CA. RAJESH GOYAL

Classes for
CA-Final – INDIRECT TAX &
CA-IPCC - TAXATION

CA IPCC

Tax Amendments for May 2013

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AMENDMENTS MADE BY F'ACT 2012

As Applicable for CA May' 13 / Nov' 13 Exams

Tax Slab rate applicable for AY 2013-14

1. In case of individual (Incl. woman assesses also) / HUF/ AOP / BOI and every artificial juridical person

TOTAL INCOME	AMOUNT OF TAX
Up to Rs. 2,00,000	NIL
Rs. 2,00,000 to Rs. 5,00,000	10%
Rs. 5,00,000 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

2. For a Resident individual, being a Sr. Citizen, Age $\geq$ 60 yrs at any time during the P/Y.

TOTAL INCOME	AMOUNT OF TAX
Up to Rs. 2,50,000	NIL
Rs. 2,50,000 to Rs. 5,00,000	10%
Rs. 5,00,000 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

3. For a resident individual, being a Super Sr. Citizen, Age $\geq$ 80 yrs at any time during the P/Y.

TOTAL INCOME	AMOUNT OF TAX
Up to Rs. 5,00,000	NIL
Rs. 5,00,000 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

4. Eligibility conditions for exempt life insurance policies: [Sec 10(10D)]: Clause (d) has been inserted in Sec 10(10D) so as to provide that the exemption for insurance policies issued on or after 01.04.2012 would only be available for policies where the premium payable for any of the years during the term of the policy *does not exceed 10% of the actual capital sum assured*. (as against existing 20%).

Further, in order to ensure that the life insurance policies are not designed to circumvent the prescribed limits by varying the capital sum assured from year to year, Explanation 2 has been inserted to provide that expression "actual capital sum assured" shall have a meaning assigned to in the Explanation to Sec 80C(3A). – See below.

5. Eligibility condition for deduction in respect of life insurance policies [Sec 80C(3A)]: Sec 80C has been amended by inserting sub-section (3A) to provide that the deduction for life insurance premium as regards insurance policies other than a contract for deferred annuity issued on or after 01.04.2012 shall be allowed for only so much of the premium or other payment made as *does not exceed 10% of the actual capital sum assured*.

Explanation: "Actual capital sum assured" in relation to a life insurance policy shall mean the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account –

(i) The value of any premium agreed to be returned, or

(ii) Any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

[Note: This Explanation has been inserted to ensure that the life insurance products are not designed to circumvent the prescribed limits by varying the capital sum assured from year to year.]

6. Sec 10(23BBH): Exempt Income: Any income of the Prasar Bharati (Broadcasting Corporation of India) established under Prasar Bharati (Broadcasting Corporation of India) Act, 1990 will be exempt from tax

7. Mandatory denial of charitable Exemption to charitable trust in case commercial receipts exceed the specified threshold limit of Rs. 25,00,000: [Sec 10(23C)] {W.r.e.f. AY 2009-10}: In case the commercial receipts in the nature of advancement of any other object of general public utility, of a charitable trust, exceeds Rs. 25,00,000 then, such trust or institution would not be entitled to get benefit of charitable exemption, whether or not any approval granted or notification issued in respect of such trust or institution has been withdrawn or rescinded.

Similarly, Sub-section 8 has been inserted in Section 13 to provide that exemption u/s 11 & 12 shall not be allowed for the previous year in which commercial receipts of such trust exceed Rs. 25L *whether or not registration is cancelled in respect of that trust.*

8. Exemption in respect of income received by certain foreign companies: [Sec 10(48)]: Any income received in India, in Indian currency by a foreign company on account of *sale of crude oil* to any person in India, shall be exempt, subject to below conditions:

(i) receipt of such income in India by the foreign company is pursuant to an agreement with Central Government;
(ii) having regard to the national interest, as may be notified by the Central Government in this behalf; and
(iii) the foreign company is not engaged in any activity, other than receipt of such income, in India.

9. Extending the benefit of additional depreciation to the power sector [Sec 32(1)(iia)]: In order to encourage new investments by the power sector, the additional depreciation @20% on eligible new machinery or plant (other than ships and aircraft) is allowed.

10. Extention of period of Weighted deduction for in-house scientific research and development [Sec 35(2AB)]: In order to incentivize the companies to continue to spend on in-house research, the benefit of weighted deduction of 200% has been extended for a further period of 5 years i.e. upto 31.03.2017.

11. Amendments in Section 35AD i.e Deduction of capital expenditure on specified business:

- Three new businesses have been added to the list of "specified business" for 100% deduction of the capital expenditure:
  (a) Setting up and operating an inland container depot or a container freight station notified under the Customs Act, 1962;
  (b) bee-keeping and production of honey and beeswax;
  (c) setting up and operating a warehousing facility for storage of sugar.
  The date of commencement of business for availing the deductions shall be on or after 01.04.2012.
- Further, the following old specified businesses, commencing operations on or after 01.04.2012 shall be allowed *150% deduction* (against earlier 100%):
  (i) Setting & operating a *cold chain facility*;
  (ii) Setting & operating a *warehousing facility for storage of agricultural produce*;
  (iii) a *hospital* with atleast 100 beds for patients;
  (iv) *developing and building a housing project; and*
  (v) *production of fertilizer in India.*

12. Insertion of new Sections 35CCC and 35CCD:

Weighted deductions of 150% for expenditure incurred on agricultural extention project – (Sec 35CCC): Agricultural extention services play a critical role in enhancing the productivity in the agricultural sector. In order to incentivize the business entities to provide better and effective agricultural extensive services, any expenditure on agricultural extension project notified by the Board in, shall be eligible for 150% deduction.

Weighted deductions of 150% for expenditure incurred by a company on skill development project – (Sec 35CCD): In order to incentivize companies to invest on skill development projects in the manufacturing sector, new section 35CCD has been inserted to provide weighted deduction of 150% of expenses (Not being expenditure on land or building) incurred on *skill development project.*

Such project shall be notified by the Board in accordance with the prescribed guidelines.

13. Rationalizing of provisions of disallowance of business' expenditure on account of non-deduction 'of tax on payment to resident payee (Section 40(a)(ia)) [w.e.r, A. Y. 2013-14]: In order to rationalize the provisions of disallowance on account of non-deduction of tax from the payments made to a resident payee, if

- the deductor is able to establish that
- the payee has furnished the return of income by including such income in his return and has paid tax due on income declared by him in such return of income, then,
- it shall be deemed that the assesse has deducted and paid tax on such income
- These beneficial provisions are made to be applicable only in the case of resident payee

14. Payment te relative and close associates to be treated as specified domestic transaction and should be done-at arm's length price [Proviso' to section 40A(2)]: No disallowance, on account of any expenditure being excessive or unreasonable having regard to the fair market value, shall be made in respect of a specified domestic transaction referred to in section 92BA, if such transaction is at arm's length price.

15. Turnover or gross receipts for audit of accounts [Section 44AB]: In order to reduce the compliance burden on small businesses and on professionals, amendment has been made in section 44AB to increase the threshold limit of total turnover or gross receipts, for getting accounts audited, from

- Rs. 60L to Rs. 1Crore in the case of persons carrying on business and
- From Rs. 15L to Rs. 25L in the case of persons carrying on profession.

16. Due date of furnishing audit report in case of international transactions shall be 30th Nov [Explanation to section 44AB]:

17. Presumptive taxation not to apply to professions etc. [Section 44AD] [W.r.e.f. AY 2011-12]: Sub-section (6) has been inserted in section 44AD to provide that presumptive scheme is not applicable to:

(i) a person carrying on specified profession as referred to in section 44AA(1);
(ii) a person earning income in the nature of commission or brokerage income; or
(iii) a person carrying on any agency business.

Further, in line with section 44AB; for the purposes of presumptive taxation u/s 44AD, the threshold limit of total turnover or gross receipts has been increased from Rs. 60L to Rs. 1Cr.

18. Fair Market Value to be the full value of consideration in certain cases [Section 50D]: Capital gains are calculated on transfer of a capital asset, as sale consideration minus cost of acquisition. In some recent rulings, it has been held that where the, consideration in respect of transfer of an asset is not determinable under the existing provisions of the Income-tax Act, then, as the machinery provision fails, the gains arising from the transfer of such assets is not taxable.

Accordingly, a new section 50D has been inserted to provide as under:

"Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gains, the FMV of the said asset on the date of transfer shall be deemed to be the full value of the consideration"

19. Exemption of capital gains on transfer of agricultural land extended to HUF also [Section 54B]:

20. Cost of acquisition in case of certain transfers [Section 49(1)] [W.r.e.f. AY 1999-2000]: Sec 49(1) has been amended to provide that in case of conversion of firm or sole proprietorship into a company which is not regarded as a transfer as per section 47(xiii) or 47(xiiib) or 47(xiv) respectively, the cost of acquisition of asset in the hands of the company would be the same as that in the hands of the firm or LLP or the sole proprietary concern, as the case may be.

21. Relief from LTCG on transfer of residential property if invested in a new manufacturing SME company [Section 54GB]: A new section 54GB has been inserted so as to provide relief from LTCG to an individual/HUF on sale of a residential property (house or plot of land) *proportionate to the net consideration* so invested in the equity of a new start-up SME company in the manufacturing sector which is utilized by the company for the purchase of new asset (eligible plant & machinery).

Other Conditions:

1. The amount of net consideration should be utilized by the individual/HUF before the due date of furnishing of return of income u/s 139(1), for subscription in equity shares of' a eligible company (hereinafter referred to as company).
2. The amount of subscription as share capital is to be utilized by the company for the purchase of new asset (eligible plant and machinery) within a period of 1 year from the date of subscription in the equity shares.
3. *Capital gain scheme also applicable*: If the amount of net consideration which has been received by the company for the issue of equity shares by the individual/HUF is not utilized by the company for the purchase of a new asset (eligible plant and machinery) before the due date of furnishing the ROI u/s 139, the unutilized amount should be deposited before the said due date under CGAS and the return furnished by the assessee shall be accompanied by proof of such deposit.
4. The amount so utilized and the amount so deposited in the deposit scheme shall be deemed to be the cost of a new asset (eligible plant and machinery).
5. *Consequences if the amount deposited in deposit scheme is not utilized for purchase of new asset*: Where the amount so deposited in deposit scheme is not utilized, wholly or partly for the purchase of new asset within a period of 1 year from the date of subscription in equity shares by the individual/HUF, then the difference between:
   (a) the exemption allowed u/s 54GB earlier;

And

(b) the exemption that should have been allowed based on the amount actually utilized, in the purchase of new asset (eligible plant and machinery)

shall be taxable as LTCG in the hands of individual/HUF in which the period of 1 year from the date of subscription in equity share by the assessee expires and the company shall be entitled to withdraw such amount in accordance with the scheme.

6. The equity shares of the company or the new asset acquired by the company should not be sold or otherwise transferred by the individual/HUF or the company, as the case may be, with in a period of 5 years from the date of their acquisition.

Consequence if equity shares or new asset is transferred within a period of <u>*5 years*</u> *from the date of its acquisition*:

<u>In case of Individual/HUF</u>:

(i) the capital gain arising from the transfer of equity shares shall be taxable in the previous year in which such shares are transferred, which can be short-term or 'long-term depending upon the period of holding

And

(ii) the amount of capital gain arising from the transfer of residential property, not taxed earlier shall be deemed to be the LTCG of the previous year in which such shares are transferred.

<u>In case of Company</u>:

Similarly, if the new asset (eligible plant and machinery) is sold or otherwise transferred by the company within a period of 5 years from the date of its acquisition, the capital gain shall arise as under:

(i) the capital gain, if any arising from the transfer of such asset will be taxable in the hands of company, which will be short-term (as asset is a depreciable asset forming part of block of asset):

And

(ii) the amount of capital gain which was exempted earlier in the hands of such individual/HUF shall be taxable as LTCG in the previous year in which such asset (eligible plant and machinery) is sold or otherwise transferred

<u>22. Reference to a Valuation Officer [Section 55A]</u>: Section 55A has been amended to enable the AO to make a reference to the Valuation Officer where in his opinion the value declared by the assessee is at variance from the FMV as on 01.04.1981. Therefore in case where the AO is of the opinion that the value taken by the assesse as on 01.04.1981 is higher than the actual FMV of the asset as on that date, the AO would be enabled to make a reference to the Valuation Officer for determining the correct FMV.

<u>23. Exemption of any sum or property received by a HUF from its members [Explanation to section 56(2)(vii)]</u>: The definition of relative as given in Explanation to Section 56(2)(vii) is only in relation to an individual and not in relation to a HUF.

The above Explanation has been amended so as to provide that any sum or property received without consideration or inadequate consideration by an HUF from its members would also be excluded from taxation.

It may, however, be noted here that as per Section 64(2), if a member of the HUF converts, etc. his separate property into the property belonging to the family otherwise than for adequate consideration, the income derived from the converted property shall be deemed to arise to the individual and not the family.

<u>24. Consideration for shares in excess of the fair market value to be treated as income [Sec 56(2)(viib)]</u>: Section 56(2) provides for the specific category of incomes that shall be chargeable to income-tax under the head "IOS".

A new clause (viib) has been inserted to Section 56(2) to provide that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares and if the consideration received for issue of shares exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income tax under the head "IOS".

However, the above provision shall not apply where the consideration tor issue of shares is received by a venture capital undertaking from a venture capital company or a venture capital fund.

<u>25. Cash credits u/s 68</u>: (First and second proviso to Sec 68]: In the case of closely held companies, investments are made by known persons. Therefore, a higher onus is required to be placed on such companies, besides the general onus, to establish identity and credit worthiness of creditor and genuineness of transaction. This additional onus, needs to be placed on such companies to also prove the source of money in the hands of such shareholder or persons making payment towards issue of shares before such sum is accepted as genuine credit. If the company fails to discharge the additional onus, the sum shall be treated as income of the company and added to its income.

Section 68 has been amended by inserting two provisos so as to provide that

- the nature and source of any sum credited, as share application money, share capital, share premium etc.,
- in the books of a closely held company
- shall be treated as explained *only if*
- the source of funds is also explained by the assessee company in the hands of the resident shareholder and
- such explanation in the opinion of the AO is found to be satisfactory.

<u>Relaxation</u>: However, even in the case of closely held companies, this additional onus of satisfactorily explaining the source in the hands of the shareholder, would not apply if the shareholder is "a well regulated entity", i.e. a Venture Capital Fund, Venture Capital Company registered with SEBI.

<u>26. Insertion of new Section 80CCG</u>: Deduction in respect of investment made under an equity savings scheme subject to below conditions:

(1) resident individual;

(2) investing in a notified scheme;

(3) deduction @50% of the amount invested in such equity shares to the extent such deduction does not exceed 25,000 rupees.
(4) the GTI of the assessee for the relevant assessment year shall not exceed 10L rupees;
(5) Lock in period of 3 years

<u>27. Deduction for expenditure on preventive health check-up [Sec 80D]</u>: Section 80D has been amended so also to include any payment made by an individual on account of *preventive health check-up* of self, spouse, dependent children or parent(s) during the previous year as eligible for deduction within the overall limits prescribed in the section. However, the deduction on account of expenditure on preventive health check-up (for self, spouse, dependent children and parents) shall not exceed in the aggregate *Rs. 5,000* (such payment can be made by any mode, including cash).

<u>28. Prohibition of cash donations in excess of Rs. 10,000 [Sec 80G and 80GGA]</u>: Currently, there is no provision in either of the aforesaid sections specifying the mode of payment of money. Therefore, sections 80G(5D) and 80GGA(2A) have been inserted to provide as under:

80G(5D): No deduction shall be allowed u/s 80G in respect of donation of any sum exceeding Rs. 10,000 unless such sum is paid by any mode other than cash.

80GGA(2A): No deduction shall be allowed u/s 80GGA in respect of any sum exceeding Rs. 10,000 unless such sum is paid by any mode other than cash.

<u>29. Extension of sunset date for tax holiday for power sector u/s 80-IA</u>: The terminal date has been extended for a further period of one year, i.e up to 31.3.2013 in case of electricity undertakings.

<u>30. Deduction in respect of interest on deposits in savings accounts to the maximum extent of Rs. 10,000 [Section 80TTA]</u>: Where the GTI of an assessee, being an individual or a HUF, includes any income by way of interest on deposits (not being time deposits i.e deposits repayable on expiry of fixed periods) in a savings account with –
(a) a banking company;
(b) a co-operative society engaged in carrying on the business of banking; or
(c) a Post Office,
a deduction of such interest shall be allowed to the maximum extent of Rs. 10,000.

However, where the income referred to in this section is derived from any deposit in a savings account held by, or on behalf of, a firm, an AOP or a BOI, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.

31. Compulsory filing of income tax return in relation to assets located outside India [Fourth proviso to section 139(1)]: Fourth proviso has been inserted to Section 139(1) to provide that a person, being a resident, who is not required to furnish a return u/s 139(1) and who during the previous year has:
(a) any asset (including any financial interest in any entity) located outside India or
(b) signing authority in any account located outside India,
shall furnish, on or before the due date, a return in respect of his income or loss.

32. Threshold for TDS on payment of interest on debentures [Section 193]: In order to reduce the compliance burden on small assessees and companies, clause (v) to the proviso to section 193 has been substituted to provide that no deduction of tax, should be made from payment of interest on any debenture, (whether listed or not) issued by a company, in which the public are substantially interested, to a resident individual or HUF, if the aggregate amount of interest paid or payable does not exceed *Rs. 5,000* and the payment is made by an account payee cheque.

33. TDS on amount paid/payable to non-resident sports person [Sec 194E]: The rate of TDS has been raised from 10% to 20%.

34. TDS on remuneration other than salary to a director [Sec 194J]: Section 194J has been amended to provide that tax is required to be deducted @10% on the remuneration or fee or commission by whatever name called paid to a director, which is not in the nature of salary.

35. Threshold for TDS on compensation or consideration for compulsory acquisition [Sec 194LA]: In order to reduce the compliance burden of small assesses, the threshold limit for non-deduction of TDS in case of compulsory acquisition of a immovable property has been increased from Rs. 1L to Rs. 2L.

36. Insertion of new section 194LC: TDS on Income-
- by way of interest from Indian company
- payable to a non-resident, not being a
- @5%.

37. Taxation of cash credits, unexplained money, unexplained investments etc. covered u/s 68, 69, 69A, 69B, 69C & 69D [Sec 115BBE]: In order to curb the practice of laundering of unaccounted money by taking *advantage of basic exemption limit*, a new Section 115BBE has been inserted to tax the unexplained credits, money, investment, expenditure etc, which has been deemed as income u/s 68, 69, 69A, 69B, 69C or Section 69D, at the special rate of 30%.

It is also provided that no deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of the Act in computing deemed income under the said sections.

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Defeated for Legislature at the age of 32
Again failed in Business at the age of 34
Sweetheart dies 35
Had nervous breakdown at the age of 36
Defeated in Election at the age of 38
Again defeated in Elections at the age of 43
Defeated for Vice President at the age of 46
Defeated in Senator at the age of 48
Elected President of America at the age of 52

AND THAT MAN WAS …………… "ABRAHAM LINCON"

TRUST YOURSELF.

ALL THE BEST

CA. RAJESH GOYAL
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