A.Y. 2015-16

DT Amendments applicable for IPCC-MAY-2015

As far as course of Chartered Accountancy is concerned, ICAI want students to be up-to-date in the subject of Taxation. Here is the Summarized Analysis of Amendments by Finance Act, 2014 which will be applicable for CA- Intermediate (Professional Competency) Course, CS Executive and CMA- Inter Examinations.

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A.Y. 2015-16

1. Rates of Income Tax

(A) I. In the case of every **Individual (other than those covered in part (II) or (III) below) or Hindu undivided family or AOP/BOI** (other than a co-operative society) whether incorporated or not, or every artificial judicial person

Upto ₹2,50,000	Nil
₹2,50,001 to ₹5,00,000	10%
₹5,00,001 to ₹10,00,000	20%
Above ₹10,00,000	30%

II. In the case of every **individual,** being a **resident in India,** who **is of** the **age of 60 years or more but less than** 80 years at any time during the previous year.

Upto ₹3,00,000	Nil
₹3,00,001 to ₹5,00,000	10%
₹5,00,001 to ₹10,00,000	20%
Above ₹10,00,000	30%

III. In the case of every **individual,** being a **resident in India,** who is of the **age** of 80 years or more at any time during the previous year.

Upto ₹5,00,000	Nil
₹5,00,001 to ₹10,00,000	20%
Above ₹10,00,000	30%

(B) In the case of every co-operative society

(1) where the total income does not exceed ₹10,000	10% of the total income;
(2) where the total income exceeds ₹10,000 but does not exceed ₹20,000	₹1,000 plus 20% of the amount by which the total income exceeds ₹10,000;
(3) where the total income exceeds ₹20,000	₹3,000 plus 30% of the amount by which the total income exceeds ₹20,000.

(C) <u>In case of every firm (including limited liability partnership)/ every Local Authority — 30%.</u>

Surcharge: In all the above cases (A/B/C), the amount of income-tax shall be increased by a surcharge at the rate of 10% of such income-tax in case assessee having a ***total income exceeding ₹1 crore.***

Education Cess: 3%

Marginal relief: Total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ₹1 crore by more than the amount of income that exceeds ₹1 crore.

<u>(D) In the case of a company</u>

<u>(i) For domestic companies: 30%,</u>

Surcharge: Where the total income of a domestic company exceeds ₹1 crore but not exceeding ₹10 crore a surcharge @ 5% of tax shall be levied. Where the total income of the domestic company exceeds ₹10 crore a surcharge @10% of tax shall be levied.

Education Cess: 3%

<u>(ii) For foreign company: 40%.</u>

Surcharge: Where the total income of a company other than a domestic company exceeds ₹1 crore but does not ₹10 crore a surcharge of 2% of tax shall be levied. Where the total income of such company exceeds ₹10 crore a surcharge at the rate of 5% of tax shall be levied.

Education Cess: 3%

Marginal relief:

In the case of every company having a total income exceeding ₹1 crore but not exceeding ₹10 crore, total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income tax on a total income of ₹ 1 crore by more than the amount of income that exceeds ₹1 crore.

In the case of every company having a total income exceeding ₹10 crore, total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income tax and surcharge on a total income of ₹ 10 crore by more than the amount of income that exceeds ₹ 10 crore.

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2. Income from House Property

In case of ***one self-occupied property*** where the acquisition or construction of the property is completed within three years from the end of the financial year in which the capital is borrowed, the amount of deduction under section 24(6) shall ***not exceed ₹1,50,000.***

The ***Finance (No. 2) Act, 2014 has amended*** the second proviso to section 24(6), so as to increase the limit of deduction on account of interest in respect of oneself occupied property referred to in section 23(2) ***from ₹1,50,000 to ₹2,00,000.***

Now from A.Y. 15-16 interest Deduction allowed ₹ 2,00,000.

3. Profit & Gain of Business and Profession

Investment Allowance	**Sec. 32AC**

Eligible Assessee:	⇨ Deduction is available only to a **company** ⇨ Company must be engaged in the **business of manufacture or production of any article or thing**.
Conditions to be satisfied	⇨ Assessee acquires and installs the new plant and machinery on or after 1st April, 2013 but before 31st March, 2015 (both acquisition and installation should be completed within the above mentioned period); and ⇨ Aggregate amount of actual cost of such new plant and machinery should exceeds ₹ 100 crores.
Amount of deduction Sec 32AC(1)	⇨ **For AY 2014-15:** 15% of the actual cost of new plant and machinery acquired and installed during PY 2013-14, if actual cost exceeds ₹ 100 crores. ⇨ **For AY 2015-16:** 15% of the actual cost of new plant and machinery acquired and installed during PY 2013-14 & PY 2014-15, if actual cost exceeds ₹ 100 crores, as reduced by deduction already allowed in AY 2014-15 under this section (if any).
Amount of deduction Sec 32AC(1A) Added by FA – 2014 w.e.f PY 14-15	⇨ **Deduction =** 15% of Actual Cost of new P&M acquired and installed during the PY, **if Investment in P&M > 25 crore rupees in PY.** ⇨ **Note –** No deduction shall be allowed to assessee in **PY 14-15,** if already claimed under sub-section (1) above. ⇨ **Sub-section 1B (Inserted by FA 14 w.e.f. PY 14-15) –** Deduction under sub-section 1A allowed only upto PY 16-17 (i.e. upto 31.03.2017)

Lock-in period:

⇨ There shall be lock-in period of 5 years from the date of installation.

- ⇨ If new plant and machinery on which investment allowed deduction has been availed, has been sold or transferred within 5 years from the date of installation, then deduction allowed under section 32AC shall be deemed to be the income under the head PGBP of the year in which plant and machinery is sold. This will be in addition to gains arising from transfer of the plant and machinery. This shall however not apply if plant and machinery is transferred in a scheme of amalgamation and demerger.
- ⇨ In case of amalgamation or demerger, the amalgamated/resulting company should not sell/transfer the plant and machinery for a period of 5 years from the date it was installed by amalgamating/demerged company. If it is sold in the above-said lock-in period of 5 years, the deduction allowed to amalgamating / demerged company shall be deemed to be the income under the head PGBP of amalgamated / resulting company of the PY in which plant and machinery is sold/transferred. This will be in addition to gains arising from transfer of the plant and machinery.

Plant and Machinery not eligible for deduction

(1) Ship and aircraft;
(2) Any plant or machinery which before its installation by the assessee was used either within or outside India by other person;
(3) Any plant and machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;
(4) Any office appliances including computers or computer software;
(5) Any vehicle; or
(6) Any plant or machinery, the whole of the actual cost which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head PGBP of any PY.

ⓘ
- ⇨ This deduction is in addition to the depreciation and additional depreciation
- ⇨ Deduction under section 32AC shall not be reduced from the WDV of block of Asset.
- ⇨ To claim deduction under section 32AC, there is no condition that plant and machinery should be actually put to use.
- ⇨ This deduction is not available to power generating units.
- ⇨ This deduction will not be restricted to 50%, if plant and machinery purchased and installed is used for less than 180 days during PY.

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Sl. No.	Particulars	P.Y. 2013-14	P.Y. 2014-15	P.Y. 2015-16	P.Y. 2016-17	Remarks
1.	Amount of investment	20	90	-	-	Under the existing section 32AC(1)
	Deduction allowable	Nil	16.5	-	-	

2.	Amount of investment	30	40	-	-	Under the proposed section 32AC(1A)
	Deduction allowable	Nil	6	-	-	
3.	Amount of investment	150	10	-	-	Under the existing section 32AC(1)
	Deduction allowable	22.5	1.5	-	-	
4.	Amount of investment	60	20	-	-	No deduction either under section 32AC(1) or 32AC(1A)
	Deduction allowable	Nil	Nil	-	-	
5.	Amount of investment	30	30	30	40	Under the proposed section 32AC(1A)
	Deduction allowable	Nil	4.5	4.5	6	
6.	Amount of investment	150	70	70	20	Deduction both u/s 32AC(1) & 32AC(1A)
	Deduction allowable	22.5	10.5	10.5	Nil	

Specified Business **Sec. 35AD**

A. Deduction extended to two new businesses: Under the existing provisions of section 35AD, investment-linked tax incentive is provided by way, of allowing a deduction in respect of the whole of any expenditure of capital nature (other than expenditure on land, goodwill and financial instrument) incurred wholly and exclusively, for the purposes of the "specified business" during the previous year in which such expenditure is incurred.

Currently, "eleven specified businesses" are eligible for availing the investment-linked deduction under section 35AD.

The Finance (No. 2) Act, 2014 has included the following two new businesses as "specified business" for the purposes of the investment-linked deduction under section 35AD:

- ***laying and operating a slurry pipeline for the transportation of iron ore;***
- ***setting up and operating a semiconductor wafer fabrication manufacturing unit, if such unit is notified by the Board in accordance with the prescribed guidelines.***

In above two business deduction on capital expenditure allowed @ 100%

Further, the date of commencement of operations for availing investment linked deduction in respect of the two new specified businesses shall be on or after 01-04-2014.

B. Any asset in respect of which a deduction is claimed and allowed under this section shall be used **only for the specified business,** for a period of **8 years** beginning with the previous year in which such asset is acquired or constructed.
Where such asset, is used for a purpose other than the specified business during such period, the following amount shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the asset is so used

Total amount of **deduction so claimed and allowed** in one or more previous years	**Xxx**
Less: the amount of **depreciation allowable u/s 32,** as if no deduction under this section was allowed	**Xxx**

Exception: If the company becomes a sick industrial company during the period specified.

Illustration:
Plant & machinery purchased and put to use on 30-6-2013 for ₹200 crores for warehouse facilities for storage of agricultural produce. Deduction @ 150% of ₹300 crores was allowed in Assessment Year 2014-15. Now on 31-01-2016, this machinery is ceased to be used for the specified business and is used for some other non-specified business. Now following shall be taxable as P/G/B/P in Assessment Year 2016-17:

Deduction allowed in Assessment Year 2014-15	300 crores
Less: Depreciation @ 15% for Assessment Year 2014-15	30 crores
Less: Depreciation @ 15% for Assessment Year 2015-16	25.50 crores
P/G/B/P in Assessment Year 2016-17	**244.50 crores**

Had the specified business being of manufacture of fertilizers, then following shall be taxable as P/G/P/B in Assessment Year 2016-17.

Deduction allowed in Assessment Year 2014-15	300 crores
Less**:** Depreciation @ 15% for Assessment Year 2014-15	30 crores
Less: Additional Depreciation @ 20% for Assessment Year 2014-15	40 crores
Less: Depreciation @ 15% for Assessment Year 2015-16	19.50 crores
	210.50 crores

C. Assessees claiming investment linked deduction under section 35AD not eligible to claim exemption under section 10AA (No double deduction)

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Disallowance of CSR expenditure	Expl. To Sec. 37

For the removal of doubts, it is hereby declared that for the purposes of sub-section (1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

(Inserted by Finance Act, 2014)

KEY NOTES:

1. Donation to Swach Bharat Kosh and Clean Ganga forms part of CSR spends. Such donations are deductible under section 80G.

2. Activities undertaken in pursuance of the normal course of business of a company shall not be regarded to CSR activities. Hence expenditure as such activities shall not be counted as CSR spends – Rule 4 and Rule 6 of CSR Rules.

3. Contribution of Prime Minister Relief Fund or any fund set up by Central Government for Socio-economic development and relief and welfare of SC/ST/OBC/ Minorities and women will be treated as CSR-spend. Hence, assess can claim deduction under section 80G on such CSR spend.

Expenditure on activities relating to corporate social responsibility (CSR) is not deductible under section 37(1).

Non-compliance of provision of tds where payment is made to non-resident	Sec 40(a)(i)

Disallowance under section 40(a)(i) shall be attracted if:

Condition 1: The amount paid or payable is interest, royalty, fees for technical services or any other sum chargeable under I.T. Act. The aforesaid sums must be taxable in the hands of the recipient under the I.T. Act

Condition 2: The aforesaid sum is paid / payable:
(i) outside India to a non-resident or a foreign company
(ii) in India to a non-resident or a foreign company

Condition 3: Tax is deductible at source on the aforesaid payments

Condition 4: And any of the following defaults takes place

Default A: Tax at source has not been deducted or

Default B: Tax at source has been deducted but has not been paid on or before the due date specified in section 139(1).

This proviso to section 40(a)(i) provides that where
(i) Tax has been deducted in the subsequent year; or
(ii) Tax has been deducted in the previous year but paid after the due date specified in section 139(1).

then such sum shall be allowed as deduction in the previous year in which such tax has been paid.

Illustration:

Date on which TDS should have been deducted	**Actual Date of Deduction**	**Time limit as per section 200(1) for depositing TDS**	**Date of payment of TDS**	**Previous year in which deductible**
26.06.2014	26.06.2014	07.07.2014	31.03.2015	2014-15
26.07.2014	26.07.2014	07.08.2014	02.09.2014	2014-15
31.03.2015	31.03.2015	30.04.2015	30.06.2015	2014-15
31.03.2015	31.03.2015	30.04.2015	31.12.2015	2015-16
16.05.2014	16.05.2014	07.06.2014	Not deposited	Not deductible
01.12.2014	Not deducted	07.01.2015	31.05.2015	Not deductible
10.06.2014	20.04.2015	07.07.2014	20.07.2016	2016-17

Due date of filing of return under section 139(1) for the previous year 31.3.2015 is 30.9.2015.

Non-compliance or provision of TDS where payment is made to a resident **Sec 40(a)(ia)**

- **30% of any sum payable to a resident** **[Finance Act, 2014]**
- on which tax is deductible at source under Chapter XVIIB and
- such tax has not been deducted or,
- **after deduction, has not been paid on or before the due date specified in section 139(1).**

Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in section 139(1), such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

Illustration:

Date on which TDS should have been deducted	**Actual Date of Deduction**	**Time limit as per section 200(1)**	**Date of payment of TDS**	**Previous year in which expense is deductible**

26.06.2014	26.06.2014	07.07.2014	17.07.2014	2014-15
26.07.2014	31.03.2015	07.08.2014	02.04.2015	2014-15
31.03.2015	31.03.2015	30.04.2015	31.07.2015	2014-15
31.03.2015	01.03.2015	30.04.2015	30.06.2014	2014-15
16.05.2014	16.05.2014	07.06.2014	Not deposited	Not deductible
10.06.2014	20.04.2015	07.07.2014	20.07.2017	2017-18

Due date of filing of return under section 139(1) for the previous year 31.3.2015 is 30.9.2015.

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Example

XYZ Ltd. made the following payments in the month of March 2015 to residents without deduction of tax at source. What would be the tax consequence for A.Y.2015-16, assuming that the resident payees in all the cases mentioned below, have not paid the tax, if any, which was required to be deducted by XYZ Ltd.?

	Particulars	Amount in ₹
(1)	Salary to its employees	15,00,000
(2)	Non-compete fees to Mr. X	70,000
(3)	Directors' remuneration	25,000

Would your answer change if XYZ Ltd. has deducted tax on the above in April, 2015 from subsequent payments made to these persons and remitted the same in July, 2015?

Answer

Non-deduction of tax at source on any payment on which tax is deductible as per the provisions of Chapter XVII-B would attract disallowance under section 40(a)(ia). Therefore, non-deduction of tax at source on salary payment on which tax is deductible under section 192 and non-compete fees and directors' remuneration on which tax is deductible under section 194J, would attract disallowance@30% of sum paid under section 40(a)(ia). Therefore, the amount to be disallowed under section 40(a)(ia) while computing business income for A.Y.2015-16 is as follows –

	Particulars	Amount paid	Disallowance u/s 40(a)(ia) @ 30% of sum paid
(1)	Salary [tax is deductible under section 192]	15,00,000	4,50,000

(2)	Non-compete fees to Mr. X [tax is deductible under section 194J]	70,000	21,000
(3)	Directors' remuneration [tax is deductible under section 194J without any threshold limit]	25,000	7,500
Disallowance under section 40(a)(ia)			**4,78,500**

If the tax is deducted and paid in the next year i.e., P.Y.2015-16, the amount of ₹ 4,78,500 would be allowed as deduction while computing the business income of A.Y.2016-17.

Presumptive basis taxation **Sec 44AE**

- In case of an assessee who owns not more than ten goods carriages **at any time during the previous year** and who is engaged in the business of plying, hiring or leasing such goods carriages,

- **The income of such business chargeable to tax under the head P/G/B/P shall be deemed to be an amount equal to ₹7,500/- for each goods carriage for every month or part of a month during which the goods carriage for every month or part of a month during which the goods carriage is owned by the assessee in the Previous Year or an amount claimed to have been actually earned by the assessee from the goods carriage, whichever is higher. (Amended by Finance Act, 2014)**

Example

Mr. X commenced the business of operating goods vehicles on 1.4.2014. He purchased the following vehicles during the P.Y.2014-15. Compute his income under section 44AE for A.Y.2015-16.

	Type of Vehicle	Number	Date of purchase
(1)	Light Goods Vehicles	2	10.4.2014
		1	15.3.2015
(2)	Medium Goods Vehicles	3	16.7.2014
		1	2.1.2015
(3)	Heavy Goods Vehicles	2	29.8.2014
		1	23.2.2015

Would your answer change if the two light goods vehicles purchased in April, 2014 were put to use only in July, 2014?

Answer

Since Mr. X does not own more than 10 vehicles at any time during the previous year 2014-15, he is eligible to opt for presumptive taxation scheme under section 44AE. ₹ 7,500 per month or part of month for which each goods carriage is owned by him would be deemed as his profits and gains from such goods carriage.

(1)	(2)	(3)	(4)
Number of Vehicles	**Date of purchase**	**No. of months for which vehicle is owned**	**No. of months × No. of vehicles [(1) × (3)]**
2	10.4.2014	12	24
1	15.3.2015	1	1
3	16.7.2014	9	27
1	2.1.2015	3	3
2	29.8.2014	8	16
1	23.2.2015	2	2
10	**Total**		**73**

Therefore, presumptive income of Mr. X under section 44AE for A.Y.2015-16 is ₹ 5,47,500, being 73 × ₹ 7,500.

The answer would remain the same even if the two vehicles purchased in April, 2014 were put to use only in July, 2014, since the presumptive income of ₹ 7,500 per month has to be calculated per month or part of the month for which the vehicle is owned by Mr. X.

4. Capital Gain

CII for Assessment Year 2015-16	**1024**

Definition of Capital Assets	**Sec. 2(14)**

"Capital asset" means –

(a) property of any kind held be an assessee, whether or not connected with his business or profession;

(b) any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992,

but does not include –

(i) **any stock-in-trade [other than securities referred to in sub-clause (b)],**
(Amended by Finance Act, 2014)

(ii) Personal effect

(iii) Rural Agricultural land in india

(iv) Gold Bonds

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Definition of Short term capital Assets	**Sec. 2(42A)**

Section 2(42A) defines a short term capital asset to mean a capital asset by an assessee for not more than 36 months immediately preceding the date of its transfer.

However, in case of –

- **any security (other than a unit) listed on a recognised stock exchange in India; or**
- **a unit of Unit Trust of India; or**
- **a Unit of an equity oriented fund; or**
- **a Zero coupon bond**

the period of holding should be **12 months** or less to qualify as short-term capital asset.

However, in case of unlisted shares of a company and units of Mutual Fund (other than Equity oriented fund) which are transferred during the period beginning on 1-4-2014 and ending on 10th July, 2014, the period of holding shall be taken as 12 months or less to qualify as short term, capital gains.

Compulsory Acquisition of Capital Assets	**45(5)**

The amount by which the compensation is enhanced (i.e. enhanced compensation) by the court, Tribunal or other authority shall be deemed as the income under the head Capital gains of the previous year in which such amount is received by the assessee.

In order to remove the uncertainty regarding the year in which the amount of compensation received in pursuance of an interim order of the court is to be charged to tax, a proviso has been inserted after clause (b) to provide that such compensation shall be deemed to be income chargeable under the head 'Capital gains' **in the previous year in which the final order of such court, Tribunal or other authority is made**.

Transfer of Government security outside India by a non-resident to another non-resident not a transfer for charge of capital gains tax	**47**

(i) Section 47 lists out the transactions which are not considered as transfer for the purpose of charging of capital gains.

(ii) In order to facilitate listing and trading of Government securities outside India, clause (viib) has been inserted in section 47 to provide that any transfer of a capital asset, -

1. being a Government Security carrying a periodic payment of interest,
2. made outside India through an intermediary dealing in settlement of securities,
3. by a non-resident to another non-resident

shall not be considered as transfer for the purpose of charging capital gains.

limited to one residential house and that too in India **54/54F**

(i) There have been controversial judicial views interpreting "a residential house" to mean "more than one residential house" on the reasoning that "singular" includes "plural" under the General Clauses Act. Further, another issue which emerged before the Courts was whether investment in a residential house situated outside India would qualify for exemption under these sections.

(ii) Since the real intent of law was to allow capital gains exemption for investment in one residential house situated in India, sections 54 and 54F have been amended to provide for exemption thereunder in respect of investment made in **one residential house situated in India.**

Exemption for investment in capital gain bonds – to be limited to Rs.50 Lakh **54EC**

The investment made by an assessee in bonds of NHAI/RECL, out of capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are ***transferred and in the subsequent financial year does not exceed fifty lakh rupees.***

Example

Mr. Ram, working as a CEO with ABC Ltd., furnishes the following particulars of assets transferred by him during the P.Y.2014-15 –

	Particulars	**Date of transfer**	**₹**
(1)	A residential house in Bangalore which he had purchased in February, 2000 at a cost of ₹ 15,56,000.	13/1/2015	1,45,00,000
(2)	Listed shares of Indian companies purchased in May 2012 at a cost of ₹ 1 lakh.	14/2/2015	2,00,000
(3)	Unlisted shares purchased in May 2012 at a cost of ₹ 50,000.	14/2/2015	75,000
(4)	Units of equity oriented fund purchased in May 2012 at a cost of ₹ 30,000	14/2/2015	65,000
(5)	Units of debt oriented fund purchased in January 2010 at a cost of ₹ 31,600	14/2/2015	75,000

Mr. Ram made the following investments, out of the capital gains arising on sale of residential house -

	Particulars	**₹**
(1)	Purchased a residential flat in Pune on 21/5/2015	35,00,000

(2)	Purchased a residential flat in Madurai on 14/7/2015	25,00,000
(3)	3 year bonds of NHAI on 20/3/2015	40,00,000
(4)	3 year bonds of RECL on 15/5/2015	30,00,000

Compute the total income and tax liability of Mr. Ram for A.Y.2015-16, if his salary income (computed) is ₹ 24 lakh and interest on fixed deposits with banks is ₹ 1 lakh. Assume that he has contributed ₹ 1,50,000 to PPF and paid medical insurance premium of ₹ 12,000 to insure his health.

Cost Inflation Index of F.Y.1999-2000: 389; F.Y.2009-10: 632; F.Y.2012-13: 852; F.Y.2014-15: 1024.

Answer

Computation of total income of Mr. Ram for A.Y.2015-16

Particulars		₹
Salaries		24,00,000
Capital gains [See Working Note below]		19,52,800
Interest on fixed deposits		1,00,000
Gross Total Income		**44,52,800**
Less: Deductions under Chapter VI-A		
Under section 80C – PPF	1,50,000	
Under section 80D – Mediclaim premium	12,000	1,62,000
Total Income		**42,90,800**
Tax on total income:		`
Tax on long-term capital gains [20% of ₹ 19,27,800]		3,85,560
Tax on other income of ₹ 23,63,000 [42,90,800 - 19,27,800]		5,33,900
		9,19,460
Add: Education cess@2% and SHEC@1%		27,584
		9,47,044

Working Note – Computation of Capital Gains chargeable to tax for A.Y.2015-16

	Particulars	₹
(1)	**Residential house**	
	Gross Sale consideration	1,45,00,000
	Less: Indexed cost of acquisition [15,56,000 × 1024/389]	40,96,000
		1,04,04,000

	Less: Exemption under section 54 Investment in one residential house (it is more beneficial to claim exemption in respect of investment in residential flat at Pune)	35,00,000
	Investment in bonds of NHAI/RECL (aggregate investment to be restricted to ₹ 50 lakh)	50,00,000
	Long-term capital gains taxable@20% u/s 112	**19,04,000**
(2) & (4)	**Listed equity shares and units of equity oriented fund** Capital gains on sale of listed equity shares and units of equity oriented fund held for more than 12 months is a long-term capital gain exempt under section 10(38).	Nil
(3)	**Unlisted shares**	75,000
	Sale consideration	
	Less: Cost of acquisition	50,000
	Short-term capital gains taxable at normal rates of tax [Since held for less than 36 months]	25,000
(5)	**Units of debt-oriented fund**	75,000
	Sale consideration	
	Less: Indexed cost of acquisition [31,600 × 1024/632]	51,200
	Long-term capital gains taxable at 20% u/s 112 [Since held for more than 36 months]	**23,800**

Taxable Capital Gains:	₹
Long-term capital gains taxable@20% u/s 112 **[(1) + (5)]**	19,27,800
Short-term capital gains taxable at normal rates **[3]**	25,000
	19,52,800

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5. Income from Other Sources

Advance Money Forfeited **Sec 51**

Where any capital asset was on any previous occasion the subject matter of negotiations for its transfer, and any advance money **or other money received** is forfeited by the ***assessee#,*** then the amount so forfeited shall be deducted from

(a) the cost for which the asset was acquired or

(b) the fair market value or (I.e., FMV as on 1.4.1981 where the asset was acquired before 1.4.1981)

(c) the written down value (in case of depreciable assets) as the case may be, in computing the cost of acquisition.

as the case may be, in computing the cost of acquisition

Advance money forfeited by previous owner should not be deducted.

Proviso Added by Finance Act, 2014

"Provided that where any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset, has been included in the total income of the assessee for any previous year in accordance with the provisions of clause (ix) of sub-section (2) of section 56, then, such sum shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.".

Advance Money Forfeited **Sec 56(2)(ix)**

"Any sum of money received as an advance or otherwise in the course of negotiation for transfer of a capital asset, if, –

(a) **such sum is forfeited; and**

(b) **the negotiations do not result in transfer of such capital asset.".**

ANALYSIS

1. Definition of income as given ins section 2(24) has been amended by Finance Act, 2014 to include:

   "any sum of money referred to in section 56(2)(ix)"

2. Sub-clause (ix) has been added to section 56(2) by Finance Act, 2014 which provides that the following shall be taxable as income from other sources:

"Any sum of money received as an advance or otherwise in the course of negotiation for transfer of a capital asset, if, –

(c) **such sum is forfeited; and**

(d) **the negotiations do not result in transfer of such capital asset.".**

3. The amendment are effective from Assessment Year 2015-16 i.e. Previous Year starting from 1-4-2014.

4. Any advance or other money forfeited before 1-4-2014 shall be dealt with as per section 51, i.e., reduced from actual cost, WDV, etc.

Any advance or other money forfeited on or after 1-4-2014 shall be treated as “Income from other Sources” and shall not be reduced from actual cost of the asset.

Example:-

Mr. H has acquired a residential house property in Delhi on 1st April, 2001 for ₹ 22,00,000 and decided to sell the same on 3rd May, 2004 to Mrs.P and an advance of ₹ 70,000 was taken from her. The balance money was not paid by Mrs. P and hence, Mr. H has forfeited the entire advance sum. In April, 2014, he once again entered into negotiations for sale of the said property to Mr.Y, and received ₹ 2 lakh as advance, but the transfer did not materialize and hence, the advance was forfeited. On 3rd March, 2015, he finally sold this house to Mr. S for ₹ 95,00,000. In the meantime, on 4th February, 2015, he had purchased a residential house in Faridabad for ₹ 28,00,000 and made full payment for the same. However, Mr.H does not possess any legal title till 31st March, 2015, as such transfer was not registered with the registration authority.

Mr.H had purchased another old house in Madurai on 14th October, 2014 from Mr. X, an Indian resident, by paying ₹ 25,00,000 and the purchase was registered with the appropriate authority.

Determine the taxable capital gain arising from above transactions in the hands of Mr.H for Assessment Year 2015-16.

Cost Inflation Index - 2001-02: 426; 2004-05: 480; 2013-14: 939; 2014-15:1024.

Answer

Computation of taxable capital gain of Mr. H for the A.Y.2014-15

Particulars	₹
Sale proceeds	95,00,000
Less: Indexed cost of acquisition **(See Notes 1 & 2)**	51,20,000
Long Term Capital Gain	43,80,000
Less: Exemption under section 54 in respect of investment in house at Faridabad **(See Notes 3 & 4)**	28,00,000
Taxable long-term capital gain	**15,80,000**

Notes:

1. **Computation of indexed cost of acquisition**

Particulars	₹
Cost of acquisition	22,00,000
Less: Advance taken in the previous year 2004-05 and forfeited	70,000
Cost for the purpose of Indexation	21,30,000
Indexed cost of acquisition (` 21,30,000 x 1024/426)	51,20,000

2. Advance of ₹ 2 lakh taken by Mr. H in April, 2014, which was forfeited due to the transaction not materializing, is taxable under section 56(2)(ix). Hence, such amount

would not be reduced to compute the indexed cost of acquisition while computing capital gains on sale of the property in March, 2015.

3. In order to avail exemption of capital gains under section 54, one residential house should be purchased within 1 year before or 2 years after the date of transfer or constructed within a period of 3 years after the date of transfer. In this case, Mr.H has purchased the residential house in Faridabad within one year before the date of transfer

and paid the full amount as per the purchase agreement, though he does not possess any legal title till 31.3.2015 since the transfer was not registered with the registration authority. However, for the purpose of claiming exemption under section 54, holding of legal title is not necessary. If the taxpayer pays the full consideration in terms of the purchase agreement within the stipulated period, the exemption under section 54 would be available. It was so held in Balraj v. CIT(2002) 254 ITR 22 (Del.) and CIT v. Shahzada Begum (1988) 173 ITR 397 (A.P.).

4. The Finance (No.2) Act, 2014 has clarified that exemption under section 54 can be availed only in respect of one residential house. It would be more beneficial for Mr. H to claim exemption in respect of the Faridabad house since the cost of the same is higher than the cost of the Madurai house.

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6. Deductions from Gross Total Income

Increase in the limit of deduction **Sec 80C / 80CCE**

Section	Particulars	Ceiling limit (₹)
80C	Investment in specified instruments	1,50,000
80CCC	Contribution to certain pension funds	1,00,000
80CCD(1)	Contribution to new pension scheme of Government	1,00,000
80CCE	Aggregate deduction under sections 80C, 80CCC & 80CCD(1)	1,50,000

Example

Mr. A, employed with ABC Ltd., has deposited ₹ 1,20,000 in public provident fund. He has paid life insurance premium of ₹ 15,000 on the policy taken on 1.5.2012 to insure his life (Sum assured – ₹ 1,20,000). He has deposited ₹ 30,000 in a five year term deposit with bank. He has also contributed ₹ 1,20,000, being 10% of his salary, to the notified pension scheme of the Central Government. A matching contribution was made by ABC Ltd. Compute the deduction available to him under Chapter VI-A for A.Y.2015-16.

Answer

Deduction available to Mr. A under Chapter VI-A for A.Y.2015-16

Section	Particulars	₹	₹
80C	Deposit in public provident fund	1,20,000	
	Life insurance premium paid ₹ 15,000 (deduction restricted to ₹ 12,000, being 10% of ₹ 1,20,000, being sum assured, since the policy was taken after 31.3.2012)	12,000	
	Five year term deposit with bank	30,000	
		1,52,000	
	Restricted to		1,50,000
80CCD(1)	Contribution to notified pension scheme of the Central Government, ₹ 1,20,000, restricted to		1,00,000
			2,50,000
80CCE	Aggregate donations under section 80C and 80CCD(1), ₹ 2,50,000, but restricted to		1,50,000
80CCD(2)	Employer contribution to notified pension scheme		1,20,000
Aggregate Deduction			**2,70,000**

Note – Employer's contribution to notified pension scheme has to be first included under the head "Salaries" while computing gross total income and thereafter, deduction under section 80CCD(2) would be allowed, subject to a maximum of 10% of salary.

7. Advance Tax & TDS

Tax to be deducted on non-exempt payments made under life insurance policy	**Sec 194DA**

Effective from: 1st October, 2014

(i) Under section 10(10D), any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy is exempt subject to fulfillment of conditions specified under the said section.

(ii) Consequently, the sum received under a life insurance policy which does not fulfill the conditions specified under section 10(10D) is taxable.

(iii) For ensuring a proper mechanism for reporting of transactions and collection of tax in respect of sum paid under life insurance policies which are not exempt under section 10(10D), new section 194DA has been inserted to provide for deduction of tax at the rate of 2% on any sum paid to a resident under a life insurance policy, including the sum allocated by way of bonus, which are not exempt under section 10(10D) .

(iv) However, tax deduction is required only if the payment or aggregate payment in a financial year to an assessee is ₹ 1,00,000 or more. This is for alleviating the compliance burden on the small tax payers.

Example

Examine the applicability of the provisions for tax deduction at source under section 194DA in the above cases -

(i) Mr.X, a resident, is due to receive ₹ 4.50 lakhs on 31.3.2015, towards maturity proceeds of LIC policy taken on 1.4.2012, for which the sum assured is ₹ 4 lakhs and the annual premium is ₹ 1,25,000.

(ii) Mr.Y, a resident, is due to receive ₹ 2.20 lakhs on 31.3.2015 on LIC policy taken on 1.4.2010, for which the sum assured is ₹ 2 lakhs and the annual premium is ₹ 35,000.

(iii) Mr.Z, a resident, is due to receive ₹ 95,000 on 1.10.2014 towards maturity proceeds of LIC policy taken on 1.10.2010 for which the sum assured is ₹ 90,000 and the annual premium was ₹ 19,000.

Answer

(i) Since the annual premium exceeds 10% of sum assured in respect of a policy taken on 1.4.2012, the maturity proceeds of ₹ 4.50 lakhs are not exempt under section 10(10D) in the hands of Mr.X. Therefore, tax is required to be deducted@2% under section 194DA on the maturity proceeds of ₹ 4.50 lakhs payable to Mr.X.

(ii) Since the annual premium is less than 20% of sum assured in respect of a policy taken before 1.4.2012, the sum of ₹ 2.20 lakhs due to Mr.Y would be exempt under section 10(10D) in his hands. Hence, no tax is required to be deducted at source under section 194DA on such sum payable to Mr.Y.

(iii) Even though the annual premium exceeds 20% of sum assured in respect of a policy taken before 1.4.2012, and consequently, the maturity proceeds of ₹ 95,000 would not be exempt under section 10(10D) in the hands of Mr.Z, the tax deduction provisions under section 194DA are not attracted since the maturity proceeds are less than ₹ 1 lakh.

8. Miscellaneous

Amendments Related to Trust — **Sec 11 & 12**

1. If Assets cost is treated as applied for charitable & religious purpose then Depreciation is not allowed on such assets. [Sec 11(6)]
2. Where Trust claim exemption u/s 11 & 12 then deduction is not allowed u/s 10 except 10(1) & 10(23C).

ⓘ

- Section 10(1) exempts agricultural income and trust can claim exemption under section 10(1) along with exemption section 11 & 12
- Trust cannot claim any other exemption under section 10 while computing exemption under section 11 & 12.

- Exemption under section 10(23C) is similar to exemption under section 11 & 12 and it is available to certain big trust who are approved by Central Government.

Illustration:
A religious/ Charitable trust during the Previous Year 14-15 derived the following incomes: Incomes from property held under trust ₹ 2 crores the break-up of which is an under:

	₹
Dividend on shares	100 lakhs
Dividend on units	50 lakhs
Donations	50 lakhs

The trust also has agricultural income of ₹ 10 lakhs. The trust has applied ₹ 40 lakhs on religious/ charitable purpose in India.

After amendment by Finance Act, 2014, if a trust has been granted registration under section 12AA and the said registration is in force for any previous year, then trust cannot claim exemption under any provision of section to except section 10(1) i.e. agricultural income and except section 10(23C).

Therefore, the trust cannot claim exemptions under section 10(34), 10(35) and 10(38). The income of trust shall be computed as under:

Dividends on shares	100 lakhs
Dividends on units	50 lakhs
Agricultural income exempt under section 10(1)	Nil
Donation	50 lakhs
	200 lakhs
Less: 15% sets apart	30 lakhs
Less: Applied under section 11(1) and 11(2)	40 lakhs
Total Income	**130 lakhs**

Taxability of anonymous donations exempt from applicability of maximum marginal rate of tax

Section : 115BBC

Effective from: A.Y.2015-16

Issue	Need for amendment	Amendment

Section 115BBC provides for levy of tax at 30% in case of certain assessees, being university, hospital, etc. on the amount of aggregate anonymous donations exceeding 5% of the total donations received by the assessee or ₹ 1 lakh, whichever is higher.	The correct method of computation is to reduce the income by the amount of anonymous donations which has actually been taxed at the rate of 30%.	Section 115BBC has been amended to provide that the income-tax payable shall be the aggregate of – (i) the amount of income-tax calculated @30% on the aggregate of anonymous donations received in excess of 5% of the total donations received by the assessee or
On account of the mechanism of aggregation of tax provided in section 115BBC, while incometax@30% is levied on the amount of anonymous donations exceeding the threshold, the remaining tax is chargeable on total income after reducing the entire amount of anonymous donations.		one lakh rupees, whichever is higher; and (ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of the anonymous donations received in excess of 5% of the total donations received by the assessee or ₹ 1 lakh, as the case may be.

Example

Income from property held under trust is ₹ 6 lakh. The voluntary contributions received by a trust is ₹ 20 lakh, which includes anonymous donations of ₹ 4 lakh and corpus donations of ₹ 5 lakh. The trust has applied ₹ 10 lakh to purchase a building on 1.8.2014 for meeting its objective. Compute the tax liability of the trust for A.Y.2015-16.

Answer

Particulars	₹	₹
Income from property held under trust[1]		6,00,000
Voluntary contributions	20,00,000	
Less: Corpus donations (not taxable)	5,00,000	
	15,00,000	
	3,00,000	

[1] Depreciation on building is not allowable since cost of acquisition of building has been claimed as application of income. It is assumed that depreciation on building has not been charged while computing income from property held under trust.

Less: Anonymous donations (taxable@30% under section 115BBC) [` 4,00,000 – ` 1,00,000]		12,00,000
		18,00,000
Less: 15% of income eligible for retention/ accumulation without conditions[2]		2,70,000
		15,30,000

Less: Purchase of building for the purpose of the trust	10,00,000
Total Income (excluding anonymous do taxable@30%)	**5,30,000**

The tax payable by the trust would be the aggregate of –

(i) ₹ **90,000**, being income-tax calculated@30% on ₹ 3 lakh (i.e., ₹ 4 lakh – ₹ 1 lak

and (ii) ₹ **31,000**, being income-tax calculated at normal rates on ₹ 5.30 lakh (i.e

5,30,000).

The total tax payable would be ₹ 1,24,630 (₹ 1,21,000 plus cess@3%)

9. Some Amendments made by Finance Act-2013 (Still Imp. For Exams)

Special provision for Sale consideration in case of stock is sold by builders	**Sec 43CA**

1. In case of transfer of immovable property for consideration less than stamp duty value, FVC u/h Capital Gains is deemed to be equal to SDV u/s 50C. It is noteworthy that this provision is applicable only if immovable property is held by seller as capital asset, and not if held as stock-in- trade.
2. Now a new section 43CA has been inserted u/h PGBP to provide that if an immovable property is transferred (held as stock-in-trade) for consideration less than stamp duty value, then SDV shall be deemed to be consideration u/h PGBP.
3. Like section 50C, seller may claim before AO that FMV of such property is less than SDV.

[2] A view is taken that 15% of ₹ 1 lakh, representing the amount of anonymous donations exempt from applicability of 30% tax, is also eligible for retention/accumulation without conditions in line with other voluntary contributions. A contrary view may also be possible due to the language used in section 13(7), that such anonymous donations chargable to tax at normal rates are not eligible for retention/accumulation. If this view is taken, ₹ 2,55,000, being 15% of ₹ 17,00,000 has to be set apart (instead of ₹ 2,70,000, being 15% of ₹ 18,00,000).

4. Further, if SDV differs on date of agreement & date of registration, then SDV on the date of agreement may be taken as consideration if consideration (in whole or in part) has been received on or before the date of agreement by any mode other than cash.

PRACTICAL QUESTION

Mr. Kapil, a property dealer, sold a building in the course of his business to his friend Palak, who is a dealer in automobile spare parts, for ₹ 90 lakh on 1.1.2015, when the stamp duty value was ₹ 150 lakh. The agreement was, however, entered into on 1.7.2014 when the stamp duty value was ₹ 140 lakh. Mr. Kapil had received a down payment of ₹ 15 lakh by cheque from Palak on the date of agreement. Discuss the tax implications in the hands of Kapil and Palak, assuming that Mr. Kapil has purchased the building for ₹ 75 lakh on 12th July, 2013.Would your answer be different if Kapil was a share broker instead of a property dealer?

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