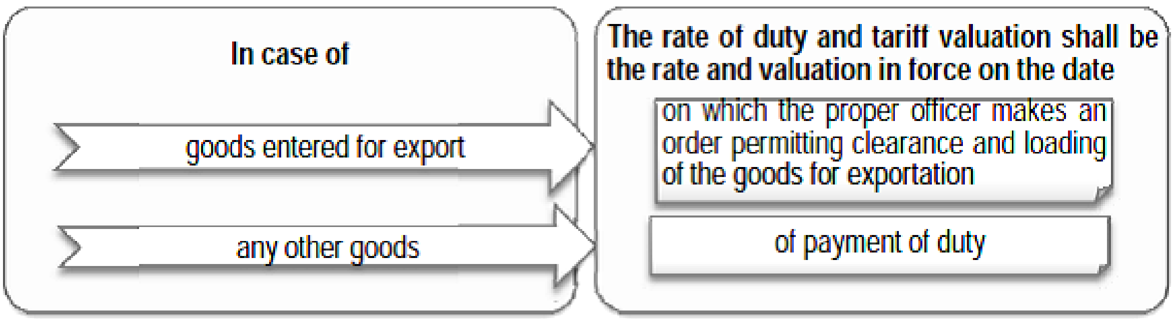


The rate of exchange is notified by three agencies- the Central Board of Excise and Customs (Board), the Reserve Bank of India and the Foreign Exchange Dealers' Association of India. For the purpose of valuation under customs, rate notified by Board shall be taken into account. There are separate rates for imported goods (selling rate) and export goods (buying rate).

DATE FOR DETERMINING THE RATE OF DUTY AND TARIFF VALUATION OF IMPORTED GOODS



DATE FOR DETERMINING THE RATE OF DUTY AND TARIFF VALUATION OF EXPORT GOODS



TYPES OF CUSTOMS DUTIES:

Basic customs duty

♦ Duty levied under the charging section-section 12 of the Customs Act, 1962

♦ on any imported/export goods

♦ at the rates specified in the First and Second Schedules of the Customs Tariff Act, 1975

♦ on transaction value under section 14(1) /tariff value determined under section 14(2) of the Customs Act, 1962.

Additional customs duty under section 3(1) of the Customs Tariff Act, 1975 [also known as Countervailing duty (CVD)]

♦ Duty imposed on any imported article
♦ equal to excise duty for the time being in force leviable on a like article if produced or manufactured in India
♦ at the rate of excise duty leviable on a like article if produced or manufactured in India** (except in case of alcoholic liquor for human consumption for which rate of additional duty is notified by the Central Government).
Note: EC and SHEC leviable on additional duty of customs are exempt.

CVD under section 3(3) of the Customs Tariff Act, 1975
♦ Duty levied on any imported article
♦ equal to additional duty representing such portion of the excise duty leviable on such raw materials, components and ingredients *as determined by rules made by the Central Government in this behalf*

Special CVD under section 3(5) of the Customs Tariff Act, 1975
♦ Duty levied on any imported article
♦ to counter-balance the sales tax, VAT, local tax or any other charges for the time being in force leviable on a like article on its sale, purchase or transportation in India**
♦ at the rate as notified by the Central Government, but not exceeding 4%.
***If a like article is not so sold, purchased or transported, rate of duty is the rate at which such taxes/charges would be leviable on the class or description of articles to which the imported article belongs, and where such taxes/ charges are leviable at different rates, the highest of such tax/ such charge.*
Education cess (EC)
♦ Duty levied on imported goods
♦ at the rate of 2% on aggregate of customs duties leviable on such goods.
Secondary and Higher Education cess (SHEC)
♦ Duty levied on imported goods
♦ at the rate of 1% on aggregate of customs duties leviable on such goods.

Steps for computation of basic customs duty, CVD, special CVD & education cesses:

S.No.	Particulars	₹
(1)	Assessable value for computing basic customs duty [Transaction value under section 14(1)/Tariff value under section 14(2)]	xxxx
(2)	Add: Basic custom duty [**(1)** × Rate of BCD]	xxxx
(3)	Total value for computing additional customs duty u/s 3(1) [**(1)+(2)**]	xxxx
(4)	Additional custom duty u/s 3(1) [**(3)** × Rate of CVD]	xxxx
(5)	Total duty amount for education cess of customs [**(2)+(4)**]	xxxx
(6)	Education cess @ 2% of **(5)**	xx
(7)	Secondary and higher education cess @ 1% of **(5)**	xx
(8)	Total duty payable before additional customs duty u/s 3(5) **[(5)+(6)+(7)]**	xxxx
(9)	Total value for computing additional customs duty u/s 3(5) [**(1)+(8)**]	xxxx
(10)	Additional customs duty u/s 3(5) [**(9)** × Rate of special CVD]	xxxx
(11)	Total duty payable [**(8)+(10)**]	xxxx

Value Added Tax (VAT)

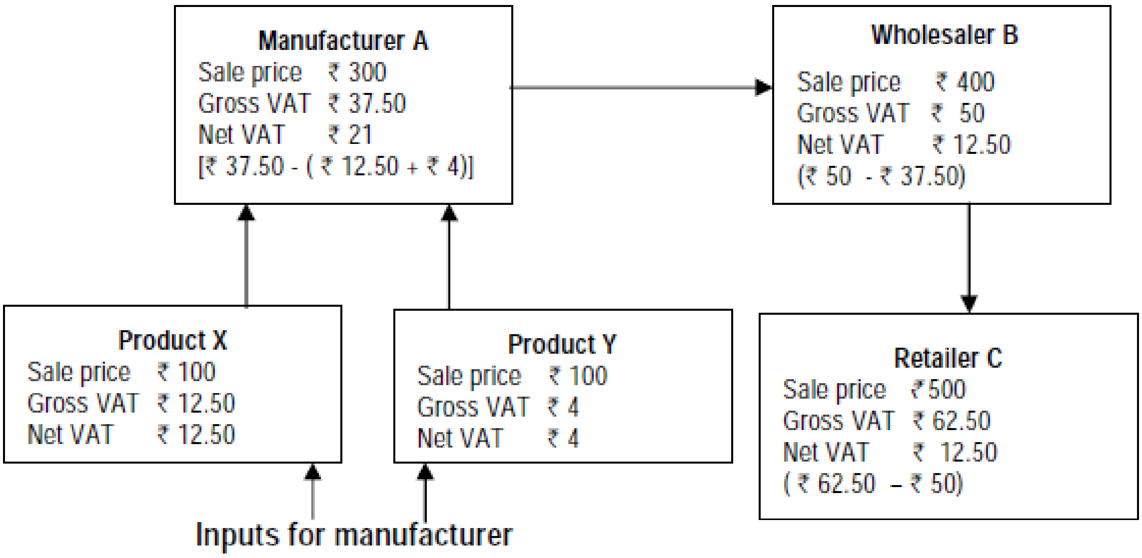
What is VAT?

· VAT is a tax on the value added to the commodity at each stage in production and distribution chain.

· When tax is levied on tax i.e, tax leviable at each stage is chargeable on a value which includes the tax paid at earlier stage; it leads to cascading of taxes.

· Under VAT, tax is not levied on tax paid at earlier stage; it is levied only on the value added as credit of tax paid at earlier stages is allowed to be set off against the tax payable at the next stage. Thus, VAT helps in eliminating cascading of taxes.

How VAT operates:



Three variants of VAT:-

Gross product variant: Here deduction is allowed on purchase of raw materials, but not on capital goods. i.e. ITC on raw materials

Vat payable = output tax – input vat on raw materials.

Income variant: Here deduction is allowed on purchase of raw materials as well as on capital goods, but in proportion of depreciation. i.e. ITC on raw materials is available in full but ITC on capital goods, is available on pro rata basis.

Consumption variant: Here dealer can claim ITC on raw materials & capital goods immediately.

<u>Three methods used for Computation of Tax:</u>

Addition Method: As VAT is levied on "Value Addition", in this method, factor payments (expenses) are aggregated with profit & then VAT is levied on it. Mainly used with income variant of VAT.

Subtraction Method: In this method, the tax rate is applied to the difference between the value of output (sales) & cost of input (purchases). Suitable for gross product variant of VAT. Applied where tax is not charged separately.

Tax Credit Method/Invoice Method: In this method VAT = Output Tax – Input Tax. Also called as 'Tax Credit Method' or 'Voucher Method'. Most common and popular method for computing VAT liability. Mainly used with consumption variant of VAT.

<u>Merits of VAT</u>:

1) Eliminates multiple taxation on the full selling price at every stage.
2) Lowering tax burden because of input tax credit.
3) Simple method.
4) Transparency
5) Assessee can themselves assess their VAT liability.
6) No complicated definitions of business, sales, purchases etc like in sales tax act.
7) No tax evasion as ITC is given only against original invoice.
8) Greater uniformity in taxation.
9) <u>Neutral:</u> VAT does not depend upon location of business or type of business or type of business organization as it was in sales tax act.
10) Stable source of income for government.
11) It reduces the cascading effect.
12) Abolishing of various taxes which were imposed in sales tax act. Etc e.g. Surcharge, Turnover tax etc. Therefore, overall tax burden is rationalized.

<u>Demerits:</u>

1) VAT is a form of consumption tax, more part of income is spent by consumption by poor people as compared to the rich ones.

Therefore, more burden on poor. Hence it is regressive in nature.

2) Value addition is done by wholesalers, retailers and other intermediaries but the ultimate burden shifts to the user (consumer).
3) Lots of exemptions have been notified by the VAT act which leads to distortions.
4) Earlier it was decided to maintain a floor rate in the VAT system but ultimately there are different rates i.e. 1%, 5%, 12.5%, & 20%.
5) Administration cost of the government cost of the government increases to have better collection of taxes.
6) There is no proper definition of various products. for e.g. paper is covered under schedule c which is taxed as 5% while sand paper and tissue paper is covered under schedule E i.e. 12.5%.
7) The working cap requirement increases due to multipoint taxation.
8) The account maintaining cost increase as the assessee had to maintain various records under VAT system.

<u>Rates of Taxes:</u>

0%	Natural and unprocessed products in unorganized sector - Items which are legally barred from taxation and items which have social implications
1%	Precious stones, bullion, gold and silver ornaments etc
5%	Items of basic necessities like medicines and drugs, all agricultural and industrial inputs, declared goods & capital goods. Originally White Paper had proposed 4% rate on such goods but many States have subsequently increased this rate to 5%. Rate of declared goods has also been increased to 5% by many States.

12.5/13.5%	All other goods not chargeable to any of the above rates. Originally White Paper had proposed 12.5% rate as the revenue neutral rate but most of the States have subsequently increased this rate to 13.5%.

<u>Coverage of goods under VAT</u>
Generally, all the goods, including declared goods are covered under VAT (benefit of input tax credit allowed).
Liquor, lottery tickets, petrol, diesel, aviation turbine fuel and other motor spirit are not covered under VAT.
Though sale of liquor, petrol, diesel and aviation turbine fuel (ATF) is charged to tax under VAT laws in many States, taxes paid on them are not allowed as credit to the buyer. Thus, they are outside the VAT chain.

<u>Input Tax</u>	Input tax is the tax paid or payable in the course of business on purchases of any goods (inputs, capital goods and other goods) from a registered dealer OF THE STATE.
<u>Output Tax</u>	Output tax is the tax charged or chargeable under the Act, by a registered dealer on the sale of goods in the course of business.

<u>Input Tax Credit (ITC)</u>
Basic Principles
ITC in relation to any period means setting off the amount of input tax by a registered dealer against the amount of his output tax.
CST paid on purchases made from outside the State cannot be claimed as ITC but ITC can be used for paying CST arising on inter-State sale.
ITC can be availed by both manufacturers and traders in respect of input tax paid on purchase of inputs and capital goods within the State from a registered dealer for being sold within the State as well as in other States, irrespective of when these will be utilized/sold.
There is a negative list of capital goods (on the basis of principles already decided by the Empowered Committee) not eligible for input tax credit.
As per White Paper, input tax credit on capital goods can be adjusted over a maximum of 36 equal monthly installments.
<u>Purchases eligible for ITC</u>
Taxable goods should be purchased for any one of the following purposes-
for intra-State or inter-State sale/resale;
for being used in the manufacture of taxable goods or in the packing of such manufactured goods intended for intra-State or inter-State sale or exports ;
for being used in the execution of a works contract;
for being used as capital goods required for the purpose of manufacture or resale of taxable goods;
for making zero-rated sales other than exports
<u>Purchases not eligible for ITC</u>
ITC may not be allowed in respect of following purchases-
purchases from unregistered dealers;

purchases from registered dealer who opts for composition scheme;
invoice less purchases;
purchase where invoice does not show amount of tax separately;
purchases for being utilized in the manufacture of exempted goods or purchase of goods when sales are exempt;
purchase of goods for personal use/consumption or to be provided free of charge as gifts, free samples;
imports and inter-State purchases
Some special aspects:
VAT does not require bill to bill co-relation between input and output.
Proportionate ITC is available when inputs are used both for taxable and exempt output. Credit relating to exempt output has to be reversed.
In case of stock transfer, input tax paid in excess of 2% is allowed as ITC.
Whereas for zero rated sales ITC can be availed, it cannot be availed in respect of exempt sale.
After utilizing ITC for payment of VAT and CST, excess credit, if any, can be carried forward.
As per White Paper, if goods are exported, input tax paid is to be refunded within a period of 3 months from the end of the period in which export took place.
As per White Paper, SEZ units and EOU are granted either exemption from payment of input tax or refund of input tax paid within three months.
Special CVD paid on imported goods can be refunded if VAT is charged on further sale of such imported goods and VAT invoice mentions that buyer will not be able to avail CENVAT credit of such duty.

VAT Liability:

VAT liability of the dealer is calculated by deducting input tax credit from output tax payable i.e., tax chargeable on sales during the payment period (say, a month).

Net tax payable = Output tax – Input tax

If in any month, there is a refund, it should be carried forward to subsequent month.

At the end of the year, ie in the month of March, it can be claimed as refund.

In case of interstate sales (ie outside our state), dealer is liable to pay CST (Central Sales Tax). This amount of CST Payable can be adjusted against VAT refund. Therefore, in case of VAT Refund, computation of CST Payable will be as follows:

CST payable (-) Excess VAT credit = Net CST payable

Composition Scheme:

White Paper provides a optional composition scheme for small registered dealers where tax is paid at a small percentage (composition rate) of the gross turnover. Composition rate can be reduced to as low as 0.25%.

Input tax credit is not allowed under the scheme and dealer opting for the scheme is not authorized to issue VAT-able invoices.

Eligible dealer:

A registered dealer who is liable to pay VAT and whose turnover does not exceed Rs. 50 lakh in preceding financial year and whose purchases and sales are within the State, can opt for Composition Scheme.

Non-eligible dealer:
Dealer making inter-state purchases/sales;
Dealer importing/exporting goods for sale in/outside India;
Dealer stock transferring goods outside the State;
Dealer desirous of issuing VAT-able invoice.

Advantages of composition schemes:

1) Simple calculation
2) Less amount of tax payable
3) Simple records to be maintained. Therefore less accounting cost.
4) Simple VAT returns to be filled.

Disadvantages:

1) No ITC therefore cost of goods increases therefore higher tax is to be paid.
2) Cannot issue tax invoice.
3) As the purchaser would not get any ITC for the purchases made from such composition dealer, such purchases desirous of availing ITC may not prefer to buy from composition scheme dealers. Hence the profitability may get affected.

VAT and Works Contract	
Basic principles	♦ Works contract is a deemed sale (composite contract of goods and services) and is thus, liable to VAT. ♦ While VAT is leviable on goods involved in the execution of works contract, service tax is levied on value of services. ♦ Where labour and other service charges are quantifiable, taxable turnover would be contract price less labour and other service charges. ♦ Where labour and other service charges are not quantifiable- - taxable turnover can be cost of goods plus cost of transfer/conversion and profit margin; or - Standard rate of deduction provided in State VAT laws can be used for deducting labour and other like charges in the contract to arrive at the taxable turnover.
Tax rates	♦ Schedule rate if value of each item of material transferred in the course of execution of a works contract is identifiable. Tax is charged on value of individual items of materials as provided under the schedules to the concerned State VAT legislation. ♦ Revenue neutral rate if values of individual goods are not identifiable. Contractor can pay tax at Revenue Neutral Rate (RNR - generally 12.5%/13.5%) after deducting the value attributable towards labour and other like charges.
VAT and Lease Transactions	
Lease	Under a lease, a party owning the asset (called the 'lessor') provides that asset for use over a certain period of time to another party (called the 'lessee') for consideration (called 'rentals'). Legal ownership of the asset remains with the lessor, but the lessee retains the possession and uses the asset over the period of the lease.

	♦ Lease is a deemed sale and is thus, liable to VAT. ♦ If complete possession and control is not handed over in respect of an asset given on rent, transaction is not a deemed sale (as it is not a transfer of right to use) but a service and is thus, liable to service tax. ♦ Sub-lease of an asset too can be taxed, unless the State Value Added Tax law has provided for the levy of tax only at one stage. ♦ Taxable event is transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration. ♦ Taxable turnover is the amount of valuable consideration paid or payable for any sale during the given period. Certain States provide deduction of interest or financial charges for determining taxable turnover. ♦ Input tax credit is allowed to lessor on purchase of the asset which is to be leased. Since these assets are generally capitalized in the books of lessor, provisions relating to input tax credit on capital goods apply in this case also. ♦ Maintenance of the leased asset involving supply of consumables by the lessor is not a works contract (as there is no transfer of property in such materials to the lessee) and is thus, not liable to VAT. It is a service contract liable to service tax. -If parts are also supplied during maintenance, such contract becomes a works contract liable to VAT. ♦ Sale of a leased asset after the lease period is over is taxable in the same manner in which normal sale of such asset would have been taxed.
VAT and Hire Purchase	
<u>Hire Purchase (HP)</u>	Whereas under HP, hirer acquires the goods immediately on signing the hire-purchase agreement but ownership or title of the same is transferred only when last installment is paid, under installment payment system, buyer gets ownership of the goods with the payment of first installment.
	♦ Since HP transactions are deemed sales, they are liable to VAT. ♦ Transactions which are purely of a financial nature between the financier and the hirer (hire-purchase finance) are not liable to VAT. ♦ Taxable event is the actual or physical delivery of goods on hire purchase or under any system of payment by installments. ♦ Some States provide for deduction of interest or finance charges included in the installment in arriving at the taxable turnover while some do not provide any such deduction. ♦ Provisions relating to input tax credit in case of a normal sale apply in case of HP also. However, some States provide for *pro rata* credit. ♦ Tax may not be payable when transaction fructifies into a concluded sale as tax has already been paid on installments. However, other view is that tax is payable again on fructified sale on depreciated value of the asset or on its market value but if no

	consideration is payable on fructified sale, then tax is not attracted. ♦ Goods returned are treated as normal sales return and thus refund of tax can be claimed as per the provisions of respective State VAT laws if goods are returned within the prescribed period. ♦ When transaction of hire purchase fails, vendor takes possession of the goods and normally installment received for the intervening period gets forfeited.
VAT and Sale of Food Articles	
♦ Sale of food in a hotel is a deemed sale liable to VAT. Service portion involved in such a sale is declared to be a service liable to service tax.	

VAT procedures

(1) Registration: Registration is the process of obtaining certificate of registration (RC) from the authorities. A dealer registered under a VAT Act is called a registered dealer. Any dealer, who intends to carry on the business of purchase and sale of goods in the State and is liable to pay tax, cannot carry on the business unless he is registered and holds a valid registration certificate under the Act.

Tax Payer's Identification Number (TIN): TIN (Tax Payer's Identification Number) is the registration number of the dealer consisting of 11 digit numerals throughout the country. First two characters represent the State code as used by the Union Ministry of Home Affairs. The set of the next nine characters are however, different in different States.

(2) Invoice: Invoice is a document listing goods sold with price, tax charged and other details as may be prescribed and issued by a dealer authorized under the Act. The White Paper provides that:

(i) Every registered dealer whose turnover of sales exceeds the specified amount shall issue to the purchaser a serially numbered tax invoice, cash memo or bill with the prescribed particulars.

(ii) The tax invoice shall be dated and signed by the dealer or his regular employee, showing the required particulars.

(iii) The dealer shall keep a counterfoil or duplicate of such tax invoice duly signed and dated.

Importance of VAT invoice (tax invoice): Invoices are crucial documents for administering VAT. In the absence of invoices, VAT paid by the dealer on the inputs/capital goods cannot be claimed as set off. Invoices should be preserved with full care. In case any original invoice is lost or misplaced, a duplicate authenticated copy must be obtained from the issuing dealer.

Contents of VAT invoice: Generally, the various legislations provide that the tax invoice should have the following contents:

(i) the words 'tax invoice' in a prominent place;

(ii) name and address of the selling dealer;

(iii) registration number of the selling dealer;

(iv) name and address of the purchasing dealer;

(v) registration number of the purchasing dealer (may not be required under all VAT legislations);

(vi) pre-printed or self-generated serial number;
(vii) date of issue;
(viii) description, quantity and value of goods sold;
(ix) rate and amount of tax charged in respect of taxable goods;
(x) signature of the selling dealer or his regular employee duly authorized by him for such purpose.

(3) Returns: A registered dealer has to required to file monthly/quarterly/annual returns as per the provisions of the State Acts/Rules along with the tax payment challans. The returns should disclose the details like output tax liability, value of input tax credit, payment of VAT. The dealer also has the option of filing the revised return within the stipulated time period under the VAT provisions. The composition dealers are also required to file the return on periodical basis as stipulated under the respective State VAT provisions.

(4) Audit by Chartered Accountants: Apart from the Departmental Audit, many States have also incorporated the concept of audit of accounts by Chartered Accountants. However, auditing for all types of dealers may not be necessary. For example, in Maharashtra and Rajasthan, the dealer whose turnover exceeds Rs. 100 lakhs in any year is required to get his accounts audited in respect of such year.

<u>Role of CA in VAT:</u>

Record keeping:

For proper ITC systematic records have to be maintained CA's are well equipped to ensure such compliances under VAT laws.

Handling audit by departmental auditors:

By maintaining proper records of a client a CA is able o satisfy the department auditors through his professional expertise that is by resolving audit queries and objections.

Procedure requirement of VAT laws:

CA ensures proper compliance of various procedural requirements procedural requirements prescribed under VAT by using their technical knowledge and analytical abilities. For e.g. return filing, submission of audit report etc.

External audit of Vat records:

Under VAT an assessee is required to self assess his liability and only a few dealers are scrutinized on selective basis. This scrutiny is done by a CA and subsequently audit report is submitted to the department.

Advisory:

CA plays an important role in advising clients regarding various provisions of VAT.

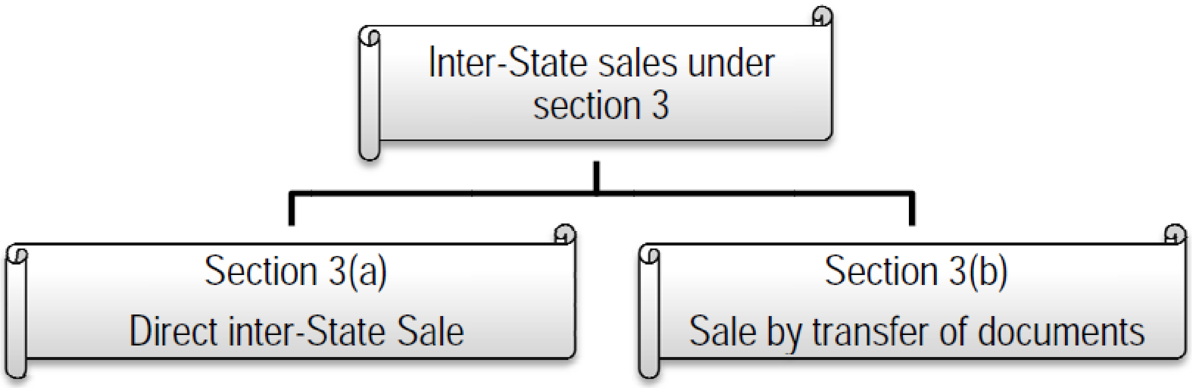
Representations:

CA helps in personal representation before the departmental authorities on behalf of the client. CA helps in constant updating of law and provisions to the client.

Central Sales Tax Act, 1956

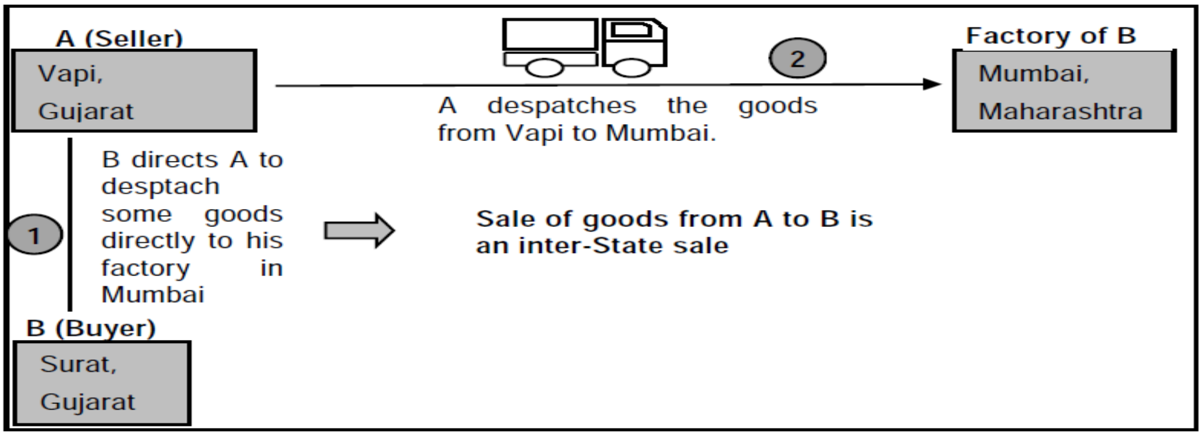
- CST on sales made from one state to another (inter-state).
- Powers from Entry 92A of Union List.
- CST Act, 1956
- CST is collected by that SG from where the movement of goods is commenced.
- CST on sale of all goods other than electrical energy/ newspapers.

Inter State Sale u/s. 3:



Section 3(a):

Example 1: Even if the buyer and seller are in the same State, it is an inter-State sale if the sale occasions the movement of goods from one State to another.



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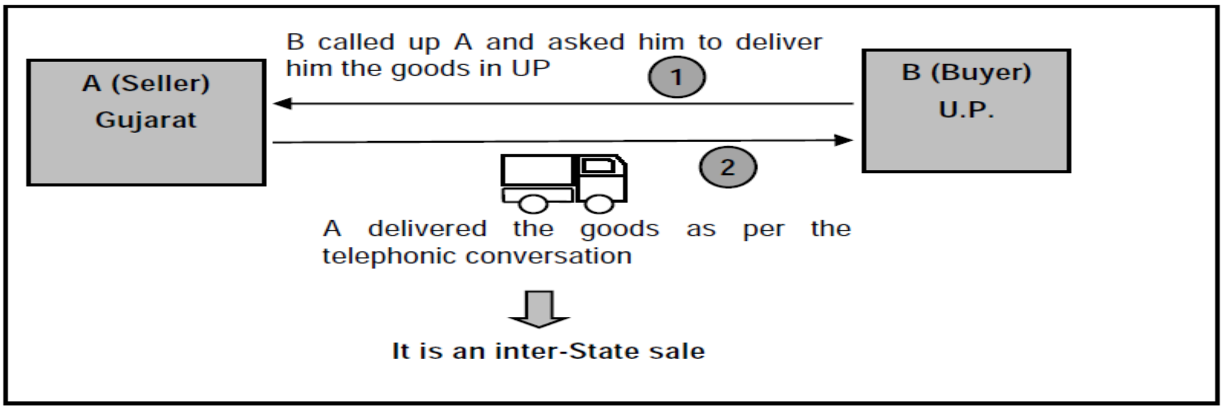
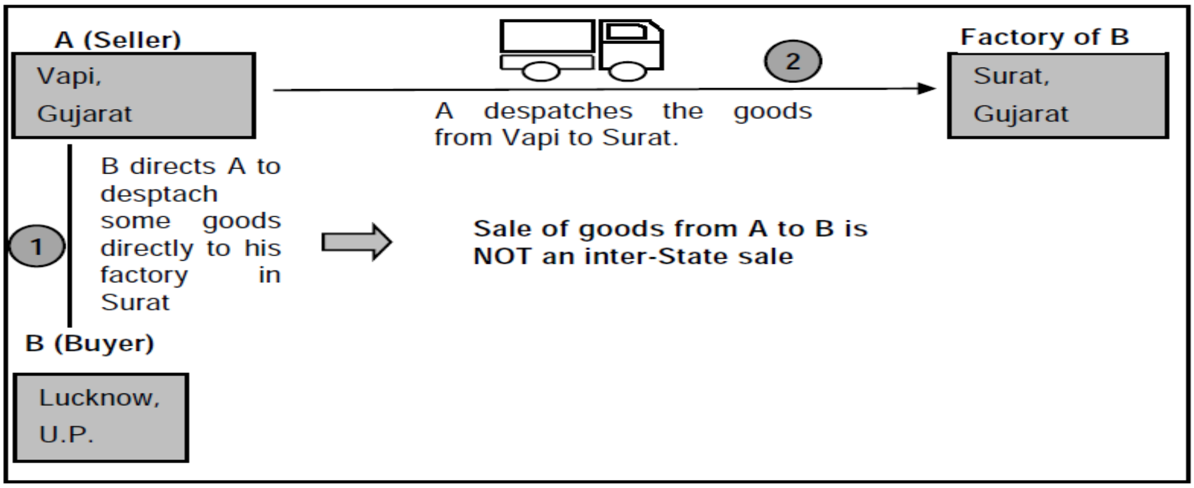
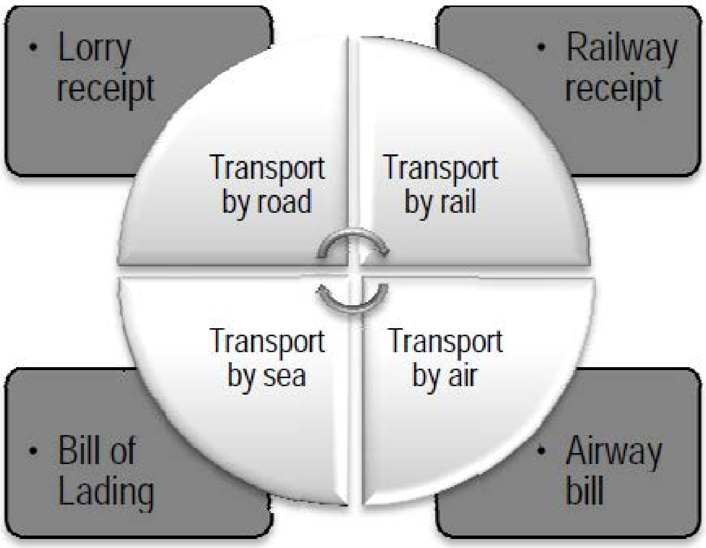
Example 2 : Movement of goods on the basis of telephonic conversation is sufficient to be held as inter-State sale



Example 3: Even if the buyer is located outside the State, sale is not an inter-State sale if the goods do not move outside the State



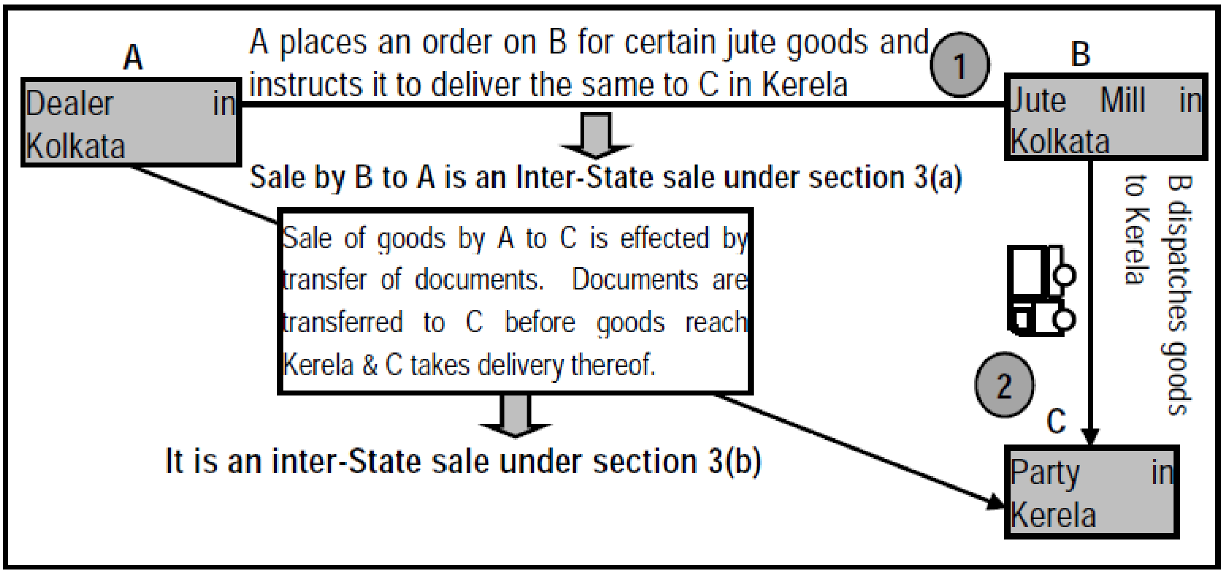
<u>**Section 3(b)-Where sale or purchase is effected by a transfer of documents of title to the goods *during their movement* from one State to another:**</u>



Example 1: Ram, a dealer in Haryana, got an order for delivery of goods in U.P. He sent the goods from Haryana to U.P. by rail. In this case, movement of goods commenced at the time when the goods were handed over to the railway booking office at Haryana for transportation to U.P.

The movement of goods would be deemed to continue even if the goods reach U.P. and were lying in the possession of railways. Movement would be deemed to be terminated only at the time when delivery was actually taken at U.P. on submission of railway receipt.

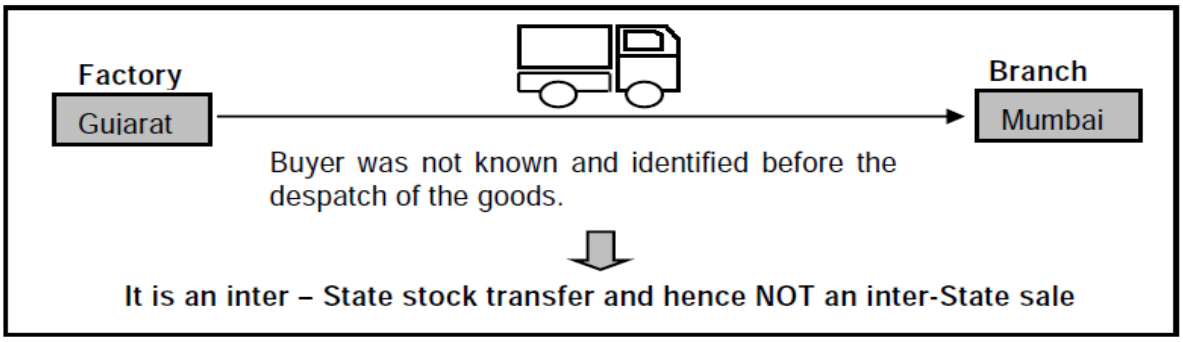
Example 2:



Inter-State stock transfer/inter-State consignment transfer [Section 6A]: This Section applies to a situation where the goods are sent by a dealer, outside the State to his other place of business or his agent/principal in other State. In other words, this section covers the inter-State consignment transfer/ inter-State branch transfer. In the aforesaid cases, although goods have been transferred from one State to another, generally, the property in goods does not pass from principal to the agent. Thus, there is no sale and consequently, no CST is payable provided there was no pre-existing agreement for the sale of the goods so transferred. The burden of proving that the movement of those goods was occasioned NOT by reason of sale shall be on the dealer transferring the goods to his branch/agent/principal. For this purpose, he may furnish Form F to the assessing authority, within 3 months from the end of the period to which such form relates, obtained from the principal officer of the other place of business, or his agent or principal.

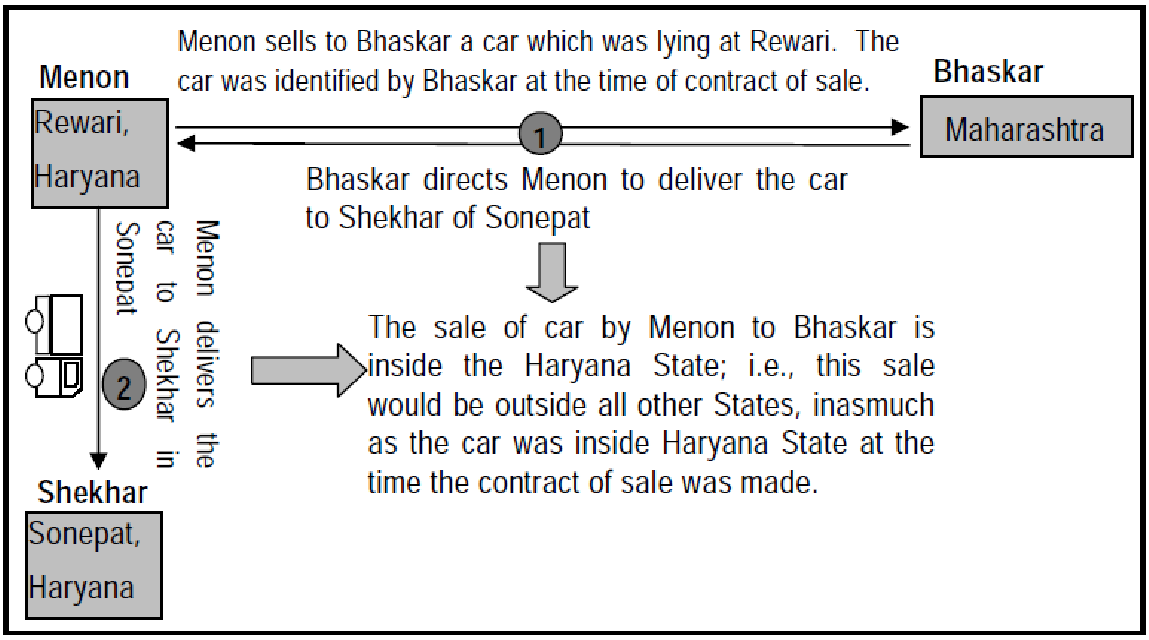
Example 1

Mr. A, a registered dealer, transferred goods from his factory in Gujarat to Mumbai branch so that the goods can be sold from there.

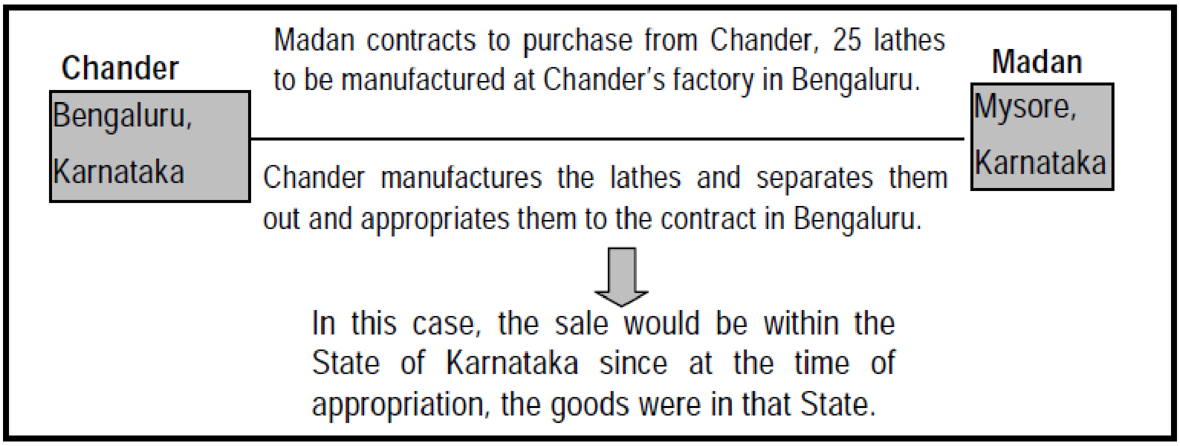


Sale outside the State (Section 4):

Example 1: Sale of specific goods



Example 2: Sale of unascertained goods



(c) Single contract of sale of goods situated at more than one places

In the case of both the above groups of goods (specific and unascertained), it may so happen that there is a single contract of sale or purchase of goods situated at more than one places. In such a case it shall be deemed that there are separate contracts in respect of the goods at each of such place.

(d) Section 4 is subject to the provisions of section 3

Section 4 is subject to the provisions of section 3. It implies that the provisions of section 4 would apply only when sales of goods is not an 'inter-State sale' under section 3. In case of intra-State sales, sales tax shall be levied by the State inside which such sales is deemed to have taken place.

<u>Sale in course of import/export [Section 5]</u>

<u>Sale in the course of export</u>

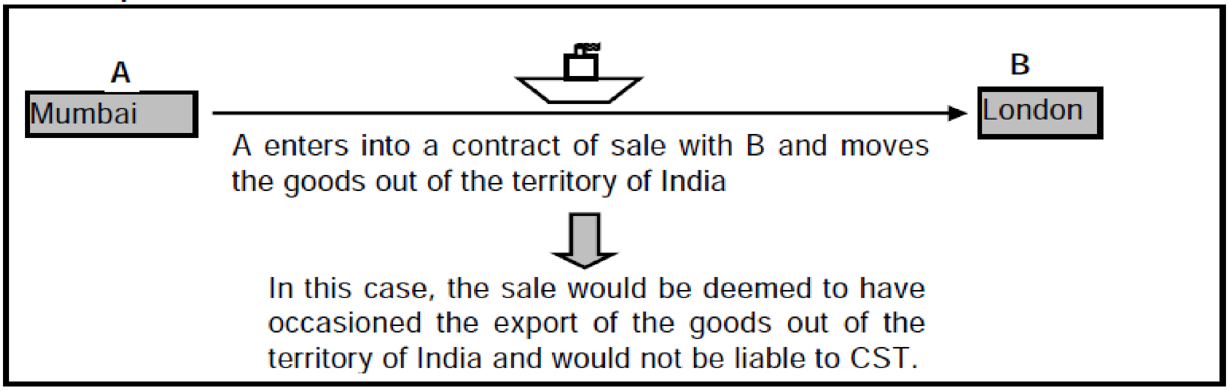
a) Sale/purchase occasioning the export: In such a case:-

(i) there shall be a sale of goods;

(ii) such sale shall occasion export, involving transhipment of goods from one country to the other and shall be between two parties of two countries and

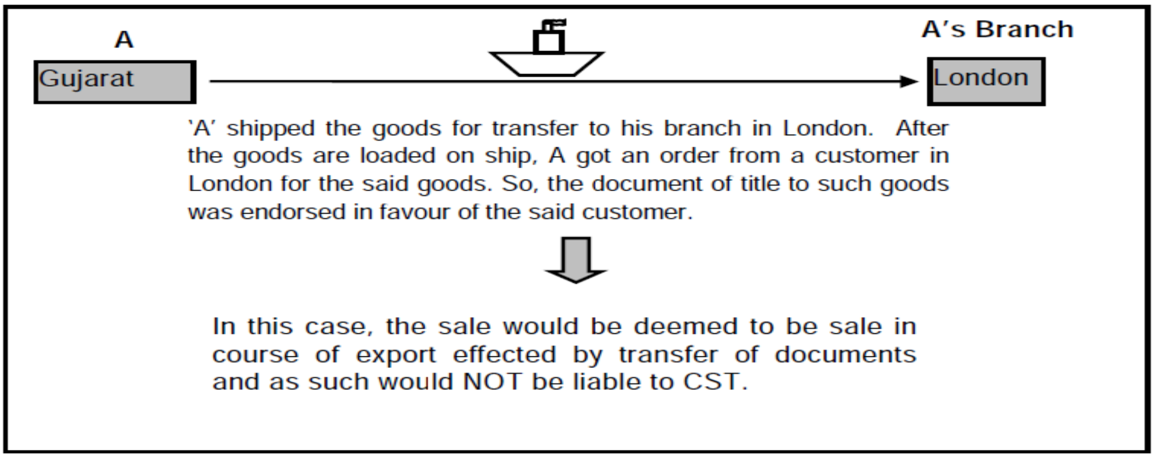
(iii) the final result of transhipment shall be that the goods have come to rest in the other country.

Example:



(b) Sale or purchase effected by a transfer of documents of title to the goods: In such a case, sale is effected by a transfer of documents of title to the goods **AFTER** the goods have crossed the customs-frontiers of India. Such transfer of documents of title to the goods can take place immediately on loading of goods in a conveyance after obtaining clearance from the customs authorities for export.

Example:



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(c) Penultimate sales, i.e. the sale preceding the sale occasioning the export.

A sale is considered as penultimate sale if:

(i) There is a pre-existing agreement or order in relation to export.

(ii) Penultimate sale must be, after the agreement with the foreign buyer, for the purpose of complying with such agreement or order in relation to export.

(iii) Same goods which are sold in penultimate sale must be exported, though may not be in the same form.

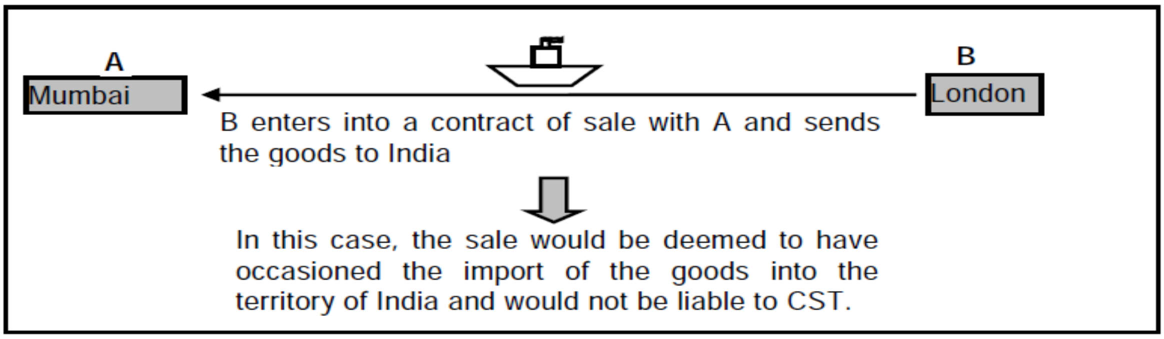
Selling dealer needs to furnish Form H obtained from the exporter to whom the goods are sold.

d) If any designated Indian carrier purchases Aviation Turbine Fuel for the purposes of its international flight, such purchase shall be deemed to take place in the course of the export.

Sale in course of import:

Following sales shall be deemed to be sale in the course of import:-

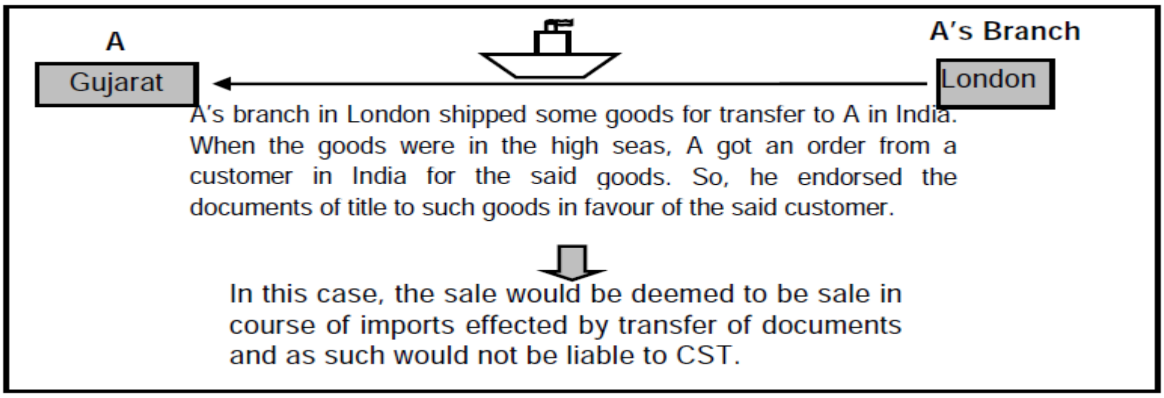
(i) Sale or purchase occasioning import of goods into India.



(ii) Sale or purchase effected by a transfer of documents of title to goods before the goods have crossed customs frontiers of India.

For instance, if Bill of Lading is endorsed in favour of buyer before the goods have crossed the limit of customs port or if the letter of delivery issued by bank is endorsed in favour of buyer before taking the delivery from customs, it is sale in course of imports.

Example:



Customs frontier means crossing the limits of the area of a customs station in which imported goods/export goods are ordinarily kept before clearance by customs authorities.

RATES OF TAX ON SALES IN THE COURSE OF INTER-STATE TRADE OR COMMERCE:

The concessional rate of CST is:-

(i) 2% of the turnover of the dealer

or

(ii) Rate applicable to the sale or purchase of such goods inside the appropriate state under the sales tax law of that State **whichever is lower.**

Conditions to be fulfilled for concessional rate of CST:

A dealer is liable to pay CST at the concessional rate of CST provided the following conditions are satisfied:-

(i) Sale is of goods eligible for concessional rate of CST, i.e. the goods described in section 8(3).

(ii) Sale has been made to a registered dealer.

(iii) Selling dealer has obtained a declaration in Form C from the purchasing dealer and furnish it to the prescribed authority.

Cases where concessional rate of CST is not applicable:

In case any of the three conditions are not fulfilled (as specified above), the rate of CST would be the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State.

Rates of CST at a glance:-

<table>
<tr><th>In case rate of sales tax within the State is</th><th>CST rate in case of sale to registered dealers is</th><th>CST rate in case of sale to unregistered dealers is</th></tr>
<tr><td>less than 3%</td><td>applicable rate of sales tax within the State</td><td rowspan="2">applicable rate of sales tax within the State</td></tr>
<tr><td>3% or more</td><td>2%</td></tr>
</table>

DETERMINATION OF TURNOVER FOR CENTRAL SALES TAX:

Turnover means the aggregate of the sale prices received and receivable by him in respect of sales of any goods in the course of inter-State trade or commerce made during any prescribed period and determined in accordance with the provisions of this Act and the rules made thereunder.

Deductions to be made from the aggregate of the sale prices while computing the turnover:

(i) Central sales tax payable

$$\text{Turnover} = \frac{\text{Aggregate of sales price} \times 100}{100+\text{Rate of tax}}$$

(ii) Sale price of all goods returned to the dealer by the purchasers of such goods within a period of 6 months from the date of delivery of the goods.

The period of six months for return of goods is not applicable in respect of rejected goods as it is a case of unfructified sale.

(iii) Such other deductions as the Central Government may, having regard to the prevalent market conditions, facility of trade and interests of consumers, prescribe.

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Meaning of sale price
Sale price means the amount payable to a dealer as consideration for the sale of any goods subject to following inclusions and exclusions:-
Inclusions: Any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof
Exclusions:
Cash discount
Cost of freight/ delivery or cost of installation where such cost is separately charged by the dealer.
Other Inclusions and Deductions from sale price
Dharmada includible because so far as the purchaser is concerned, he has to pay the whole amount for purchasing the goods.
Weighment dues includible if the services of weighing are in respect of the goods and incidental to their being sold.
Insurance charges includible if incurred by the assessee prior to the delivery of the goods.
Packing charges packing charges and cost of packing material are includible.
Indemnity/ Guarantee charges excluded as it is recovered from the same buyers to incur loss during transit at buyers' request.
Excise duty includible
Government subsidies excluded
Design Charges includible if charged separately in respect of goods manufactured as per design and sold to buyer
Deposits for returnable containers excluded
Free of cost material supplied by customer excluded

Collection of tax only by registered dealers:
No person who is not a registered dealer shall collect in respect of any sale made by him of goods in the course of inter-State trade or commerce any amount by way of tax under this Act.

CST payable to be rounded off:
The amount of CST, interest, penalty, fine or any other sum payable, and the amount of refund due, under CST Act shall be rounded off to the nearest rupee while crediting the same to the Government.

EXCEPTIONS TO LEVY OF CENTRAL SALES TAX (CST):
No CST on penultimate sales for export: A dealer shall not be liable to pay CST on the penultimate sales for export. (Obtain Form H)
No CST on subsequent sales:
Conditions to be satisfied for exemption to subsequent inter-State sale of the goods are as follows:
(i) First sale should be an inter-State sale and subsequent sale should be effected by transfer of documents of title to the goods during the movement of such goods in course of inter-State sales.
Note: Exemption to subsequent sales is available even if the first inter- State sale is exempt from CST.

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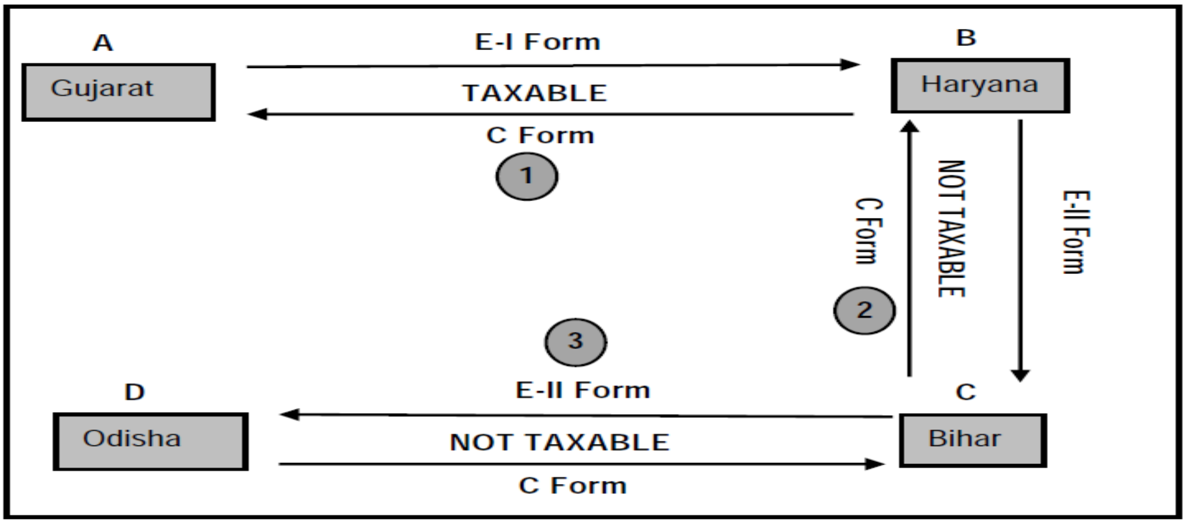
(ii) Subsequent inter-Sate sale is exempt only if:-
(a) purchaser is a registered dealer.
(b) the goods are of description referred to in section 8(3) (subsequently discussed).

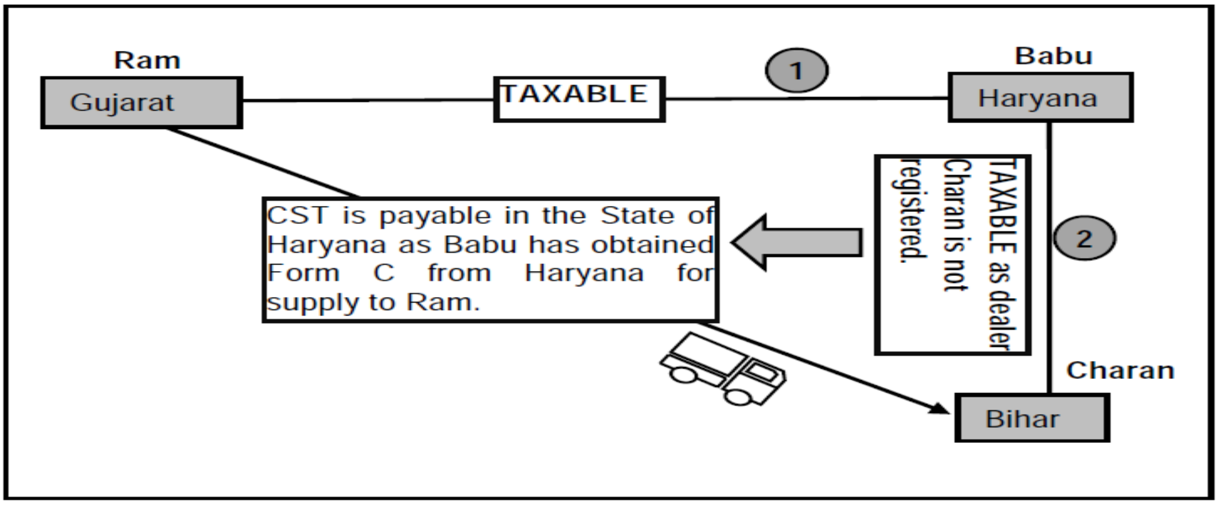
(iii) The dealer effecting the subsequent sale needs to furnish following certificates/declaration:-
(a) Form E-I/Form E-II: obtained from the registered dealer from whom he has purchased the goods, and
(b) Form C: obtained from buying dealer if the subsequent sale is made to a registered dealer*.
*However, it shall not be necessary to furnish Form C in respect of a subsequent sale of goods if:
(a) the sale or purchase of such goods is, exempt from tax generally or is subject to tax lower than 3%, under the sales tax law of the appropriate State and
(b) the dealer effecting such subsequent sale proves to the satisfaction of the prescribed authority that such sale is of the nature referred herein.

Example: A of Gujarat sells the goods to B of Haryana. As per the contract, A was required to deliver the goods in Odisha. For this purpose, A dispatches the goods from Gujarat to Odisha. During the movement of goods, B sells the goods by transfer of documents of title to the goods, to C of Bihar who in turn sells them to D of Odisha during such movement. D ultimately takes the delivery of the goods. Here, all the four dealers are registered dealers.



CST is leviable if any of the three conditions mentioned above are not fulfilled. Levy and collection of CST, in such cases, would be in the following States:-
(a) Where such subsequent sale has been effected by a registered dealer: State in which he is registered.
(b) Where such subsequent sale has been effected by an unregistered dealer: State from which such subsequent sale has been effected.

Example: Ram of Gujarat sells the goods to Babu of Haryana (a dealer registered in Haryana). As per the contract, Ram was required to deliver the goods in Bihar. For this purpose, Ram despatches the goods from Gujarat to Bihar and obtains Form C from Babu. During the movement of goods, Babu sells the goods by transfer of documents of title to the goods, to Charan of Bihar, an unregistered dealer who ultimately takes the delivery of the goods.



No CST on sale to foreign missions or UN etc.

No CST is payable on inter-State sale of any goods to any official or personnel/consular/diplomatic agent of:-

(i) any foreign diplomatic mission or consulate in India or

(ii) the United Nations or any other similar international body.

Conditions:

(i) Such buyer has purchased such goods for himself or for the purposes of such mission, consulate, United Nations or other body.

(ii) The dealer selling such goods furnishes to the prescribed authority Form J obtained from such buyer.

EXEMPTION FROM CST:

Exemption by notification granted by the State Government

State Government can grant exemption if following conditions are satisfied:-

(a) State Government is satisfied that such exemption is necessary in the public interest.

(b) Sale is made to a registered dealer.

(c) The selling dealer has furnished Form C as obtained from the registered purchasing dealer.

Exemption from CST to a sale to unit/developer in SEZ

A registered dealer in SEZ (unit in SEZ/developer of SEZ) can obtain goods from outside SEZ, for specified purposes, without payment of CST provided:-

♦ Form I has been furnished by the purchasing dealer, and

♦ goods are of such class as specified in registration certificate of the registered dealer.