APPLICABLE FOR CA IPCC/FINAL

1. Surcharge and Concept of Marginal Relief

Before we go to practical aspects of marginal relief, students are advised to go through surcharge rates applicable for A.Y. 2014-15

The rates of surcharge applicable for A.Y.2014-15 are as follows –

(a) Individual/HUF/AOP/BOI/Artificialjuridicalperson/Co-operativesocieties/Local Authorities/Firms/LLPs

Where the total income exceeds Rs.1 crore, surcharge is payable at the rate of 10% of income-tax.

Marginal relief is available in case of such persons having a total income exceeding Rs. 1 crore i.e. the additional amount of income-tax payable (together with surcharge) on the excess of income over Rs. 1 crore should not be more than the amount of income exceeding Rs. 1 crore.

(b) Domestic company

(i) In case of a domestic company, whose total income > Rs.1 crore but is ≤ Rs.10 crore

Where the total income exceeds Rs. 1 crore but does not exceed Rs. 10 crore, surcharge is payable at the rate of 5% of income-tax. Marginal relief is available in case of such companies i.e. the additional amount of income-tax payable (together with surcharge) on the excess of income over Rs. 1 crore should not be more than the amount of income exceeding Rs. 1 crore.

(ii) In case of a domestic company, whose total income is > Rs.10 crore

Where the total income exceeds Rs. 10 crore, surcharge is payable at the rate of 10% of income-tax.

Marginal relief is available in case of such companies i.e. the additional amount of income-tax payable (together with surcharge) on the excess of income over Rs. 10 crore should not be more than the amount of income exceeding Rs. 10 crore.

(c) Foreign company

(i) In case of a foreign company, whose total income >Rs. 1 crore but is ≤ Rs.10 crore

Where the total income exceeds Rs. 1 crore but does not exceed Rs. 10 crore, surcharge is payable at the rate of 2% of income-tax. Marginal relief is available in case of such companies i.e., the additional amount of income-tax payable (together with surcharge) on the excess of income over Rs. 1 crore should not be more than the amount of income exceeding Rs. 1 crore.

(ii) In case of a foreign company, whose total income is > Rs.10 crore

Where the total income exceeds Rs. 10 crore, surcharge is payable at the rate of 5% of income-tax.

Marginal relief is available in case of such companies i.e. the additional amount of income-tax payable (together with surcharge) on the excess of income over Rs.10 crore should not be more than the amount of income exceeding Rs. 10 crore.

Note *–Marginal relief would also be available to those companies which are subject to minimum alternate tax under section 115JB, in cases where the book profit (i.e. deemed total income) exceeds Rs. 1 crore and Rs. 10 crore, respectively.*

Why there is a need for marginal relief?

Consider Example (A) and (B)

Example : (A) Taxpayer : Mr. Active, 54 years having total income of Rs.1,00,00,000.

Particulars	Amount (Rs.)
Tax on Rs.1,00,00,000	28,30,000
Add: Surcharge	Nil
Sub-total	28,30,000

Example : (B) Taxpayer: Mr. Passive, 55 years having total income of Rs.1,01,00,000.

Particulars	Amount (Rs.)
Tax on Rs.1,01,00,000	28,60,000
Add: Surcharge	2,86,000
Sub-total	31,46,000

Now, as compared to Example (A), in Example (B), income is increased by Rs. 1,00,000, while tax is increased by Rs.3,16,000, therefore, there is a need for marginal relief.

Under marginal relief, **tax liability of Rs. 1,01,00,000 is restricted as under**:-

Tax on 1,01,00,000 = Tax on 1,00,00,000 + (Total Income – Rs.1,00,00,000)
= Tax on 1,00,00,000+ (1,01,00,000-Rs.1,00,00,000)
= 28,30,000 + 1,00,000
= 29,30,000
The above tax is increased by education cess 3%

☺ EASY STEPS to compute Final tax liability when total income of Individual ranges between 1,00,00,000 to 1,05,00,000.

Step 1: Find out regular tax liability + Surcharge (Ignore education cess)

Step 2: Find out tax on 1,00,00,000 + (Total Income-1,00,00,000)

Step 3: Step 1 or Step 2 whichever is lower

Step 4: Add Education Cess (@3%)

Take it one more practice sum solved with the help of above steps

Mr. Jayesh having total income of Rs. 1,02,00,000, find out tax payable.

Step 1: Tax on 1,02,00,000 = Rs. 28,90,000
+ Surcharge (10%) = Rs. 2,89,000

Rs. 31,79,000
============

Step 2:- Tax on 1,00,00,000 + (1,02,00,000 – 1,00,00,000)
= Rs. 28,30,000 + Rs. 2,00,000
=Rs. 30,30,000

Step 3:- Step 1 or Step 2 whichever is lower i.e. Rs. 30,30,000

Step 4: Add education cess (3% of 30,30,000) Rs. 90,900

Rs. 31,20,900

2. Rebate [New Section 87A]-*[Effective from A.Y.2014-15]*

PRACTICAL

Mr. Mohan provides the following information for the previous year 2013-14.

	Particulars	**Amount Rs.**
(i)	Income under the head house property	1,90,000
(ii)	Long term capital gain	1,00,000
(iii)	Contribution to Public Provident Fund	30,000

Calculate tax liability of Mr. Mohan under following alternatives

(1) If he is resident.

(2) If he is non-resident.

Before, we go to the solution, lets comprehend amendment first.

The Finance Act, 2013 inserted new section 87A which reads as under:

(a) Section 87A has been inserted to provide a rebate from the tax payable (before education cess) by an individual who is resident in India, provided his total income **does not exceed Rs.5,00,000.**

(b) Such rebate shall be the amount of **income-tax payable** on the total income for any assessment year **or** an amount of **Rs. 2,000 whichever is less.**

SOLUTION

Computation of Total Income of Mr. Mohan

	Particulars	**Amount Rs.**
(1)	Income under the head house property	1,90,000
(2)	Long term capital gain	1,00,000
	Gross Total Income	2,90,000
	Less : Deduction u/s 80C	
	Contribution to PPF	(30,000)
	TOTAL INCOME	**2,60,000**

Computation of Tax Liability

Alternative (1):- If Mr. Mohan is resident

2,60,000

LTCG

LTCG = Rs.1,00,000
Less: Shifting Benefit = (Rs. 40,000) **(REFER NOTE 1)**
Taxable LTCG @20% = Rs. 60,000

Tax on LTCG =60,000 x 20%
=12,000

Balance Income

Balance Income = Rs.1,60,000
Add: Shifting Benefit = Rs. 40,000
Taxable @Slab Rate = Rs.2,00,000
Less: Exemption Limit = Rs.2,00,000
Taxable Slab Rate Income=Nil

Tax on Balance Income = Nil

Tax =Rs.12,000
Less: Rebate u/s 87A =Rs. 2,000 **(REFER NOTE 2)**
=Rs.10,000
Add: 3% Educess =Rs. 300
Taxable Payable = Rs.10,300

NOTES:

1. Generally Long Term Capital Gain should be taxed at 20% under section 112. However, if other incomes are less than exemption limit, then to that extent long term capital gain shall be shifted to other income and balance long term capital gain shall be taxed at 20%. **[This is called Shifting Benefit].**
2. Here total income doesn't exceed Rs.5,00,000 and Mr. Mohan being resident individual, therefore he can avail rebate under section 87A which shall be Rs. 12,000 or Rs.2,000 whichever is less.

Alternative (2):- If Mr. Mohan is non-resident

2,60,000

LTCG

LTCG = Rs.1,00,000
Less: Shifting Benefit = Not Available **(REFER NOTE 1)**
Taxable LTCG @20% = Rs. 1,00,000

Tax on LTCG =1,00,000 x 20%
=20,000

Balance Income

Balance Income = Rs.1,60,000
Add: Shifting Benefit = Rs. Nil
Taxable @Slab Rate = Rs.1,60,000
Less: Exemption Limit = Rs.1,60,000
Taxable Slab Rate Income=Nil

Tax on Balance Income = Nil

Tax =Rs.20,000
Less: Rebate u/s 87A =Not Applicable **(REFER NOTE 2)**
=Rs.20,000
Add: 3% Educess =Rs. 600
Taxable Payable = Rs.20,600

NOTES:

1. *Non-resident cannot avail shifting benefit.*
2. *Non-resident cannot avail rebate under section 87A.*

3. Practical Aspects of Section 10(10D)-Keyman Insurance Policy

PRACTICAL

Latest Infrastructure Limited took a keyman insurance policy on the life of its managing director. The details of which are as under:

(i)	Date of Policy	01.05.2003
(ii)	Date of Maturity	30.04.2013
(iii)	Actual sum assured	Rs. 52 crores
(iv)	Date of insurance premium payable every year	1st May
(v)	Annual insurance premium payable [from 2003 to 2010]	Rs. 6 crores
(vi)	Surrender Value as on 12.04.2010	Rs. 24.25 crore

Company assigned the policy in favour of the managing director by recovering the surrender value. After assignment, managing director paid the last instalment of insurance premium of Rs. 6 crores. On maturity, managing director received Rs.62 crores.

The contention of the managing director is that entire amount received from insurance company is exempt under section 10(10D) on the ground that the policy is not a keyman insurance policy. The argument is that in order to be called "keyman insurance policy", it must be a policy taken by one person on the life of another person connected with business of first person. But in his case, after assignment of policy, it becomes a personal policy and it is not now a policy taken by the one person on the life of another person.

Is contention made by managing director correct?

Before, we go to the solution, lets comprehend amendment first.

Generally, proceeds received on life insurance policy are exempt under section 10 (10 D). However, such exemption is not available in case of following life insurance policies:

(a) Keyman insurance policy
(b) Policy where premium paid or payable exceeds 10 % of sum assured
(c) Policy referred to in section 80DD

That means, amount received on keyman insurance policy will not be eligible for exemption.
Now, let's move to amended definition of term "Keyman Insurance policy" which reads as under:-

> *"For the purposes of this clause, "Keyman insurance policy" means a life insurance policy taken by a person on the life of another person who is or was the employee of the first-mentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person* ***[and includes such policy which has been assigned to a person, at any time during the term of the policy, with or without any consideration]". [Explanation 1 to section 10(10D)]***

Now, let's find out taxable gain on this policy in the hands of managing director.

SOLUTION

In the hands of managing director, insurance policy is a capital asset. Computation of capital gains is as under:

	Particulars	**Amount Rs.**
	Full value of consideration	62,00,00,000
Less:	Indexed cost of acquisition [Rs. 30.25 crore × $\frac{939}{711}$] {NOTE}	39,95,04,219
	Long Term Capital Gain	**13,79,95,781**

Considering amended definition, readers can understand that policy continues to be a keyman insurance policy even after assignment. Therefore, the contention raised by managing director is not tenable (acceptable). Proceeds received on keyman insurance policy is subject to income tax and it cannot be exempt under section 10(10D).

NOTE :-

Cost of acquisition of insurance policy in the hands of managing director

=Amount paid to company at the time of assignment of policy + Last premium paid

=Rs.24.25 crores + Rs. 6 crores

=Rs.30.25 crores

4. Practical Aspects of Section 10(23ED)-exemption of income of Investor Protection Fund set up by depositories

PRACTICAL

Compute taxable income of NSDL Investor Protection Fund from the following information:

Particulars	**Rs. (in crores)**
Contribution received from NSDL	18.50
Contribution received from public	1.05
Interest on securities	7.20
Fixed Deposit interest	1.30
Further, investor protection fund shared to NSDL (which was not taxed earlier)	1.00

Before, we go to the solution, lets comprehend amendment first.

Section 10(23ED) grants exemption to the investor protection fund set up by depository. As per this section:-

(1) Any contribution received by such investor protection fund from depository is completely exempt.

(2) Readers must take care that exemption is restricted to contributions received from depository and not to any other income like interest income or contribution received from others.

(3) Further, whenever in future such contribution (on which tax has not paid) is shared with depository, then it shall be liable to tax in the year in which it is so shared.

SOLUTION

Computation of Taxable Income of NSDL Investor Protection Fund

Particulars	**Rs. (in crores)**
Contribution from NSDL	Exempt
Contribution from public	1.05
Interest on securities	7.20
Fixed Deposit interest	1.30
Investor protection fund shared to NSDL (which was not taxed earlier)	1.00
Total Income	**10.55**

5. Section 10(23FB) [Effective from A.Y. 2013-14]

QUESTION 1

From the followings, identify the entity / entities which can claim exemption under section 10 (23FB) and thereafter mention the conditions subject to which exemption is granted?

(1) Social Venture Fund
(2) Venture Capital Fund
(3) Private equity Fund
(4) Hedge Fund
(5) Venture Capital Company

Before, we go to the answer, lets comprehend amendment first.

(a) The SEBI (Alternative Investment Funds) Regulations, 2012 [hereinafter referred to as AIF regulations] have replaced the SEBI (Venture Capital Fund) Regulations, 1996 [hereinafter referred to as VCF regulations] from May 21, 2012.

(b) As a result, following amendments were carried out by the Finance Act, 2013

(i) **VCCs/VCFs registered prior to 21st May 2012** under SEBI (VCF) **Regulations, 1996 (VCF regulations),** will continue to be eligible for "pass through status" under section 10(23FB) read with section 115U.

(ii) AIFs registered on or after 21st May, 2012 under AIF Regulations are:

Category	Sub-Categories	Tax status in the event AIF is registered on or after 21 May 2012
I.	(a) VCF, being trust & VCC	Would qualify for exemption under section 10(23FB).
	(b) SME Fund Social Venture Fund Infrastructure Fund	Will not qualify for exemption under section 10(23FB)
II.	Generally includes private equity and debt funds	
III.	Generally includes hedge funds	

ANSWER 1

Considering the above amendment, Venture Capital Fund (VCF) and Venture Capital Company (VCC) are eligible for exemption under section 10(23FB).

The above entities are eligible for exemption subject to the following conditions:

1. Shares of company/units of trust set up as an AIF are not listed on a recognized stock exchange.
2. Has invested not less than 2/3rd of its investible funds in unlisted equity shares/equity linked instruments of VCUs
3. Has not invested in associate VCUs.

QUESTION 2

Write a short note on Venture Capital Undertaking under SEBI (Alternate Investments Funds) Regulations, 2012.

ANSWER 2

Venture Capital Undertaking (VCU) as defined in clause (aa) of Regulation 2(1) of the AIF Regulations, 2012 means

A domestic company –

(i) which is not listed on a recognised stock exchange in India at the time of making investment; and

(ii) which is engaged in the business for providing services, production or manufacture of article or things and does not include following activities or sectors:
   (1) NBFCs i.e., non-banking financial companies;
   (2) gold financing;
   (3) activities not permitted under industrial policy of Government of India;
   (4) any other activity which may be specified by the Board in consultation with Government of India from time to time.

6. Section 10(48) [Effective from A.Y. 2014-15]

QUESTION

Scope of exemption under section 10(48) has been widened by Finance Act, 2013. Critically examine the correctness of this statement.

ANSWER

Eligible Assessee	*Nature of income*		*Conditions*
Foreign Company	*FOR A.Y. 2013-14* Income received **on account of sale of crude oil to any person in India**	*W.E.F A.Y. 2014-15 FOLLOWING CLAUSE IS INSERTED :* Income received on account of sale of crude oil, **any other goods or rendering of services as may be notified by Central Government in this behalf**	**Conditions:** (i) Recipient of income is a foreign company. (ii) Income is received in India in Indian currency. (iii) Receipt of such income in India by the foreign company is pursuant to an agreement/arrangement entered into by the Central Government or approved by the Central Government. (iv) The foreign company and the agreement/arrangement are notified by the Central Government in this behalf.**[Name of Notified company is:- National Iranian Oil Company]**

Considering the above amendment, it can be said that the statement is correct.

7. Section 10(49) [Effective from A.Y. 2013-14]

QUESTION

National Financial Holdings Company Ltd seeks your advice for taxability under Income Tax Act, 1961 in respect of following Assessment Years:-

1. A.Y. 2012-13
2. A.Y. 2013-14
3. A.Y. 2014-15
4. A.Y. 2015-16

Before, we go to the answer, lets comprehend amendment first.

Any income of the ***National Financial Holdings Company Limited***, being a company set up by the Central Government, of any previous year relevant to any assessment year commencing ***on or before the 1st day of April, 2014 is exempt.***

ANSWER

On the plain reading of above section, it shall be noted that any income of above mentioned company upto assessment year 2014-15 is exempt from tax.

Sr. No.	Assessment Year	Taxability
(1)	A.Y. 2012-13	Exempt
(2)	A.Y. 2013-14	Exempt
(3)	A.Y. 2014-15	Exempt
(4)	A.Y. 2015-16	Taxable

8. Section 32AC [Effective from A.Y.2014-15]

PRACTICAL 1

Find out the admissible investment allowance under section 32AC for P.Y.2013-14 and P.Y.2014-15 under following cases –

Company	Investment in new plant and machinery (Rs. in crores)		Total
	P.Y.2013-14	P.Y.2014-15	
Alpha Ltd.	85	05	90
Beta Ltd.	80	50	130
Delta Ltd.	105	20	125
Epsilon Ltd.	115	00	115
Theta Ltd.	0	112	112

Before, we go to the solution, lets comprehend amendment first.

Manufacturing companies investing more than Rs. 100 crore in new plant and machinery during the period from 1.4.2013 to 31.3.2015 are entitled to investment allowance@15% of actual cost subject to the following conditions

- The assessee is a ***company.***
- It is engaged in the business of ***manufacture or production*** of any article or thing.
- It has ***acquired and installed a "new asset"***.
- The new asset should be acquired and installed after ***March 31, 2013 but before April 1, 2015.***
- The aggregate amount of actual cost of such new asset should be ***more than Rs. 100 crore.***

Meaning of Terms "New Asset" used in above provision:-

"New asset" means any new plant or machinery (other than ship or aircraft) but does not include—

(i) any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;

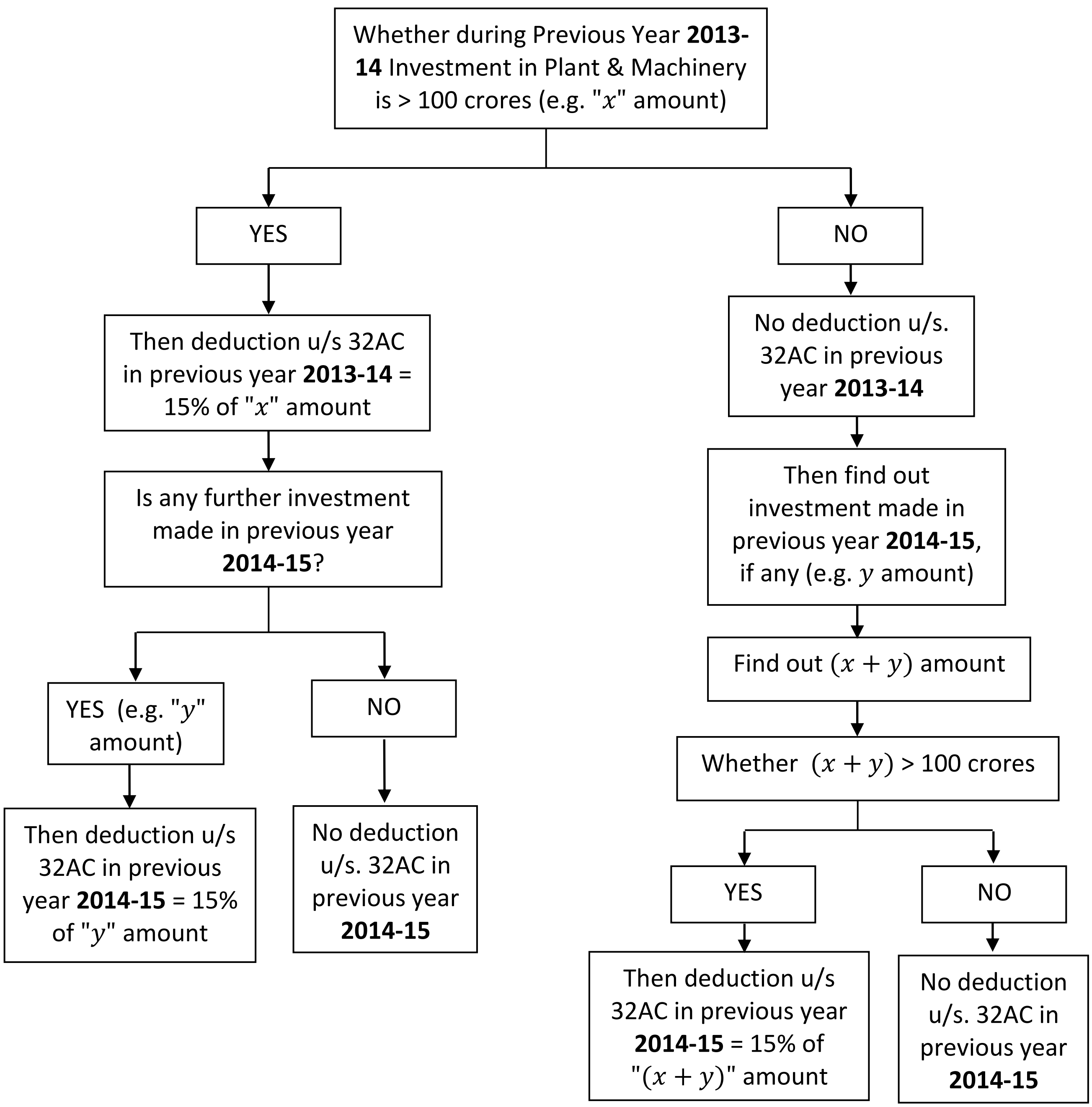
(ii) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(iii) any office appliances including computers or computer software;

(iv) any vehicle; or

(v) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.

<u>Deduction for Investment Allowance can be claimed for previous year 2013-14 and previous year 2014-15 only. Following chart highlights the methodology to compute investment allowance u/s 32AC.</u>



SOLUTION 1

Alpha Ltd

(a) Deduction for previous year 2013-14

- ✓ Investment during previous year 2013-14 does not exceed 100 crores, therefore Alpha Ltd. is not entitled for investment allowance for the previous year 2013-14.

(b) Deduction for previous year 2014-15

- ✓ The aggregate investment for the previous year 2013-14 and 2014-15 does not exceed 100 crores, therefore Alpha Ltd. is not entitled for investment allowance for the previous year 2014-15.

Beta Ltd.

(a) Deduction for previous year 2013-14

- ✓ Investment during previous year 2013-14 does not exceed 100 crores, therefore Beta Ltd. is not entitled for investment allowance for the previous year 2013-14.

(b) Deduction for previous year 2014-15

- ✓ The aggregate investment for the previous year 2013-14 and 2014-15 exceeds 100 crores, therefore Beta Ltd. is entitled for investment allowance of Rs. 19.50 crores i.e., 15% of 130 crores (80 crores + 50 crores) for the previous year 2014-15.

Delta Ltd.

(a) Deduction for previous year 2013-14

- ✓ Investment during previous year 2013-14 exceeds 100 crores, therefore Delta Ltd. is entitled for investment allowance of Rs.15.75 crores (i.e., 15% of 105 crores) for the previous year 2013-14.

(b) Deduction for previous year 2014-15

- ✓ Delta Ltd. is entitled for further investment allowance of Rs. 3.00 crores (i.e., 15% of 20 crores) for the previous year 2014-15.

Epsilon Ltd.

(a) Deduction for previous year 2013-14

- ✓ Investment during previous year 2013-14 exceeds 100 crores, therefore Epsilon Ltd. is entitled for investment allowance of Rs.17.25 crores (i.e., 15% of 115 crores) for the previous year 2013-14.

(b) Deduction for previous year 2014-15

- ✓ No investment is made in previous year 2014-15, therefore Epsilon Ltd. is not entitled for investment allowance for the previous year 2014-15.

Theta Ltd.

(a) Deduction for previous year 2013-14

- ✓ No investment is made in previous year 2013-14, therefore Theta Ltd. is not entitled for investment allowance for the previous year 2013-14.

(b) Deduction for previous year 2014-15

- ✓ The aggregate investment for the previous year 2013-14 and 2014-15 exceeds 100 crores, therefore Theta Ltd. is entitled for investment allowance of Rs. 16.80 crores i.e., 15% of 112 crores for the previous year 2014-15.

PRACTICAL 2

X Ltd, engaged in manufacture of goods, commenced operations during previous year 2013-14. It provides following information:

Sr. No.	Particulars	Amount (Rs. in crores)
(i)	Investment in new eligible plant and machinery on 1st July, 2013	200
(ii)	Investment in second hand plant and machinery on 1st August, 2013	10
(iii)	Depreciation rate applicable to block (in percentage)	15

You are required to calculate:-

(a) Written Down Value as on 1st April, 2014.

(b) Investment Allowance , if any

Before, we go to the solution, lets comprehend amendment first.

Investment allowance is in addition to depreciation (including additional depreciation).

Further, investment allowance shall not be reduced to arrive at written down value of plant and machinery block.

SOLUTION 2

(a) Calculation of Written Down Value as on 1st April, 2014.

Particulars	Amount (Rs. In crores)
Opening W.D.V as on 1st April 2013	Nil
Add: Purchase of New Plant & Machinery during the previous year 2013-14	200.00
Add: Second hand Plant & Machinery during the previous year 2013-14	10.00
W.D.V. for the previous year 2013-14	210.00
Less : Regular Depreciation [15% of 210 crores]	(31.50)
Less : Additional Depreciation [20% of 200 crores]{Refer Note1}	(40.00)
W.D.V as on 1st April 2014	**138.50**

Note 1: Additional depreciation is not available on second hand plant and machinery.

(b) Calculation of Investment Allowance u/s 32AC

- ✓ Investment Allowance is restricted for new plant and machinery and not available for second hand plant and machinery.
- ✓ Investment Allowance =200 crores x 15% =30 crores

Additional Points on 32AC

(1) Withdrawal of investment allowance –

- ✓ The new asset should not be sold or otherwise transferred within a period of 5 years from the date of its installation.
- ✓ If the new asset is sold or transferred within 5 years from its installation, the amount of investment allowance allowed to the assessee shall be deemed to be the income of assessee of the previous year in which such asset is sold or otherwise transferred. Such deemed income will be taxable under the head "Profit and gains of business or profession".
- ✓ Such deemed income shall be taxable in addition to taxability of capital gain which arises under section 45, read with section 50.

(2) Above restriction not to apply in case of amalgamation/demerger

- ✓ The above restriction will not apply in a case of amalgamation or demerger. In other words, if the undertaking of the assessee-company is amalgamated or demerged within 5 years from the date of installation of new asset, investment allowance allowed to the amalgamating company or demerged company will not be taken back.
- ✓ However, the amalgamated company or the resulting company should not transfer the new asset within 5 year (from its installation by the amalgamating company or demerged company). If it is sold or otherwise transferred within 5 years by the amalgamated company/resulting company, the notional income stated above will be taxable in the hands of amalgamated company or resulting company.

9. Section 36(1)(vii) & 36(viia) [Effective from A.Y.2014-15]

PRACTICAL

The following are the particulars in respect of Indian Bank

	Particulars	**Rs. in lakhs**
(i)	*Provision for bad and doubtful debts under section 36(1)(viia) as on 1st April 2013*	200
(ii)	*Gross Total Income of A.Y.2014-15 [before deduction under section 36(1)(viia)]*	1000
(iii)	*Aggregate average advances made by rural branches of the bank (assume that bank opened first time rural branches in previous year 2013-14).*	400
(iv)	*Bad debts written off (for the first time) in the books of account (in respect of urban advances only) during the previous year 2013-14*	350

Bank would like to claim deduction under **section 36(1)(vii) Rs. 75 lakhs**, computation of which is done as under:

In the books of Indian Bank

Provision for Bad-Doubtful Debts A/c [Rural Advances]

Dr. **Cr.**

Particulars	**Amount Rs. in lakhs**	**Particulars**	**Amount Rs. in lakhs**
To Balance c/f	40	By Balance b/f By Profit & Loss A/c [400 x 10%]	Nil 40
	40		**40**

Provision for Bad-Doubtful Debts A/c [Others Advances]

Dr. Cr.

Particulars	**Amount Rs. in lakhs**	**Particulars**	**Amount Rs. in lakhs**
To Debtors A/c	275	By Balance b/f By Profit & Loss A/c [1000 x 7.5%]	200 75
	275		**275**

Bad-Debts A/c

Dr. Cr.

Particulars	**Amount Rs. in lakhs**	**Particulars**	**Amount Rs. in lakhs**
To Debtors A/c [350-275]	75	**By Profit & Loss A/c [Section 36(1)(vii)**	75
	75		**75**

Whether claim made by bank is correct?

Before, we go to the solution, lets comprehend amendment first.

<u>Section 36(1)(viia):</u>Deduction for Provision for Bad and Doubtful Debts in case of Certain Assessees:

Assessee	**Amount of Deduction**	**Additional Deduction in case of Rural Branches**
Any Scheduled, Non- Scheduled or co-operative bank but other than a primary agriculture credit society or a primary co-operative agricultural and rural development bank(Except Foreign Bank)	Not exceeding 7.5% of its total income*	10% of aggregate average advances made by rural branches of Bank.
Any Foreign Bank	5% of its total income*	Not available
Public Financial Institution or State Financial Corporation or State Industrial Investment Corporation		Not available

***Total Income means total income before claiming deduction under this clause and Chapter VIA**

Notes:

(a) Further, any scheduled, non-scheduled, & a co-operative bank but other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank (other than a foreign bank), at its option, is allowed a further deduction of an amount not exceeding the income derived from redemption of securities in accordance with scheme framed by Government. However, this additional deduction can be claimed only if income from such securities has been offered for taxation under the head "Profits and Gains of Business or Profession".

(b) In the case of an assessee to which section 36(1)(*viia*) applies, the amount of the deduction relating to any bad debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account made under section 36(1) (viia) **<u>without making any distinction between rural advances and other advances (Inserted by FA 2013, w.e.f. A.Y. 2014-15)</u>**

Thus, as per this amendment, there should be only ***<u>one account in respect of provision for bad and doubtful debts</u>*** *without making any distinction between rural advances and other advances.*

SOLUTION

In the books of Indian Bank
Provision for Bad-Doubtful Debts A/c
[ONE/SINGLE ACCOUNT]

Dr. Cr.

Particulars	**Amount Rs. in lakhs**	**Particulars**	**Amount Rs. in lakhs**
		By Balance b/f	200
		By Profit & Loss A/c [1000 x 7.5%]	75
To Debtors A/c	315	By Profit & Loss A/c [400 x 10%]	40
	315		**315**

Bad-Debts A/c

Dr. Cr.

Particulars	**Amount Rs. in lakhs**	**Particulars**	**Amount Rs. in lakhs**
To Debtors A/c [350-315]	35	By Profit & Loss A/c	35
	35		**35**

10. Section 36(1)(xvi) [Effective from A.Y.2014-15]

Deduction for commodities transaction tax paid in respect of taxable commodities transactions

An amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Explanation— For the purposes of this clause, the expressions "commodities transaction tax" and "taxable commodities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013.

<u>Meaning of Certain Terms used in above provision:-</u>

a. "commodities transaction tax" means tax leviable on the taxable commodities transactions under the provisions of Chapter VII of Finance Act, 2013;
b. ‘taxable commodities transaction’ means a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised associations.
c. "commodity derivative" means—
   (i) a contract for delivery of goods which is not a ready delivery contract; or
   (ii) a contract for differences which derives its value from prices or indices of prices—
      (A) of such underlying goods; or
      (B) of related services and rights, such as warehousing and freight; or
      (C) with reference to weather and similar events and activities, having a bearing on the commodity sector;

11. Section 43(5) [Effective from A.Y.2014-15]

PRACTICAL

Taxpayer provides following information:

	Particulars	**Rs.**
(i)	Surplus from non-speculative business A (Mfg)	4,80,000
(ii)	Surplus from speculative business B	3,22,000
(iii)	Loss from trading in commodity derivatives	1,22,000
(iv)	Loss from business of buying and selling shares of other companies.(Delivery based trading)	2,22,000
(v)	Surplus from trading in stock derivatives	22,000

Find out Income under head PGBP under following two alternatives:
Alternative 1: Taxpayer is Mr. Surana
Alternative 2: Taxpayer is Surana EXIM private Limited

Before, we go to the solution, lets comprehend amendment first.

Trading in commodity derivatives not a speculative transaction [Section 43(5)]

Meaning : Speculative transaction means a transaction involving a contract for purchase and sale of commodities, including stocks and shares, <u>which is periodically or ultimately settled other than by actual delivery or transfer of commodities or scrips</u> [Section 43(5)].

Exceptions: [Proviso to Section 43(5)]

Following transactions are not regarded as speculative transactions

(a) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; [Must refer decision of AAR in case of Sopropha S.A (2004) (AAR – New Delhi) in judicial rulings]

(b) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations;

(c) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member;

(d) an eligible transaction in respect of trading in derivatives referred to in clause [(ac)] of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) carried out in a recognised stock exchange;

(e) <u>***an eligible transaction in respect of trading in commodity derivatives carried out in a recognised association.***</u>

SOLUTION

Alternative 1

Computation of Income under the head 'PGBP' of Mr. Surana

Particulars	**Amount Rs.**	**Amount Rs.**
<u>**Non-Speculative Income**</u>		
Surplus from non-speculative business A (Mfg)	4,80,000	
Loss from trading in commodity derivatives	(1,22,000)	
Loss from business of buying and selling shares of other companies. (Delivery based trading)	(2,22,000)	
Surplus from trading in stock derivatives	22,000	1,58,000
<u>**Speculative Income**</u>		
Surplus from speculative business B		3,22,000
Income under the head "PGBP"		**4,80,000**

Alternative 2

Computation of Income under the head 'PGBP' of Surana EXIM Private Limited

Particulars	Amount Rs.	Amount Rs.
Non-Speculative Income		
Surplus from non-speculative business A (Mfg)	4,80,000	
Loss from trading in commodity derivatives	(1,22,000)	
Surplus from trading in stock derivatives	22,000	3,80,000
Speculative Income		
Surplus from speculative business B	3,22,000	
Loss from business of buying and selling shares of other companies. (Delivery based trading) **[NOTE]**	(2,22,000)	1,00,000
Income under the head "PGBP"		**4,80,000**

NOTE: Explanation to section 73

Where any part (or whole) of the business of a company **consists in the purchase and sale of shares of other companies,** such company shall be deemed to be carrying on a speculation business to the extent to which the business consists of the purchase and sale of such shares.

12. Section 40(a)(iib) [Effective from A.Y.2014-15]

Disallowance of royalty, licence fee, service fee etc. levied exclusively on State Government Undertakings by the State Government [Section 40(a)(iib)]

New clause (iib) has been inserted in section 40(a) to provide that -

(1) any amount paid by way of royalty, licence fee, service fee, privilege fee, service charge, etc., which is levied exclusively on, or

(2) any amount appropriated, directly or indirectly, from a State Government undertaking, by the State Government (SG), shall not be allowed as deduction while computing the income of such undertakings under the head "Profits and gains of business or profession".

Meaning of Certain Terms:-

A State Government undertaking includes:

a. A corporation established by or under any Act of the State Government
b. A company in which more than 50% of the paid up equity share capital is held by the State Government
c. A company in which more than 50% of the paid up equity share capital is held singly or jointly by (a) or (b)
d. A company or corporation in which the State Government has the right to appoint the majority of directors or to control the management or policy decisions
e. An authority, a board or an institution or a body established or constituted by or under any Act of the State Government or owned or controlled by the State Government.

13. New Section 43CA[Effective from A.Y. 2014-15]

PRACTICAL

Rahul sold a building to Shweta, details of which are as under:

1. Date of entering into agreement: 1.8.2013.
2. Agreed consideration : Rs. 100 lakhs
3. Down payment of Rs. 5 lakhs was received by cheque on the date of agreement.
4. Stamp duty value of the building on the date of agreement was Rs. 135 lakhs.
5. On receipt of balance payment, registration of sale deed took place on 1.1.2014.
6. Stamp Duty value on the date of registration of sale deed was Rs. 145 lakhs.
7. Rahul has purchased this building for Rs. 65 Lakh on 12.07.2012.

Discuss tax implication in the hands of Rahul, if
Alternative 1: He is a property dealer.
Alternative 2: He is a Chartered Accountant.

Before, we go to the solution, lets comprehend amendment first.

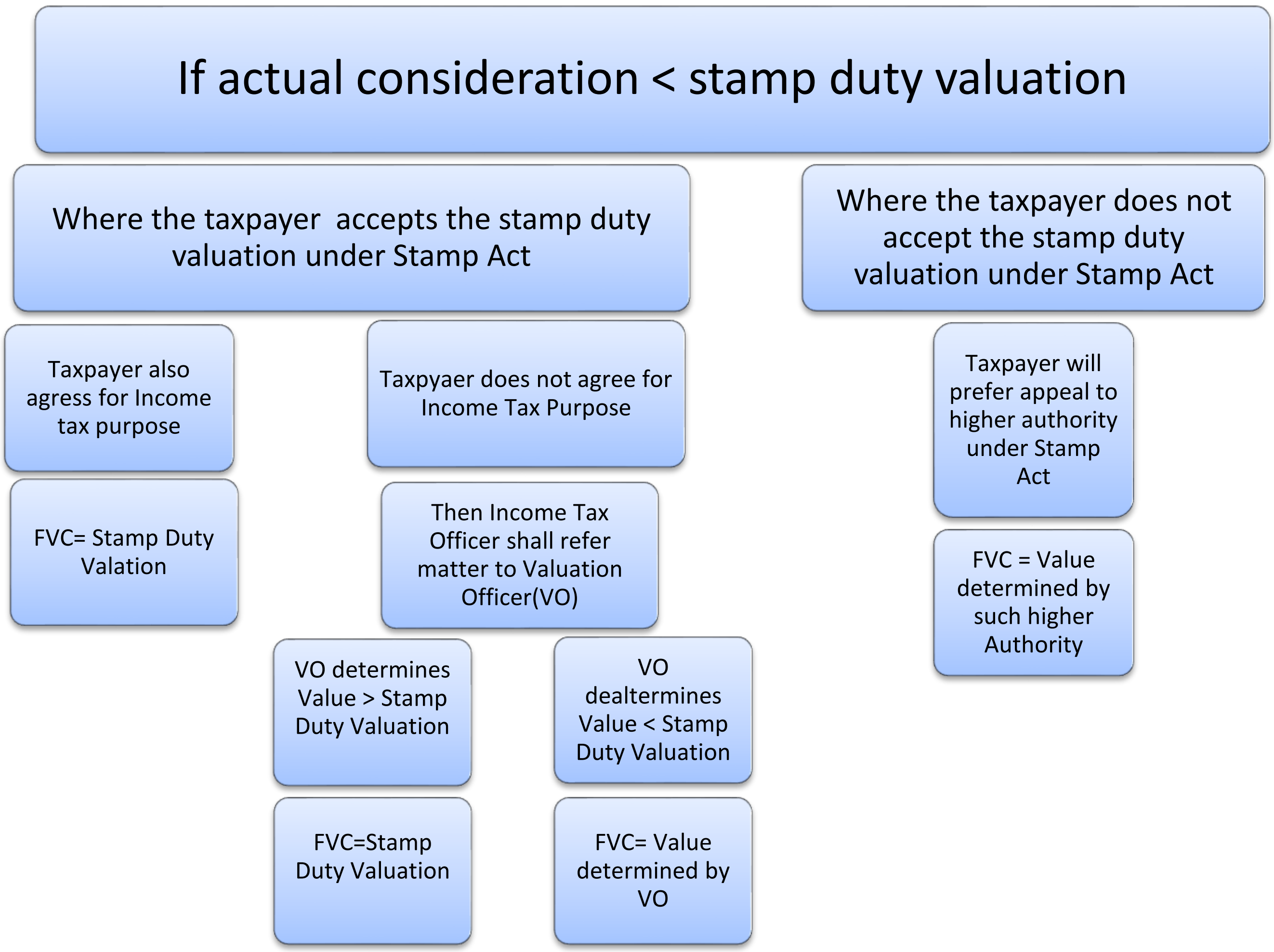
Stamp duty value of land and building to be taken as the full value of consideration in respect of transfer, even if the same are held by the transferor as stock-in-trade

(a) At present, the provisions of section 50C require adoption of stamp duty value of land or building or both, which are held as a capital asset, if the same are transferred for a consideration which is less than the value adopted, assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer.

(b) However, such provisions are not applicable in case of transfer of immovable property, held by the transferor as stock-in-trade.

(c) Therefore, as an anti-avoidance measure, new section 43CA has been inserted.

Students shall consider following summary of 43CA:



NOTE:

As per sub-section (3) and (4) of Section 43CA, if there is a time gap between date of agreement and date of registration, **the stamp duty value may be taken as on the date of agreement** instead of the date of registration. However, for the same, at least a part of the consideration has been paid by any mode other than cash on or before the date of agreement.

Now let's compare section 43CA and 50C

Particulars	Land and/or Building held as Business Asset (stock-in-trade)	Land and/or Building held as Capital Asset.
Section Applicable	43CA [See Chart above]	50C [See Chart above]
Whether option to adopt stamp duty value on date of agreement is available?	YES [See Note above]	NO

SOLUTION

Alternative 1: Rahul is a property dealer.

(1) Provision Applicable

- ✓ Section 43CA is applicable since building represents his stock-in-trade and
- ✓ Consideration charged is less than the stamp duty value on the date of registration.

(2) Computation of taxable business income

Particulars	**Amount Rs. in lakhs**	**Remarks**
Sale Consideration	135	As per Section 43CA(3)& (4), if there is a time gap between date of agreement and date of registration, **the stamp duty value may be taken as on the date of agreement** instead of the date of registration. However, for the same, at least a part of the consideration has been paid by any mode other than cash on or before the date of agreement.
Less: Purchase Price	65	-
Business Income	**70**	-

Alternative 2: Rahul is a Chartered Accountant.

(1) Provision Applicable

- ✓ Section 50C is applicable since building represents his capital asset and
- ✓ Consideration charged is less than the stamp duty value on the date of registration.

(2) Period of holding:

- ✓ Period of holding is from 12.07.2012 to 01.01.2014 (i.e., not exceeding 36 months)
- ✓ So the gain would be considered as short term capital gain.

(3) Computation of taxable capital gain

Particulars	**Amount Rs. in lakhs**	**Remarks**
Sale Consideration	145	Under Section 50C, option to adopt stamp duty value on the date of agreement is not available. Therefore stamp duty value on the date of registration is to be taken as sale consideration.
Less: Cost of Acquisition	65	-
Short Term Capital Gain	**80**	-

14. Section 56(2)(vii) [Effective from A.Y. 2014-15]

PRACTICAL

Discuss tax implication of above transactions in the hands of Shweta (being purchaser of property)

Before, we go to the solution, lets comprehend amendment first.

As per section 56(2)(vii)(b)

- ✓ *If immovable property received (purchased) by an individual or HUF for a consideration which is less than the stamp duty value of the property by an amount exceeding Rs.50,000.*
- ✓ *Then, the difference between stamp duty value and the consideration shall be taxed under the head "Income from Other Sources".*

Notes:

(1) As per proviso to section 56(2)(vii)(b), if there is a time gap between date of agreement and date of registration, **the stamp duty value may be taken as on the date of agreement** instead of the date of registration. However, for the same, at least a part of the consideration has been paid by any mode other than cash on or before the date of agreement. (W.e.f. A.Y. 2014-15)

SOLUTION

(1) Provision Applicable

- ✓ Section 56(2)(vii)(b)is applicable since Shweta received building (immovable property) being a capital asset, for inadequate consideration.

(2) Taxable Amountunder the head "Income from Other Sources".

Taxable Amount =Stamp Duty Value ***Less***Actual Consideration
= Rs.135 lakhs – Rs.100 lakhs
= Rs. 35 lakhs

(3) Further, Shweta shall deduct TDS under 194 IA (detailed provision are given below) at 1 % of consideration (Reader must note that 1% is not of stamp duty value, it is of consideration). Therefore, Shweta shall deduct TDS of Rs. 1,00,000/- while making payment to Rahul.

15. New Section 194-IA-[Effective from 01.06.2013]

Tax to be deducted from payment on transfer of certain immovable property other than agricultural land

(a) ***Who is liable to deduct tax at source under section 194-IA:-Any person being a transferee (purchaser)*** responsible for paying to a resident transferor (seller) any sum by way of consideration ***for transfer of any immovable property*** is liable to deduct tax at source under section 194-IA.

(b) ***Time of tax deduction:-*** Tax shall be deducted at the time of ***payment or*** at the time of giving ***credit*** to the transferor, ***whichever is earlier..***

(c) ***Tax rate:-*****1%**of consideration paid or payable.

(d) ***Limit:-***No tax is deductible where the consideration paid or payable for the transfer of an immovable property is less than **Rs.50,00,000**.

(e) ***Provisions of TAN not applicable:-***In order to deduct TDS, TAN is not required.

(f) ***This section is not applicable:-***
Provisions of 194 IA not applicable in following cases:-
- When person acquiring agricultural land in rural area.
- When there is a compulsory acquisition of immovable property, this section is not applicable but provisions of section 194LA are applicable.

(g) ***Time limit for deposit of TDS.***
Sum deducted under section 194-IA shall be paid to the credit of the CentralGovernment within a period of *seven days from the end of the month in which the deduction is made.*

(h) ***TDS Return***
Special challan-cum-statement in Form No. 26QB

(i) ***Time Limit for filing TDS Return***
Challan-cum-statement in Form No. 26QB shall be filed within a period of *seven days from the end of the month in which the deduction is made.*

(j) ***TDS Certificate***
TDS certificate in Form No. 16B

(k) ***Time Limit for issue of TDS Certificate***
A payer shall furnish theTDS certificate the payee within 15 days from the due date for furnishing the challan-cum-statement in Form No.26QB

16. DEDUCTIONS FROM GROSS TOTAL INCOME

PRACTICAL

Mr. Dilip, aged 62 years, earned the following income during the previous year 2013-14:

1. Professional income (computed) - Rs. 7,50,000
2. House Property income (computed) - Rs. 3,15,000
3. Saving Bank Interest from ICICI Bank - Rs. 16,500

Compute the total income of Mr. Dilip for the previous year 2013-14 considering following payments:

(i) Life insurance premium paid in cash amounting to Rs. 25,000 for the insurance of life of his minor son suffering from disability as referred to in section 80U. The insurance policy was taken on 15.07.2013 and the sum assured is Rs. 1,25,000.

(ii) Life insurance premium paid by cheque of Rs. 25,000 for insurance of his life. The insurance policy was taken on 08.09.2012 and the sum assured is Rs. 2,00,000.

(iii) Life insurance premium of Rs. 38,000 paid for the insurance of life of his major son who is not dependent on him. The sum assured on life of his son is Rs. 1,75,000 and the life insurance policy was taken on 18.04.2011.

(iv) Paid interest of Rs. 15,000 on loan taken from bank for MBA course pursued by his son.

(v) A sum of Rs. 9,000 donated in cash National Children's Fund.

(vi) Contribution of Rs. 9,500 made in cash to an electoral trust.

(vii) Premium of Rs. 16,000 paid by cheque for health insurance of self and his wife.

(viii) Rs. 1,500 paid in cash for his health check-up and Rs. 4,500 paid in cheque for health check-up for his parents.

(ix) Investment in equity shares of Rs.54,000 in Rajiv Gandhi Equity Scheme.

Before, we go to the solution, lets comprehend amendment first.

A. Section 80C & 10(10D) [Effective from A.Y. 2014-15]

Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.

(a) Under section 80C, deduction for insurance Premium *cannot exceed the maximum ceiling given below-*

In respect of policies issued	*Where the insurance is on the life of a person with disability or severe disability as referred to in section 80U or a person suffering from disease or ailment as specified under section 80DDB.*	*Where the insurance is on the life of any other person*
*Between **1.4.2003** and **31.3.2012***	*20% of sum assured**	*20% of sum assured**
*On or after **1.4.2012** but before **1.4.2013***	*10% of sum assured**	*10% of sum assured**
*On or after **1.4.2013***	*15% of sum assured**	*10% of sum assured**

**Sum assured means minimum amount assured under the policy without including any premium agreed to be returned and/or any benefit by way of bonus.*

(b) ***Similar amendment has been carried out in section 10(10D) not to grant exemption in case of Life Insurance Policy if insurance premium exceeds maximum ceiling given above.***

B. Section 80CCG[Effective from A.Y. 2014-15]

Deduction under section 80CCG to be available for three consecutive years <u>to a resident individual,</u> being a new retail investor having gross total income upto Rs.12 lakh, for investment in listed equity shares as well listed units of equity oriented fund as per notified scheme

(a) The conditions under section 80CCG for claiming deduction from A.Y.2014-15 are –

(1) The gross total income of the assessee for the relevant assessment year should be less than or equal to Rs.12 lakh.

(2) The assessee should be a new retail investor as per the requirement specified under the notified scheme.

(3) The investment should be in such listed equity shares or listed units of equity-oriented fund specified under the notified scheme.

(4) The minimum lock-in period in respect of such investment should be three years from the date of acquisition.

(5) Any other condition as may be prescribed.

(b) The deduction shall be allowed for three consecutive assessment years, beginning with the assessment year relevant to the previous year in which the listed equity shares or listed units of equity oriented fund were first acquired.

(c) The deduction is 50% of amount invested in listed equity shares or listed units of equity-oriented fund or Rs. 25,000, whichever is lower.

(d) If the resident individual, after having claimed such deduction, fails to comply with any of the conditions in any previous year, then, the deduction earlier allowed shall be deemed to be the income of the previous year in which he fails to comply with the condition.

C. Section 80D [Effective from A.Y. 2014-15]

Deduction under section 80D to be available in respect of contribution to CGHS and such other schemes within the overall limit specified thereunder

Deduction for expenditure on preventive health check-up is eligible for deduction under section 80D

Amended provisions of section 80D-The amended provisions of section 80D are given below—

	Individual		HUF
	Family	**Parents**	
• **For whose benefits payment can be made**	For the benefit of the assessee, spouse of the assessee and dependent children of the assessee	For the benefit of the parents of the assessee whether dependent or not	For the benefit of any member of family
• **Nature of payment**			
a. Medi-claim insurance premium	Eligible for deduction	Eligible for deduction	Eligible for deduction
b. Contribution made to Central Government Health Scheme ***or (From A.Y. 2014-15) such other scheme as may be notified by the Central Government in this behalf***	Eligible for deduction	NA	NA
c. Payment made on account of preventive health check-up **(applicable from the assessment year 2013-14 onwards)**	Eligible for deduction	Eligible for deduction	NA
• **Maximum amount of deduction**			
- **General deduction** [applicable in respect of (a), (b) and (c) given above]	Rs.15,000	Rs.15,000	Rs.15,000
- **Additional deduction** (applicable only in the case of medi-claim insurance premium when policy is taken on the life of a senior citizen)	Rs.5,000	Rs.5,000	Rs.5,000

Notes:

(i) **Payment on account of preventive health check-up of self, spouse, dependent children and parents shall not exceed Rs.5,000.**

(ii) **Payment should be made by any mode other than cash. However, payment on account of preventive health check-up can be made by any mode (including cash).**

D. Section 80G [Effective from A.Y. 2014-15]

Donation to National Children's Fund to qualify for 100% deduction

(i) Upto A.Y.2013-14, deduction was allowed at the rate of 50% in respect of donations made to the National Children's Fund.

(ii) Section 80G has been amended to allow a 100% deduction with effect from A.Y.2014-15.

E. Section 80GGB & 80GGC- [Effective from A.Y. 2014-15]

Cash donations to political parties and electoral trusts not to qualify for deduction

(i) As per section 80GGB, deduction is allowable in respect of contributions given by an Indian company to any political party or an electoral trust.

(ii) Likewise, under section 80GGC, deduction is allowable in respect of contributions made by any person, except local authority and every artificial juridical person wholly or partly funded by the Government, to any political party or electoral trust.

(iii) A proviso has been inserted in both these sections that ***"no deduction shall be allowed in respect of any sum contributed by way of cash."***

Handful summary:

In order to claim deduction under following sections, readers must consider following:-

Section No.	**Particulars**	**Payment mode**
80C	Life Insurance Premium, PPF, NSC etc	Any mode including cash
80D	Mediclaim Insurance Premium	Any mode other than cash
	Preventive Health Check Up	Any mode including Cash
80G	Donation	-Payment upto Rs. 10,000 then any mode including cash -If it exceeds Rs .10,000 then any mode other than cash
80 GGA	Donation to Scientific / Statistical / social research institutions etc.	-Payment upto Rs. 10,000 then any mode including cash -If it exceeds Rs .10,000 then any mode other than cash
80GGB / GGC	Contribution to Political Party / Electoral Trust	Any mode other than cash

SOLUTION

Computation of total income of Mr. Dilip for the Previous Year 2013-14

Particulars	**Rs.**	**Rs.**	**Rs.**
Professional Income (computed)			7,50,000
House Property Income (Computed)			3,15,000
Interest on saving bank deposit			16,500
Gross Total Income			**10,81,500**
***Less:* Deduction under Chapter VIA**			
Under section 80C			
Life insurance premium paid for life insurance of:			
- Son suffering from 80U restricted to 15% of Rs. 1,25,000	18,750		
- Self Rs.22,500 restricted to 10% of Rs. 2,00,000	20,000		
- major son Rs.38,000 restricted to 20% of Rs. 1,75,000	35,000	73,750	
Under 80CCG			
Investment in Rajiv Gandhi Equity Scheme: Here, GTI does not exceed Rs. 12 lacs, therefore, deduction is 50% of investment or Rs.25,000 whichever is lower		25,000	
Under section 80D			
Premium paid for health insurance of self and wife by cheque (Limit available upto Rs. 20,000 because Mr. Dilip is senior citizen)	16,000		
Payment made for health check-up:			
- self Rs. 1,500			
- His parents Rs. 4,500			
Rs. 6,000 restricted to	5,000	21,000	
Under section 80E			
For payment of interest on loan taken from bank for MBA course of his son		15,000	
Under section 80G			
Contribution to National Children's Fund (100% Deduction)[Donation in cash is allowed upto Rs.10,000]		9,000	
Under section 80GGC			
Contribution to electoral trust (Not deductible because it is made by cash)		Nil	
Under section 80TTA			
Interest on savings bank account Rs. 16,500 restricted to		10,000	1,53,750
Total Income			**9,27,750**

17. New Section 80EE [Effective from A.Y. 2014-15]

PRACTICAL

Mr. Arvind provides following information for the previous year 2014-15.

(i) He purchased residential house property for Rs. 38,00,000.
(ii) For this purpose, he arranged finance from HDFC Rs. 23,50,000 @ 10.50 % p.a.
(iii) Date on which loan sanctioned by HDFC : 01.06.2013
(iv) Date on which sale deed was executed : 01.07.2013
(v) House property was self-occupied throughout the previous year.
(vi) He does not own any other house property on the date of sanction of the loan.

Advise Mr. Arvind for deductibility of interest for the previous year 2014-15 and 2015-16 assuming that only interest is served for both the financial years.

Before, we go to the solution, lets comprehend amendment first.

Section 80EE

(a) Conditions:

1.	The taxpayer is an individual.
2.	He has taken a loan from Financial Institution.
3.	The loan has been sanctioned by the financial institution during previous year 2013-14.
4.	The amount of loan sanctioned for acquisition of the residential house property does not exceed Rs.25 lakhs.
5.	The value of the residential house property does not exceed Rs.40 lakhs.
6.	The taxpayer does not own any residential house property on the date of sanction of the loan.

(b) Amount of deduction:

(i) If the above conditions are satisfied, interest payable for the previous year 2013-14 on the aforesaid loan shall be deductible under section 80EE upto maximum of Rs.1 lakh.

(ii) In a case where the **interest payable in previous year 2013-14 is less than Rs. 1 lakh**, then balance deduction shall be allowed under 80EE in the previous year 2014-15. **(Student must note that language is " interest payable for the previous year is less than Rs. 1 lakh"** ***and not the "deduction claimed under section 80EE is less than 1 lakh")***

(iii) Further, where a deduction under this section is allowed for any assessment year, in respect of interest on housing loan, deduction shall not be allowed in respect of such interest under any other provision of the Income-tax Act, 1961, for the same or any other assessment year.

(c) Meaning of Certain Terms used in above provision:-

a. "financial institution" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies including any bank or banking institution referred to in section 51 of that Act or **a housing finance company;**

b. "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

SOLUTION

Deduction Available for P.Y. 2013-14

TOTAL INTEREST ON LOAN
=RS.2,05, 625

$$\left\{ \left(23{,}50{,}000 \times \frac{10.50}{100} \times \frac{10\ months}{12\ months}\right) \right\}$$

Deduction u/s
24(b)

RS.1,50,000 (Max limit for S.O. Property)

Deduction u/s
80EE (BAL. FIG)

RS.55,625

Deduction Available for P.Y. 2014-15

TOTAL INTEREST ON LOAN
=RS.2,46,750

$$\left\{ \left(23{,}50{,}000 \times \frac{10.5}{100}\right) \right\}$$

Deduction u/s
24(b)

RS.1,50,000 (Max limit for S.O. Property)

Deduction u/s
80EE

RS. Nil (See Note)

Note: Here, reader shall note that **interest payable** for the previous year 2013-14 was Rs.2,05,625 (which **is more than 1 lac**) and therefore, no further deduction is allowed under 80EE during previous year 2014-15.

Thus, Readers must note that examples on section 80EE available in various publications including ICAI student supplementary do not represent correct interpretation of law.

18. Section 80-IA(4)(iv)-[Effective from A.Y. 2014-15]

Extension of sunset clause for power sector undertakings

In order to avail deduction under section 80 IA, the relevant undertaking has to commence the eligible activity during prescribed time limit. **This time limit has been extended by one year i.e., from 31st March, 2013 to 31st March, 2014** in case of following activities for which deduction is available under section 80IA(4) (i) :-

(a) Generation or generation and distribution of power
(b) New transmission or distribution lines
(c) Substantial renovation and modernization of existing network of transmission or distribution lines.

19. Section 80JJAA-[Effective from A.Y. 2014-15]

Conditions for claiming special deduction in respect of additional wages paid to new regular workman under section 80JJAA has been modified. Comparative Chart is given for academic understanding.

(a) Conditions - The following conditions should be satisfied to avail deduction under section 80JJAA—

Conditions	**Earlier Provisions**	**Amended Provisions**
Condition 1	The taxpayer is an Indian company.	The taxpayer is an Indian company.
Condition 2	Gross total income of the taxpayer includes any profits and gains derived from any industrial undertaking engaged in the manufacture or production of article or thing.	***Gross total Income of the taxpayer includes any profits and gains derived from the manufacture of goods in a factory.***
Condition 3	No deduction shall be allowed if industrial undertaking is formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking.	***No deduction shall be allowed if the factory is hived off or transferred from another existing entity or acquired by the assessee company as a result of amalgamation with another company.***
Condition 4	The assessee furnishes along with the return of income the report of a chartered accountant in Form No. 10DA.	The assessee furnishes along with the return of income the report of a chartered accountant in Form No. 10DA.

(b) Amount of deduction - The amount of deduction is equal to 30 per cent of "additional wages" paid to the new "regular workmen" employed by the assessee in the previous year. **The deduction is available for three assessment years** including the assessment year relevant for the previous year in which such employment is provided.

(c) Meaning of Factory
"Factory" shall have the same meaning as assigned to it in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948).

20. Capital Asset-Section 2(14)[Effective from A.Y. 2014-15]

Modification in parameters defining scope of land falling outside the ambit of "Agricultural land" and consequently, within the definition of "Capital Asset"

(a) Section 2(14) defines capital asset which excludes agricultural land in India.

(b) Agricultural land means the land falling ***outside*** urban area

(c) **Meaning of Urban area**

(1) Urban area means any area which is situated within the jurisdiction of a municipality or cantonment board having a population of 10,000 or more.

(2) Urban area also includes an area which is situated outside the local limits of such municipality/cantonment board but within distance given below –

Population of municipality / cantonment board	Distance measured aerially
More than 10,000 but not exceeding 1 lakh	2 kilometers
More than 1 lakh but not exceeding 10 lakh	6 kilometers
More than 10 lakhs	8 kilometers

(3) For the above purpose, "population" means the population according to the last preceding census of which the relevant figures have been published before the date of valuation.

Related amendment in section 2(1A) defining Agricultural income

As per clause (c) of section 2(1A), income derived from any building which is on or in the immediate vicinity of land in India, used for agricultural purposes, and is occupied as a dwelling house, store house or other outbuilding by -

(a) the receiver of rent or revenue of any such land or

(b) the cultivator or receiver of rent-in-kind

shall be regarded as agricultural income provided,

(a) the land on which such building is situated is assessed to land revenue in India or subject to a local rate, or

(b) if not so assessed or subject to local rate, the land is not situated within **urban area**.

For the purpose this section, "Urban area" has the same meaning as discussed above.

21. Section 139(9)-Effective from 01.06.2013]

QUESTION

X Ltd. filed return without payment of self-assessment tax. Discuss tax consequences under different provisions of the Income Tax Act, 1961.

Before, we go to the solution, lets comprehend amendment first.

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

It is observed by Income Tax Department that few assessees submit their income tax returns without payment of self-assessment tax.
Therefore, clause (aa) has been inserted in the Explanation to section 139(9) to provide that the return of income shall be regarded as defective unless the tax together with interest, if any, payable in accordance with the provisions of section 140A has been paid on or before the date of furnishing of the return.

ANSWER

(i) As per section 140A, assesse is treated as "assesse deemed to be in default".
(ii) Therefore, he may attract penalty under section 221.
(iii) As per amendment in section 139(9), return filed by him may be treated as defective.

22. New Section 194-LD-[Effective from 01.06.2013]

Concessional rate of TDS in respect of interest from Government securities or rupee-denominated bonds of an Indian company payable to a Foreign Institutional Investor (FII) or a Qualified Foreign Investor (QFI)

(a) ***Section 194LD(1):-*** ***Any person*** who is responsible for paying ***toa personbeing a Foreign Institutional Investor or a Qualified Foreign Investor***, any ***income by way of interest*** referred to in sub-section (2), shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ***five per cent***[+SC+EC+SHEC].

(b) ***Section 194LD(2):-***The income by way of interest referred to in sub-section (1) shall be the interest payable on or after the 1st day of June, 2013 but before the 1st day of June, 2015 in respect of investment made by the payee in—
(i) a rupee denominated bond of an Indian company ; or
(ii) a Government security:

Provided that the rate of interest in respect of bond referred to in clause (i) shall not exceed the rate as may be notified by the Central Government in this behalf.

23. Section 194LC & 206AA-[Effective from 01.06.2013]

PRACTICAL

Mention the section no. under which TDS to be made and the rate of TDS.

(i) Interest paid to FII in respect of rupee denominated bond of an Indian company

(ii) Interest paid to FII in respect of debenture of an Indian company

(iii) Payment to FII resulting into Long term capital gain on transfer of security

(iv) Payment to FII resulting into Short term capital gain on transfer of security

(v) Interest paid to non-resident by infrastructure debt fund referred to in section 10(47) (Non-resident does not have PAN)

(vi) Interest paid to non-resident on long term infrastructure bond issued by an Indian company (Non-resident does not have PAN)

Before, we go to the solution, lets comprehend amendment first.

W.E.F. 1-6-2013

The provisions of section 206AA (quoting PAN) shall not apply in respect of payment of interest, on long-term infrastructure bonds, as referred to in section 194LC, to a non-resident, not being a company, or to a foreign company.

Before going through solution, students are advised to read following sections in detail:

1. Section 194 LB
2. Section 194 LC
3. Section 194 LD
4. Section 206AA
5. Section 196D

SOLUTION

Sr. No.	Particulars	Section No.	TDS Rate
(i)	Interest paid to FII in respect of rupee denominated bond of an Indian company	194LD	5%
(ii)	Interest paid to FII in respect of debenture of an Indian company	196D(1)	20%
(iii)	Payment to FII resulting into Long term capital gain on transfer of security	196D(2)	Nil
(iv)	Payment to FII resulting into Short term capital gain on transfer of security	196D(2)	Nil
(v)	Interest paid to non-resident by infrastructure debt fund referred to in section 10(47) (Non-resident does not have PAN)	206AA	20%
(vi)	Interest paid to non-resident on long term infrastructure bond issued by an Indian company (Non-resident does not have PAN)	194LC	5%

24. Miscellaneous Provisions

In the Income-tax Act, for the expression “Foreign Exchange Regulation Act, 1973” wherever it occurs, the expression “Foreign Exchange Management Act, 1999” shall be substituted.

APPLICABLE FOR CA FINAL

25. Section 115A-[Effective from A.Y. 2014-15]

PRACTICAL

Raj Inc., USA, entered into an agreement to provide technical services to Bhambani Ltd, Indian company. This agreement was approved by Central Government.

During concerned previous year, Raj Inc. estimates following:-

Receipts :- 50 Lakhs

Expenditure: - 20 Lakhs

Head Office Expenditure : -Rs. 5 Lakhs.

It seeks your advice, whether to open permanent establishment in India or not?

Before, we go to the solution, lets comprehend amendment first.

Section 115 A (1) (b)

(a) **Royalties and fees for technical services under an agreement made on or after 1st April, 1976 are governed by this section.**

(b) **Up to 31-03-2003, this section was applicable to only foreign company.**

(c) **W.e.f. 01-04-03, this section is applicable to every non-resident including foreign company provided assessee is not covered by section 44DA. (that means there is no permanent establishment in India)**

(d) **This section is applicable if:-**

i. *the agreement is with the Government of India; or*

ii. *the agreement is with Indian concern and approved by the Central Government; or*

iii. *the agreement relates to a matter included in the industrial policy; or*

iv. *the agreement relates to consideration for transfer of all or any rights in respect of copyright in any book on a subject referred to in the proviso to section 115 A(1A) to the Indian concern or in respect of computer software referred to in second proviso to section 115 A(1A) to a person resident in India.*

(e) **Once income is covered by this section, the assessee is not entitled to claim any deduction under the head "PGBP" or "IFOS". However, assessee can claim deduction under section 80 C to 80 U.**

(f) **Rate of tax applicable :-**

	Date of agreement	Tax Rates applicable upto A.Y. 2013-14	**Tax Rates applicable w.e.f. A.Y. 2014-15**
(i)	After 31.3.1976 but on or before 31.5.1997	30%	**25%**
(ii)	After 31.5.1997 but on or before 31.5.2005	20%	**25%**
(iii)	On or after 1.6.2005	10%	**25%**

(g) Further, section 90 (2) provides that if there is a Double Tax Avoidance Agreement (DTAA) with any other country then the provisions of DTAA or provisions of Income Tax Act whichever are more beneficial to assessee shall be applied. Therefore, if DTAA with a particular country provides tax rate of 15% then tax shall be calculated at the rate of 15% and not at the rate of 25%.

Section 44DA

Conditions:-

(a) The taxpayer is a foreign company or non-resident non-corporate-assessee who carries on a business through a permanent establishment situated in India.

(b) The taxpayer is in receipt of income by way of royalty or fees for technical services.

(c) The aforesaid royalty or technical fees is received from Government or an Indian concern in pursuance of an agreement made by the taxpayer with the Government or the Indian concern after March 31, 2003.

(d) The right, property or contract in respect of which the royalties or fees for technical services are earned shall be **effectively connected with permanent establishment.**

CONSEQUENCES:–

If above conditions is satisfied then, non-resident assesseee is entitled to claim following additional deduction by virtue of Section 44DA.

(a) Deduction will be allowed in respect of any expenditure or allowance, which is wholly and exclusively incurred for the business of permanent establishment in India.

(b) Deduction will be allowed in respect of amounts, if any, paid by the permanent establishment to its head office or to any of its other offices.

Further conditions to be observed by the assessee:-

- The taxpayer shall keep and maintain books of account in accordance with the provisions contained in section 44AA.
- The books of account should be audited by a chartered accountant and the audit report should be submitted along with the return of income.

SOLUTION

Computation if there is a Permanent Establishment in India	Computation if there is no Permanent Establishment in India
1) Section 44DA Applicable	1) Section 115A (1) (b) applicable
2) While determining total income deduction for expenses incurred is available under the head PBGP	2) While determining total income deduction for expenses incurred is not available under the head PBGP
3) Total Income = Rs. 50 Lakhs – 25lakhs – 5 Lakhs) = Rs. 25 Lakh	3) Total Income = Rs. 50 lakh

4) Tax Rate applicable -40% being foreign company	4) Tax Rate applicable-25% as per section 115A(1)(b)
5) Tax liability =40% of Rs.25 Lakhs+ 3% Education Cess on tax =Rs.10 Lakhs + Rs. 0.30 lakhs =Rs.10.30 Lakhs	5) Tax Liability =25% of Rs. 50 Lakhs + 3% Education Cess on Tax =Rs. 12.50 Lakhs + Rs. 0.375 Lakhs = Rs. 12.875 Lakhs

In order to reduce tax burden in India, Raj. Inc. USA is advised to open permanent establishment in India.

26. Section 15BBD-[Effective from A.Y. 2014-15]

PRACTICAL 1

From the following information, compute tax liability of Reliance Fruit-Vegetable Ltd. Ignore MAT effect and assume that there are no other incomes for the concerned previous year.

Dividend income from Equity investment (Gross)	***Dividend received from***	***% of shareholding***	***Expenditure for realizing dividend***
Rs. 1,80,000	*Reliance US INC, foreign company*	*26% of nominal value of equity share capital*	*Rs. 5,000*
Rs. 52,000	*Reliance UK Ltd., Foreign company*	*24 % of nominal value of equity share capital*	*Rs.2,000*
Rs.55,000	*Reliance Telecom Ltd, Indian Company*	*30% of nominal value of equity share capital*	*Rs. 200*

PRACTICAL 2

What would have been your answer if Reliance Fruit-Vegetable Ltd. has **further** received following dividend?

Dividend income from Preference share investment (Gross)	***Dividend received from***	***% of shareholding***	***Expenditure for realizing dividend***
Rs. 2,80,000	*Reliance US INC, foreign company*	*72% of nominal value of preference share share capital*	*Rs. 15,000*
Rs. 1,52,000	*Reliance UK Ltd., Foreign company*	*80 % of nominal value of preference share capital*	*Rs.12,000*
Rs.1,55,000	*Reliance Telecom Ltd, Indian Company*	*100% of nominal value of preference share capital*	*Rs. 1,200*

Before, we go to the solution, lets comprehend amendment first.

Dividends received by Indian companies from specified foreign companies to be entitled to concessional rate of tax for one more year

(i) Dividends received by Indian companies from specified foreign companies are subject to a concessional tax rate of 15% on gross dividend as against the normal tax rate of 30% on net dividend. This amendment was effected by the Finance Act, 2011 to be applicable for A.Y.2012-13.

(ii) The benefit of this concessional rate of 15% on gross dividend received by an Indian company from a specified foreign company **has been extended for A.Y.2013-14 also. Further, it has been extended for A.Y. 2014-15 also**.

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

(i) **Dividends received by Indian companies from specified foreign companies** to be subject to a concessional **rate of 15%.**

(ii) This **concessional rate of 15%**shall be available **subject to the condition that no expenditure would be allowable** in respect of such dividend income.

(iii) For the purpose of this section

a. **"dividends" shall have the same meaning as is given to "dividend" in clause (*22*)of section 2 but shall not include sub-clause (*e*)thereof;**

b. **"specified foreign company" means a foreign company in which the Indian company holds twenty-six per cent or more in nominal value of the equity share capital of the company**.

SOLUTION 1

Dividend received from-	***% of Holding in Equity Share Capital of the company***	***Whether Specified foreign company?***	***Whether Section 115BBD is applicable?***	***Tax Rate Applicable***	***Dividend income from Equity investment (Gross)***	***Expenditure for realizing dividend***	***Net Income***	***Tax liability***
Reliance US INC, foreign company	*26%*	*Yes*	*Yes*	*15%*	*Rs.1,80,000*	*As per section 115BBD, no deduction is allowed*	***1,80,000***	***27,000***
Reliance UK Ltd., Foreign company	*24%*	*No*	*No*	*30%*	*Rs. 52,000*	*Deduction is available u/s Section 57(i) of Rs.2,000*	***50,000***	***15,000***
Reliance Telecom Ltd, Indian Company	*30%*	*No*	*No*	*Exempt u/s 10(34)*	*Exempt*	*Deduction not allowed because income is exempt u/s 10(34)*	***Exempt***	***NIL***
TOTAL								***42,000***
Add: 3% Education Cess								***1260***
Tax Liability								***43,260***

SOLUTION 2

Before you read solution, must understand followings:

(a) For application of section 115 BBD, dividend has to be received from specified foreign company and for deciding whether foreign company is a specified foreign company or not, one has to look at 26% Equity Investment (and not the Preference Investment). Therefore, data relating to preference investment shall be ignored for solving second sum.

(b) Further, once dividend is received from specified foreign company, the provisions of section 115BBD is applicable in respect of all dividends (whether from equity or preference) except dividend covered by section 2 (22) (e).

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Dividend received from-	***% of Holding in Equity Share Capital of the company***	***Whether Specified foreign company?***	***Whether Section 115BBD is applicable?***	***Tax Rate Applicable***	***Dividend income from Preference Shares (Gross)***	***Expenditure for realizing dividend***	***Net Income***	***Tax liability***
Reliance US INC, foreign company	*26%*	*Yes*	*Yes*	*15%*	*Rs.1,80,000*	*As per section 115BBD no deduction is allowed*	***2,80,000***	***42,000***
Reliance UK Ltd., Foreign company	*24%*	*No*	*No*	*30%*	*Rs. 1,52,000*	*Deduction is available u/s Section 57(i) of Rs.12,000*	***1,40,000***	***42,000***
Reliance Telecom Ltd, Indian Company	*30%*	*No*	*No*	*Exempt u/s 10(34)*	*Exempt*	*Deduction not allowed because income is exempt u/s 10(34)*	***Exempt***	***Nil***
TOTAL								***84,000***
Add: 3% Education Cess								***2520***
Tax Liability								***86,520***

27. Section 115-O-[Effective from 1.6.2013]

PRACTICAL 1

A Ltd. holds 60% share capital of B Ltd. On 10th August, 2013, B Ltd. declared dividend of Rs.5,00,000 on which B Ltd. had paid corporate dividend tax. On 1st October, 2013, A Ltd. wants to declare dividend of Rs.12,00,000. Find out corporate dividend tax payable by A Ltd.

PRACTICAL 2

A Ltd. holds 60% equity of B Ltd. B Ltd. holds 70% equity of C Ltd. On 1st April 2013, C Ltd. declared dividend Rs.2,00,000. On 1st June, 2013, B Ltd. declared dividend of Rs.3,00,000. On 1st September, 2013, A Ltd. declared dividend of Rs.5,00,000. Find out amount on which corporate dividend tax is payable by the respective companies.

PRACTICAL 3

A Ltd. an Indian company wants to declare dividend of Rs.9,00,000 on 31st July, 2013. It received dividend from the following companies:-

(a) Rs.1,00,000 received from X Ltd., an Indian company (in which A Ltd. holds 40% equity).
(b) Rs.50,000 received from Y Ltd., an Indian company (in which A Ltd. holds 51% equity).
(c) Rs.1,25,000 received from Z Ltd., a Foreign company (in which A Ltd. holds 26% equity).
(d) Rs.2,00,000 received from Q Ltd., a Foreign company (in which A Ltd. holds 60% equity).

Calculate amount on which CDT is payable by A Ltd.

Before, we go to the solution, lets comprehend amendment first.

Dividend received from a foreign subsidiary on which tax is payable under section 115BBD by the domestic holding company to be reduced from the amount declared, distributed or paid by way of dividend by it, for levy of additional income-tax

(a) Basis of charge [Sec.115-O(1)] -

1. Tax on distributed profit (called Corporate Dividend Tax) is in addition to income-tax chargeable in respect of total income of the company.
2. Only domestic company is subject to CDT.
3. Any amount declared, distributed or paid by a domestic company by way of dividend shall be charged to dividend tax.

(b) What is "dividend" - For the purpose of section 115-O the expression "dividend" shall have the same meaning as is given to "dividend" under section 2(*22*), but it shall not include sub-clause (*e*) of section 2(*22*).

(c) Rate of dividend tax - The amount of dividend tax is 15% + S.C. (always 10%) + E.C. (3%)

(d) With effect from 1st June, 2013, Computation of **"amount on which CDT is payable"** shall be done as under:-

Particulars	Amount (Rs.)
Amount declared, distributed or paid by a domestic company (say holding company) by way of dividend	**XXX**
Less: (1) The amount of **dividend, if any, received** during the financial year **from domestic subsidiary**, *where subsidiary has paid the tax under section 115-O*	(XXX)
(2) The amount of **dividend, if any, received** during the financial year from foreign subsidiary, *where tax is payable by holding company* on such dividend *under section 115BBD*	(XXX)
(3) The amount of **dividend**, if any, **paid to New Pension System Trust** referred to in section 10 (44).	(XXX)

SOLUTION 1

Computation of Corporate Dividend Tax Payable by A Ltd.

Particulars	Amount (Rs.)
Amount declared, distributed or paid by a domestic company by way of dividend	12,00,000
Less: (1) The amount of dividend, if any, received **[60% of 5,00,000]** during the financial year from domestic subsidiary [**B. Ltd.**], where subsidiary has paid the tax under section 115-O.	(3,00,000)
(2) The amount of dividend, if any, received during the financial year from foreign subsidiary, where tax is payable by holding company on such dividend under section 115BBD	(Nil)
(3) The amount of dividend, if any, paid to New Pension System Trust referred to in section 10 (44).	(Nil)
Amount on which CDT is payable	**9,00,000**
Corporate Dividend Tax [9,00,000 x 16.995%]	**1,52,955**

SOLUTION 2

C Ltd.

Particulars	Amount (Rs.)
Amount declared, distributed or paid by a domestic company (say holding company) by way of dividend	2,00,000
Amount on which CDT is payable	**2,00,000**

B Ltd.

Particulars	Amount (Rs.)
Amount declared, distributed or paid by a domestic company (say holding company) by way of dividend	**3,00,000**

Less: (1) The amount of dividend, if any, received **[70% of Rs. 2,00,000= Rs. 1,40,000]** during the financial year from domestic subsidiary **[C. Ltd.]**, where subsidiary has paid the tax under section 115-O**.**	(1,40,000)
Amount on which CDT is payable	**1,60,000**

A Ltd.

Particulars	**Amount (Rs.)**
Amount declared, distributed or paid by a domestic company by way of dividend	5,00,000
Less: (1) The amount of dividend, if any, received **[60% of Rs. 3,00,000= Rs. 1,80,000]** during the financial year from domestic subsidiary **[B. Ltd.]**, where subsidiary has paid the tax under section 115-O-**[Here, B Ltd paid tax under 115 O on Rs. 1,60,000- See Calculation of B Ltd. above].**	(1,60,000)
Amount on which CDT is payable	**3,40,000**

SOLUTION 3

Amount on which CDT is payable by A Ltd.

Particulars	**Amount (Rs.)**
Amount declared, distributed or paid by a domestic company by way of dividend **–A Ltd.**	9,00,000
Less: (1) The amount of dividend, if any, received during the financial year from domestic subsidiary, where subsidiary has paid the tax under section 115-O-**Y. Ltd.**	(50,000)
(2) The amount of dividend, if any, received during the financial year from foreign subsidiary, where tax is payable by holding company on such dividend under section 115BBD-**Q Ltd.**	(2,00,000)
(3) The amount of dividend, if any, paid to New Pension System Trust referred to in section 10 (44).	(----)
Amount on which CDT is payable	**6,50,000**

NOTES:

1) Since X Ltd is not a subsidiary of A Ltd therefore, dividend received from X Ltd is not eligible for deduction.

2) Since Z Ltd is not a subsidiary of A Ltd therefore, dividend received from Z Ltd is not eligible for deduction even though dividend received from Z Ltd is subject to section 115BBD.

28. New Chapter XII-DA-[Effective from 1.6.2013]

Levy of additional income-tax on distributed income of a domestic company on account of buy-back of unlisted shares

SECTION 115QA

*(1)Notwithstanding anything contained in any other provision of this Act, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, **any amount of distributed income by the company on buy-back of shares (not being shares listed on a recognised stock exchange) from a shareholder shall be charged to tax***

and

***such company shall be liable to pay** additional income-tax **at the rate of twenty per cent (With surcharge 10% and education cess 3%)** on the **distributed income**.*

Explanation.—*For the purposes of this section,—*

- (i)*"buy-back" means purchase by a company of its own shares in accordance with the provisions of section 77A of the Companies Act, 1956 (1 of 1956);*
- (ii*) "**distributed income**" means the consideration paid by the company on buy-back of shares as reduced by the amount which was received by the company for issue of such shares.*

(2) Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on the distributed income under sub-section (1)shall be payable by such company.

*(3) **The principal officer of the domestic company and the company shall be liable to pay the tax** to the credit of the Central Government **within fourteen days from the date of payment of any consideration to the shareholder** on buy-back of shares referred to in sub-section (1).*

*(4) **The tax on the distributed income by the company shall be treated as the final payment of tax** in respect of the said income and no further credit therefor shall be claimed by the company or by any other person in respect of the amount of tax so paid.*

*(5) **No deduction** under any other provision of this Act **shall be allowed to the company or a shareholder in respect of the income which has been charged to tax under sub-section (1)or the tax thereon**.*

SECTION 115QB

***Where the principal officer of the domestic company and the company fails to pay** the whole or any part of the tax on the distributed income referred to in sub-section (1)of section 115QA, **within the time allowed** under sub-section (3) of that section, **he or it shall be liable to pay simple interest at the rate of one per cent for every month or part thereof** on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.*

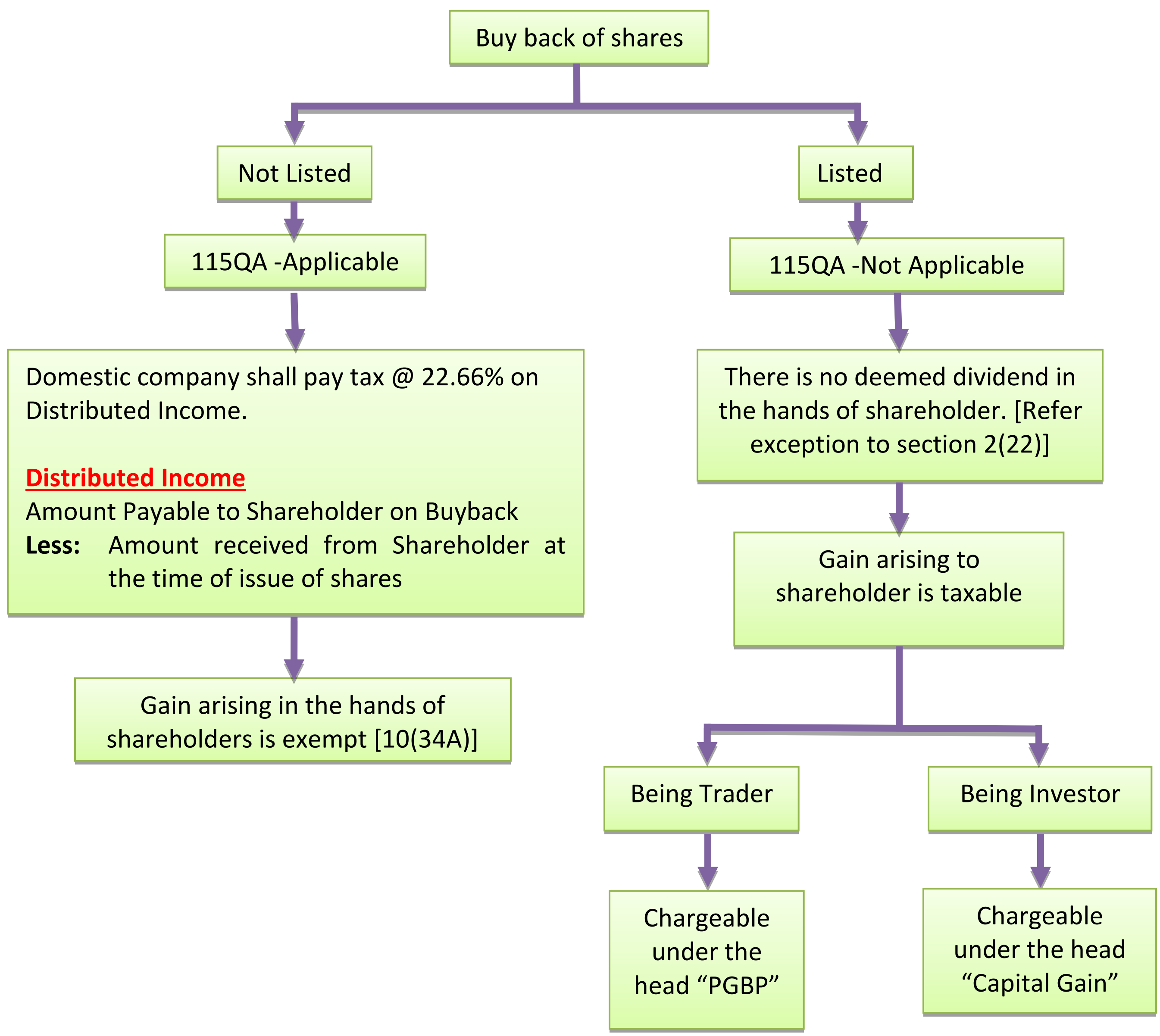
SECTION 115QC

If any principal officer of a domestic company and the company does not pay tax on distributed income *in accordance with the provisions of* [*section 115QA*](), ***then, he or it shall be deemed to be an assessee in default*** *in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.***]**

SECTION 10(34A)

Further, section 10 has been amended to insert sub section (34A) which provides that ***any income arising to an assessee, being a shareholder, on account of buy back of shares*** *(not being listed on a recognised stock exchange) by the company as referred to in* [*section 115QA*]() ***is exempt****.*

Summary



29. Chapter XII-EA

Before, we understand the amendment under Income Tax Act, lets understand "Asset Securitization"

Securitisation of assets is an addition to the existing channels for recycling of funds by business entities.

What is securitisation?

It is a process through which the future income or receivables (the money that is to become due in future) of an organisation, are transformed and sold as debt instruments (such as bonds with a fixed rate of return). In respect of banks, a part of their loan portfolio can be packed together and off-loaded in the form the debt instruments (called pass-through certificate) to the prospective investors with the provision that the inflow of cash in the form of recoveries shall be distributed among the investors. This allows the securitizing organization /bank to get funds upfront, which can be put to more productive use in the business.

Intermediaries in the securitisation transaction

There are various entities involved in the securitization transaction which include the Originator (the party/bank which has a pool of assets which it can offer for securitisation and is in need of immediate cash). Special Purpose Vehicle (SPV - the entity that will own the assets once they are securitised), usually, in the form of a trust. It is necessary that the assets should be held by the SPV as this would ensure that the investors' interest is secure even if the originator goes bankrupt. The servicer is an entity that manages the asset portfolio and ensures that payments are made in time. The credit enhancer can be any party which provides a reassurance to the investors that it will pay in the event of a default. This could take the form of a bank guarantee also. The other parties include he credit rating agencies, the credit enhancement providers and the investors.

Process of Securitisation

- Original lender (bank or FI) selects and then sells various types of loans to another institution (which may promote a subsidiary for this purpose called Special Purpose Vehicle, which is a sort of Trust);
- The special purpose vehicle- SPV (called issuer also) makes the payment to the original lender for the loans purchased under the arrangement;
- These loans are converted into a pool of securities like debentures (called Pass Through Certificates) by SPV.
- These PTCs are then sold to individual or institutional investors, who are willing to make investments;
- The original lender may keep on getting recoveries from the original borrowers;
- He passes on these recoveries to the SPV.
- The issuer in turn passes on these recoveries to the individual/institutional investors as per the arrangement made.

Amendment under Income Tax Act

Levy of additional income-tax on income distributed by securitization trusts

In order to facilitate the securitisation process, a special taxation regime has been incorporated by amending section 10 and by inserting sections 115TA to 115TC. The special provisions are given below -

1. Securitisation trust is a special vehicle which is set up as a trust and the activities of which are regulated by either SEBI or RBI. The income from the activity of securitisation of such trust will be exempt from tax under section 10(23DA) with effect from the assessment year 2014-15.

2. The securitisation trust will be liable to pay additional income-tax on income distributed to its investors on the line of distribution tax levied in the case of mutual funds. The additional income-tax shall be levied (with effect from June 1, 2013) as follows -

Particulars	**Basic Rate**	**Effective rate (inclusive of surcharge @ 10% and EC @ 3%)**
Distribution to persons exempt from tax	Nil	Nil
Distribution to investors (being individual/HUFs)	25%	28.325%
Distribution to other investors	30%	33.99%

3. Amount of tax on distributed income shall be remitted within 14 days from the date of payment or distribution of income.

4. No deduction under any provisions of the Act shall be allowed to securitisation trust in respect of the said income.

5. Securitisation trust shall, before September 15, in each year, furnish a statement in the prescribed form providing the details regarding the amount of income distributed to the investors and the tax paid in the previous year.

6. If the above tax is not paid within the time-limit given above, the person responsible for making the payment of income and the securitisation trust shall be liable for interest for short payment or non-payment of tax. Interest will be chargeable at the rate of 1 per cent per month (or part of month) for the period beginning immediately after the last date on which tax was payable and ending with the date of actual payment.

7. In case of failure of payment of tax, the persori responsible for making the payment of income and thsecuritisation trust shall be deemed to be an assessee in default in respect of the amount of tax payable and all provisions of the Act relating to recovery and collection of taxes shall apply.

Meaning of Certain Terms used in above provisions:-

a. "securitization trust" means a trust which is a special purpose distinct entity or special purpose vehicle, the details of which are tabulated hereunder, which fulfills the prescribed conditions –

Sr. No.	Form of trust	Regulation/Guidelines	Definition under the respective Regulation/Guidelines
(1)	Special purpose distinct entity	SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008.	Special purpose distinct entity means a trust which acquires debt or receivables out of funds mobilized by it by issuance of **securitised debtinstruments** through one or more schemes, and includes any trust set up by the National Housing Bank or by the NABARD. For this purpose, "securitised debt instrument" means any certificate or instrument, by whatever name called, issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of suchinvestor in such debt or receivable including mortgage debt, as the case may be;
(2)	Special purpose Vehicle (SPV)	The guidelines on securitization of standard assets issued by RBI.	SPV means any company, trust, or other entity constituted or established for a specific purpose – (a) activities of which are limited to those for accomplishing the purpose of the company, trust or other entity as the case may be; and (b) which is structured in a manner intended to isolate the corporation, trust or entity as the case may be, from the credit risk of an originator to make it bankruptcy remote.

30. Section 115R-[Effective from 1.6.2013]

Rationalisation of rates of additional income-tax on income distributed by mutual funds

The income distributed to a unit holder of the Unit Trust of India or a Mutual Fund shall be charged to tax under section 115R at the rates given below:

Particulars	*Where recipient is an INDIVIDUAL or HUF*	*Where recipient is any other person*
Distribution by equity oriented mutual funds or UTI in respect of Unit Scheme, 1964	Nil	Nil
Distribution by a <u>money market mutual fund or a liquid fund</u>	25%	30%
Distribution by a <u>debt fund other than a money market mutual fund</u> or liquid fund	12.5% **25%(w.e.f.01.6.2013)**	30%
Distribution by a mutual fund under an infrastructure debt fund scheme to a non-resident/ foreign company	5%	5%

Note: The above rates will be increased by surcharge (always 10%) and education cess (3%).

31. Sections 167C & 179-[Effective from 01.06.2013]

QUESTION

The Income tax department failed to recover tax due amounting to Rs. 1 crore from ABC Pvt Limited. Further, interest and penalty to be recovered were Rs. 52 lacs. Income tax department issued notice to directors of this company to pay all the dues. Directors paid tax Rs. 1 crore but denied liability towards interest and penalty. Whether denial by directors is valid in the eyes of law if demand pertains to:-

(a) A.Y. 2011-12

(b) A.Y. 2014-15

ANSWER

(a) <u>If demand pertains to A.Y. 2011-12</u>

Consider following provisions before amendment

Liability of Directors of private company in liquidation [Section 179]

a) Where **any tax due from a private company** in respect of income of any previous year **cannot be recovered,** then, every person who was a director of such company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax.

b) However, no such director shall be liable if he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

c) Section 179 has an overriding effect over the provisions of Companies Act.

Considering the above provisions, department can recover only "tax due" and not the interest and penalty. Therefore, denial by directors for interest and penalty is valid.

(b) <u>If demand pertains to A.Y. 2014-15</u>

Consider following provisions after amendment

Liability of Directors of private company in liquidation [Section 179]

a) Where any **tax due** from a private company in respect of income of any previous year **cannot be recovered,** then, every person who was a director of such company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax.

b) However, no such director shall be liable if he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

c) Section 179 has an overriding effect over the provisions of Companies Act.

d) Further, this section has been amended w.e.f. 1st June, 2013 to clarify that "tax due" includes penalty, interest or any other sum payable under this Act.

Considering the above amendment, directors can not deny the liability to interest and penalty when company fails to pay the same.

Similar amendment has brought into section 167 C which deals with liability of partners of limited liability.

32. Section 90 & 90A-[Effective retrospectively from A.Y. 2013-14]

Requirement of Tax Residency Certificate (TRC) to contain "prescribed particulars" dispensed with

(i) Old provisions require, on the part of non-resident to produce **Tax Residency certificate (TRC) from his country, containing prescribed particulars**, so that he can avail relief under section 90 and 90A .

(ii) This created a hardship on the part of non-resident because foreign country tax officers may issue TRC as per the format prevailing under their law.

(iii) That's why amendment has been brought which now requires to obtain TRC from his country (Words "Containing prescribed particulars" have been omitted) . That means, non resident will get relief under section 90 or 90A even though TRC may not contain prescribed particulars

(iv) However, sub-section (5) has been inserted in sections 90 and 90A to require the **assessee to provide such other documents and information, as may be prescribed**.

Students shall also consider following Notification:

Notification No.57 / 2013 dated 01.08.2013

Documents and information, to be furnished by the assessee for claiming treaty benefits, prescribed

For claiming treaty benefits, sections 90(4) and 90A(4) provide that a certificate issued by the Government of a foreign country would constitute proof of tax residency, without any further conditions regarding furnishing of "prescribed particulars" therein.

Further, sections 90(5) and 90A(5) require an assessee to **provide such other documents and information, as may be prescribed,** for claiming the treaty benefits, in addition to such certificate issued by the foreign Government.

Accordingly, the assessee shall provide the following information in Form No. 10F:

(i) Status (individual, company, firm etc.) of the assessee;

(ii) Nationality (in case of an individual) or country or specified territory of incorporation orregistration (in case of others);

(iii) Assessee's tax identification number in the country or specified territory of residenceand in case there is no such number, then, a unique number on the basis of which theperson is identified by the Government of the country or the specified territory of whichthe assessee claims to be a resident;

(iv) Period for which the residential status, as mentioned in the certificate referred to insection 90(4) or section 90A(4), is applicable; and

(v) Address of the assessee in the country or specified territory outside India, during theperiod for which the certificate, as mentioned in (iv) above, is applicable.

However, the assessee may not be required to provide the information or any part thereof, ifthe information or the part thereof, as the case may be, is already contained in the TRCreferred to in section 90(4) or section 90A(4).

The assessee shall keep and maintain such documents as are necessary to substantiate theinformation provided. An income-tax authority may require the assessee to provide the saiddocuments in relation to a claim by the said assessee of any relief under an agreementreferred to in section 90(1) or section 90A(1), as the case may be.

33. Section 132B-[Effective from 01.06.2013]

PRACTICAL

Debate Limited provides following information:-

(i)	Tax on returned income for the relevant previous year	Rs.32,00,000
(ii)	TDS was deductible by ABC Edu Pvt Ltd on interest income (but ABC Edu Pvt Ltd failed to deduct TDS)	Rs. 2,00,000
(iii)	Cash seized during search operations (search took place during the relevant previous year). Debate Limited written a letter to AO for adjusting this cash against advance tax liability	Rs.25,00,000
(iv)	Advance tax paid during previous year	Rs.2,00,000

Debate Limited claims that it is not liable for interest under section 234B of the Act on the following grounds:

(a) Advance tax payable is Rs. 30,00,000 and

(b) It had paid 90% of advance tax payable

Examine the correctness of contention raised by Debate Limited.

Before, we go to the solution, lets comprehend amendment first.

Application of seized assets for recovery of advance tax payable not allowed

Section 132B has been substituted with a new section with effect from June 1, 2002. Under the substituted section, all assets which are seized under section 132 or requisitioned under section 132A shall be dealt with as follows against:

1. **Existing Liability** on the day of seizure or requisition under Income-tax Act, Wealth-tax Act, Expenditure-tax Act, Gift-tax Act and Interest-tax Act.
2. Liability determined on completion of assessment under section 153A (including assessment of the previous year in which search is initiated) if such person is in default or deemed to be in default for such liability.

For the removal of doubts, it is hereby declared that the "existing liability" does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII. ***(Amendment by FA 2013, w.e.f. 1st June,2013)***

SOLUTION

Computation of Advance Tax Payable

Particulars	Amount Rs.
Tax on Returned Income	32,00,000
Less: Tax Deducted at Source (it can be reduced only when it has been actually deducted)	Nil
	32,00,000

In order to overcome, interest liability of section 234B, Debate Limited shall pay 90% of Rs. 32,00,000. But in this case, Debate Limited had made following payments towards Advance Tax.

Computation of Total Advance Tax Paid

Particulars		Amount Rs.
(i)	Cash seized cannot be adjusted against advance tax liability (Refer amendment)	Nil
(ii)	Advance tax paid	2,00,000
Total Advance Tax paid		**2,00,000**

Total advance tax paid is Rs.2,00,000 which is less than 90% of Rs.32,00,000. Hence, contention of Debated Limited is not tenable.

34. Section 142(2A)-Effective from 01.06.2013]

Scope of reasons for directing special audit of accounts expanded

Old Provision	New Provision
Under section 142(2A), if at any stage of the proceeding, the Assessing Officer having regard to the ***"nature and complexity of the accounts of the assessee"*** and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the approval of the Chief Commissioner or Commissioner, direct the assessee to get his accounts audited by an accountant and to furnish a report of such audit.	Section 142(2A) now provides that if at any stage of the proceedings before him, the Assessing Officer, having regard to – ***the nature and complexity of the accounts,*** – ***volume of the accounts,*** – ***doubts about the correctness of the accounts,*** – ***multiplicity of transactions in the accounts or*** – ***specialized nature of business activity of the assessee,*** **and the interests of the revenue,** is of the opinion that it is necessary so to do, he may, with the previous approval of the Chief Commissioner or the Commissioner, direct the assessee to get his accounts audited by an accountant and to furnish a report of such audit.

35. Section 153 & 153B

PRACTICAL

The case of Tip Top Private Ltd. for the A.Y. 12-13 was selected under scrutiny. During scrutiny proceedings, the competent authority, India on 15-02-15, had made a reference for exchange of information to the competent authority, U.K. Such information was received by Commissioner on 10-09-15. Further, competent authority, India made reference for exchange of information on 19-03-15 to competent authority, U.S. Competent authority, U.S. supplied information on 18-03-16. Find out the revised time limit for completion of assessment under section 143(3).

Before, we go to the solution, lets comprehend amendment first.

Time periods are excluded from the time limit for passing Assessment Orders [Explanation 1 to section 153 &Explanation to section 153B]

The following time periods are excluded from the time limit for passing assessment orders.

(i) Time taken in reopening and re – hearing u/s 129.

(ii) Period for which the assessment proceedings are stayed by any Court.

(iii) Period allowed for **special audit u/s 142(2A)** to be carried out and for furnishing of the said audit report; or ***(applicable Upto 31st May 2013)***

(iv) Period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited under section 142(2A)and—

(a) ending with the last date on which the assessee is required to furnish a report of such audit under that sub-section; or

(b) **where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Commissioner,** ***(Amendment by FA 2013, wef 1st June,2013)***

(v) The period commencing from the date on which the assessing officer intimates the Central Government or prescribed authority the contravention of conditions by entities covered u/.s. 10(21), 10(22B), 10(23A), 10 (23B), 10(23C), ending with the date on which the copy of the order withdrawing the approval or rescinding the notification under those clauses is received by the assessing officer.

(vi) In a case where an application made before the income-tax Settlement Commission under section 245C is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which such application is made and ending with the date on which the order u/s. 245D(1) is received by the Commissioner.

(vii) Time between date on which an application is made before the Authority for Advance Rulings and ending with the date on which the order rejecting the application or, as the case may be, the date on which the advance ruling pronounced by it is received by the Commissioner.

(viii) the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information so requested is received by the Commissioner or a period of one year, whichever is less. (Applicable upto 31st May 2013)

(ix) ***the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Commissioner or a period of one year, whichever is less.(Amendment by FA 2013 w.e.f. 1st June, 2013)***

If after extending the time, the period available to the assessing officer for making an order is less than 60 days, then the remaining period shall be extended to 60 days.

But for point no. (vi), if after extending the time, the period available to the assessing officer for making an order is less than one year, then the remaining period shall be extended to 1 year.

SOLUTION

Step 1: **Regular Time Limit**
2 years from the end of Assessment Year
End of the Assessment year + 2 years
31.3.2013 + 2 years
31.3.2015

Step 2: **Revised Time Limit**
Original Time Limit + days lost (*the period commencing from the date on which a reference or first (15.02.15) of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A* ***and*** *ending with the date on which the information requested is last (18.03.16) received by the Commissioner or a period of one year, whichever is less.*
31.03.2015 + One year
31.3.2016

Step 3: **Minimum Time Limit**
Day on which authority can reassume jurisdiction + 60 days
18.03.2016 + 60 days
17.05.2016

Step 4: **Effective Time Limit**
Step 2 or Step 3 whichever is later
17.05.2016

36. Section 252(3)-[Effective from 01.06.2013]

QUESTION

Who can be appointed as President of Income Tax Appellate Tribunal?

ANSWER

The Central Government shall appoint—

(a) a person who is a sitting or retired Judge of a High Court and who has completed not less than seven years of service as a Judge in a High Court; or

(b) the Senior Vice-President or one of the Vice-Presidents of the Appellate Tribunal,

to be the President of Tribunal. ***(Amendment by FA 2013 w.e.f. 1st June, 2013)***

37. Section 206C(1D)-[Effective from 01.06.2013]

Tax Collection at Source provisions under section 206C to also be attracted on cash sale of any coin or any other article weighing 10 gms or less, if the consideration exceeds Rs. 2 lakh

1. The Finance Act, 2012 had inserted sub-section (1D) in section 206C to provide for collection of tax at source@1% by the seller from the buyer, on cash sale of bullion or jewellery, if the sale consideration exceeds Rs.2 lakh and Rs.5 lakh, respectively.

2. A coin or any other article weighing 10 gms or less was, however, excluded from the applicability of the provisions of this section.

3. Since the exclusion was misused, the amendment has been made. Consequently, the provisions for tax collection at source under section 206C @1% of sale consideration would be attracted even in respect of cash sale of any coin or any article weighing 10 gms or less, if the sale consideration **exceeds Rs. 2 lakh.**

38. New Section 271FA-[Effective from 01.04.2014]

For good understanding of this provision, kindly refer ICAI supplementary applicable for May 2014 exams

39. Wealth Tax-Section 14A & 14B

Electronic filing of annexure-less return of net wealth

(a) Section 14 of the Wealth-tax Act provides for furnishing of return of net wealth as on the valuation date in paper format in prescribed form.

(b) Documents and reports are required to be furnished along with return of wealth.

(c) In order to facilitate filing of paper-less return of net wealth, sections 14A and 14B have been inserted and section 46 has been amended with effect from June 1,2013.

(d) After the amendment, Wealth tax Act will have provision similar to sections 139C and 139D of the Income-tax Act which regulate filing of annexure-less return of income in electronic form by certain class of income-tax assessees.

40. Section 2(ea)

Meaning of Urban Land

Urban land" means land situate—

(a) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand; or

(b) in any area within the distance, measured aerially,—

- **(i)** not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in sub-clause (*i*) and which has a population of more than ten thousand but not exceeding one lakh; or
- **(ii)** not being more than six kilometres from the local limits of any municipality or cantonment board refered to in sub-clause (*i*) and which has a population of more than one lakh but not exceeding ten lakh; or
- **(iii)** not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in sub-clause (i) and which has a population of more than ten lakh,

Explanation.— "population" means the population according to the last preceding census of which the relevant figures have been published before the date of valuation."

Urban land when not treated as asset- In the following cases land is not treated as "asset".

(a) Land classified as agricultural land in the records of the Government and used for agricultural purposes.
(b) Land on which construction of a building is not permissible under any law for the time being in force in the area in which such land is situated.
(c) Land occupied by any building which has been constructed with the approval of the appropriate authority.
(d) Any unused (i.e., not put to any use) land held by the assessee for industrial purposes for a period of 2 years from the date of its acquisition by him.
(e) Any land held by the assessee as stock-in-trade for a period of 10 years from the date of its acquisition by him.