AMENDMENTS BY FINANCE (NO. 2) ACT, 2014

A.Y. 2015-16

For C.A. Final Examination
to be held in May/ Nov 2015

Please also refer

1. Supplementary Study material for May/ Nov. 2015 Exam, ICAI
2. Selected cases in Direct tax laws 2015, ICAI
3. Revision Test papers for May/ Nov. 2015, ICAI (yet to be published)

CA. Ashish Goyal,
Advocate

A Summary of Amendments Applicable for A.Y. 2015-16 Applicable of May/ Nov 2015 Attempt

<table>
<tr><th>Sec.</th><th>Summary</th></tr>
<tr><td></td><td>Rates of Income-tax (Annexure 1. Pg. 9)</td></tr>
<tr><td></td><td>House Property</td></tr>
<tr><td>24</td><td>In case of SOP (where conditions of section 24) are satisfied, Limit for interest u/s. 24 shall be taken as ₹ 2,00,000 instead of the earlier limit of ₹ 1,50,000.</td></tr>
<tr><td></td><td>Business/ Profession Head</td></tr>
<tr><td>43(5)</td><td>As per present provision, a speculative transaction excludes: -
(a) Hedging transactions
(b) Trading in derivatives in shares / commodities through eligible stock exchange.
The transaction in commodities would now be excluded from the definition of speculative transaction, if Commodities Transaction Tax (CTT) is paid on same.
<table>
<tr><th>S.No.</th><th>Nature of Trading</th><th>Speculative/ Non-speculative</th></tr>
<tr><td>1.</td><td>Delivery based trading in shares</td><td>Non-speculative</td></tr>
<tr><td>2.</td><td>Intra-day trading</td><td>Speculative</td></tr>
<tr><td>3.</td><td>Derivatives (shares) (through Eligible Stock Exchange)</td><td>Non-speculative</td></tr>
<tr><td>4.</td><td>Derivatives (shares) (not through Eligible Stock Exchange)</td><td>Speculative</td></tr>
<tr><td>5.</td><td>Derivatives (commodities) (CTT Paid)</td><td>Non-speculative</td></tr>
<tr><td>6.</td><td>Derivatives (Commodities) (CTT not paid)</td><td>Speculative</td></tr>
</table></td></tr>
<tr><td>32AC</td><td>Investment allowance (Annexure 2. Pg. 9)</td></tr>
<tr><td>37(1)</td><td>Explanation 2 to section 37(1) has been inserted. Expenditure on Corporate Social Responsibility (CSR) under Companies Act, 2013, shall not be deemed to be for Business/ Profession.
Although the expenditure on CSR may not be allowable u/s. 37, it can be claimed through section 35/ 35AC/ 80G, as such modes are permitted under the Companies Act, 2013.</td></tr>
<tr><td>35AD</td><td>Expenditure on Specified Business (Annexure 3. Pg. 10)</td></tr>
<tr><td>40(a)(i)</td><td>This provision relates to Payment to Non-resident (other than Salary)
Earlier TDS was required to be deducted within the time prescribed u/s. 200(1). Now this section has been synchronized with section 40(a)(ia). Therefore the TDS deducted can be deposited upto due date of filing of return.</td></tr>
<tr><td>40(a)(ia)</td><td>This provision relates to Payment to Resident. [Annexure 4. Pg. 11 – A summary of 40(a)]
(a) Earlier only seven specified payments were covered. Now all payments on which TDS was deductible are covered. This will mainly cover Salary, Anti-Competitive Fees, Director's Remuneration etc.
(b) Earlier, on non-compliance of the provisions, the entire expenditure was disallowed. Now, even if there is non-compliance, only 30% of the expenditure shall be disallowed.
<table>
<tr><th></th><th>Eg#1</th><th>Eg#2</th><th>Eg#3</th><th>Eg#4</th><th>Eg#5</th></tr>
<tr><td>Nature of Payment</td><td>Tech. Fees</td><td>Tech. Fees</td><td>Salary</td><td>Tech. Fees</td><td>Tech-fees</td></tr>
<tr><td>Payee</td><td>Resident</td><td>Resident</td><td>Resident</td><td>Non-resident</td><td>Non-resident</td></tr>
<tr><td>Amount</td><td>40,000</td><td>40,000</td><td>40,000</td><td>2,00,000</td><td>2,00,000</td></tr>
<tr><td>Date of Deduction</td><td>10.12.2014</td><td>10.12.2014</td><td>10.12.2014</td><td>10.12.2014</td><td>10.12.2014</td></tr>
<tr><td>Date of Deposition</td><td>20.06.2015</td><td>30.12.2015</td><td>30.12.2015</td><td>30.12.2015</td><td>20.06.2015</td></tr>
<tr><td>Section applicable</td><td>40(a)(ia)</td><td>40(a)(ia)</td><td>40(a)(ia)</td><td>40(a)(i)</td><td>40(a)(i)</td></tr>
<tr><td>Disallowance, if any</td><td>NIL</td><td>12,000</td><td>12,000</td><td>2,00,000</td><td>NIL</td></tr>
</table></td></tr>
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<tr><td>44AE</td><td>Earlier the income per month per truck was taken as ₹ 4,500 or ₹ 5,000 depending on type of truck. Now the difference of type of truck is abolished and the income is taken at ₹ 7,500 p.m/part of month or higher rate, as the case may be.</td></tr>
<tr><td>2(14)</td><td>Asset held as stock-in-trade is not a Capital Gain. However, securities held by FII shall not be regarded as stock-in-trade.</td></tr>
<tr><td>47</td><td>Following transfers are also made exempt: -
a. Transfer of Government securities (carrying periodic payment of interest)
b. transferred by a non-resident
c. to another non-resident
d. through intermediary dealing in settlement of securities
e. outside India
is exempt.</td></tr>
<tr><td>2(42A)</td><td>Generally, if the capital asset is held for not more than 36 months, the capital gain is Short-term. In following cases, 36 months shall be read as 12 months: -
a. ~~Shares held in a company~~. <u>A Security listed in recognized stock exchange in India (Other than Units)</u>
b. ~~Any security listed in a recognized stock exchange in India~~.
c. Units of UTI
~~d. Units of Mutual fund specified u/s. 10(23D)~~ <u>Units of Equity Oriented Fund</u>
e. Zero Coupon Bond
This provision shall apply from 10.07.2014.

<table>
<tr><th></th><th>Eg #1</th><th>Eg. # 2</th><th>Eg # 3</th><th>Eg # 4</th><th>Eg # 5</th><th>Eg # 6</th></tr>
<tr><td>Type of Security</td><td>Unlisted Equity</td><td>Listed Equity</td><td>Unlisted Debentures</td><td>Listed Debentures</td><td>Unlisted Shares</td><td>Debt oriented mutual funds</td></tr>
<tr><td>Date of Acquisition</td><td>08.07.13</td><td>08.07.13</td><td>08.07.13</td><td>08.07.13</td><td>12.07.13</td><td>18.08.13</td></tr>
<tr><td>Date of Transfer</td><td>09.07.14</td><td>09.07.14</td><td>09.07.14</td><td>09.07.14</td><td>15.07.14</td><td>20.11.14</td></tr>
<tr><td>LT/ ST</td><td>LT</td><td>LT</td><td>ST</td><td>LT</td><td>ST</td><td>ST</td></tr>
</table>
</td></tr>
<tr><td>45(5)</td><td>Enhanced Compensation: - Enhanced compensation is taxable, in the year in which amount is received. However, now it is also provided that, if amount is received under interim order, same shall be deemed to be the income in the year in which final order is passed.</td></tr>
<tr><td>51/
56(2)
(ix)</td><td>W.e.f. A.Y. 2015-16, forfeiture of advance money/ other money shall be regarded as income from Other Sources.
(a) Advance money forfeited prior to 01.04.2014, shall be reduced from cost
(b) Advance money received thereafter, shall be treated as income from other sources.</td></tr>
<tr><td>54/ 54F</td><td>Earlier exemption was available for Purchase or construct of <u>a</u> Residential house.
Now it is replaced with Purchase or construct of <u>one</u> Residential house <u>in India</u></td></tr>
<tr><td>54EC</td><td>An assessee can invest maximum ₹ 50 lacs in bonds in one F.Y.
It is now provided that the aggregate deduction for one or more capital gains earned in one F.Y. shall not exceed ₹ 50 lacs, by making investment in one or more F.Y. This is done to avoid the interpretation that more than ₹ 50 lacs can be invested, if the period of 6 months fell within multiple F.Ys.</td></tr>
</table>

	Other Sources
115R/ 115TA	Earlier there was a requirement of submitting Annual Compliance statement in prescribed form upto 15th Sept of A.Y. giving details of income distributed in P.Y. This requirement has been dispensed with.
115O/ 115R	***Net Distributable income: -*** In case of DDT/ IDT, it is provided that the net distributable profits shall be increased to such amount as would, after reduction of the tax on such increased amount at the rate specified u/s. 115O/ 115R, be equal to net distributed profits. This provision could be understood as under: - If a company wanted to distribute dividend of ₹ 85, earlier, the amount of DDT was calculated @ 15% on ₹ 85 i.e. ₹ 12.75 (plus surcharge etc.). However, now the amount shall be calculated as under: - $= 85 + \frac{(85 \times 0.15)}{(1.00-0.15)}$ $= 85 + 15 \quad = 100$ DDT will be payable on ₹ 100 @ 15% i.e. ₹ 15. This amount shall be increased by Surcharge etc as applicable. In effect, the old and new rates of DDT can be taken as under (including surcharge etc) Distribution Tax / Old Rates / New Rates: DDT: 16.99% / 19.99% IDT - Payee is Individual/ HUF: 28.325% / 37.76% - Payee is others: 33.99% / 48.56%
115BBD	Earlier section 115BBD applied upto A.Y. 2014-15. Now this restriction is abolished. Section 115BBD will apply for subsequent years.
	Set-off and Carry Forward of Losses
73	Explanation to section 73 provides that where ***part of business*** of a ***company (public or private)*** includes purchase/sale of shares such part shall be speculation business. However, same will not be speculation, inter-alia, where the Company whose principal business is ***share trading/*** banking/ granting loans or advances. Crux of the matter:
	Deductions u/c. VIA
80C, 80CCC, 80CCD	Maximum deduction u/s. 80C/ 80CCC/ 80CCD, has been increased from ₹ 100000 to ***₹1,50,000***. Although the limit u/s. 80C, 80CCC, 80CCD has been enhanced to ₹ 1,50,000, but the total amount of deduction u/s. 80CCD(1) shall not exceed ₹1,00,000. However, employer's contribution shall not be considered for the limit of ₹ 1,00,000.

Distribution Tax table (section 115O/ 115R):

Distribution Tax	Old Rates	New Rates
DDT	16.99%	19.99%
IDT - Payee is Individual/ HUF	28.325%	37.76%
- Payee is others	33.99%	48.56%

Crux of the matter (section 73):

	All Assessees (except Company)	Company	Banking/ Investment/ Share Trading Company
Delivery based trading	***Non-speculation***	***Speculation***	***Non-speculation***
Intra-day Trading	Speculation	Speculation	Speculation
F & O (shares)(Eligible Stock Exchange)	Non-speculation	Non-speculation	Non-speculation
F& O (shares) (others)	Speculation	Speculation	Speculation

	Eg#1	Eg#2	Eg#3	Eg#4	Eg#5
Salary	8,00,000	8,00,000	12,00,000	12,00,000	4,00,000
Employees contribution	40,000	70,000	1,30,000	1,10,000	60,000
Employers Contribution	35,000	65,000	1,50,000	1,17,000	55,000
Deduction u/s. 80C claimed	90,000	1,10,000	40,000	25,000	1,30,000
Deduction u/s. 80CCD (For Employees contribution)	40,000	40,000	1,00,000	1,00,000	20,000
Deduction u/s. 80CCD (for Employers Contribution)	35,000	65,000	1,20,000	1,17,000	40,000

80A Where deduction is claimed and allowed ***u/s. 10AA***/ 35AD, no deduction shall be allowed at anytime under Chapter VIA Part C in any A.Y.

80IA Eligibility of power sector shall be for projects commencing upto 31.03.2017 instead of 31.03.2014.

Alternate Minimum Tax (AMT)

115JC-115JF *Adjusted Total Income = Total Income + Chapter VIA (Part C) deductions + Income eligible u/s. 10AA* ***+ Deduction u/s. 35AD – Corresponding Depreciation u/s. 32 (including additional Depreciation, if any) on 35AD assets***

Allowability of Incentives under MAT and AMT:

Paticulars	MAT (Companies)	AMT (Others)
10AA	Not allowed	Not allowed
Chapter VIA Part C	Not Allowed	Not allowed
35AD	Not Allowed (as no similar deduction under Companies Act)	Not Allowed
10(38)	Not Allowed	Allowed

Example: PQR & Co., partnership firm, purchased a plant (Plant I) on 10.06.2013 for ₹ 20 lacs; and put to use the same. PQR & Co. further purchased a plant (Plant II) for ₹ 50 lacs on 20.11.2014 and put to use the same on same date. Both the plants were used in respect of business, which was eligible u/s. 35AD for 100% deduction. The Total Income (after giving deduction u/s. 35AD) for F.Y. 2014-15 was ₹ 40 lacs. Calculate the tax liability of assessee, assuming that there is no additional depreciation.

Solution: -

Depreciation on Plant 1:

WDV as on 01.04.2014 - ₹ 17 lacs (₹ 20 lacs Less 15%)

Depreciation @ 15% ₹ 2.55 lacs (15 % of ₹ 17 lacs)

Depreciation on Plant 2:

Depreciation @ 7.50% ₹ 3.75 lacs (7.50% of ₹ 50 lacs)

Calculation of ATI = ₹ 40 lacs + ₹ 50 lacs – ₹ 2.55 lacs - ₹ 3.75 lacs

= ₹ 83.70 lacs

Tax = 30.90% of ₹ 40 lacs = ₹ 12.36 lacs
Or 19.055% of ₹ 83.70 lacs = ₹ 15.95 lacs
} whichever is higher i.e. ₹ 14.04 lacs

115JC-115JF AMT Credit would be available, even if the assessee ceases to be covered by AMT

Eg.

(a) where 10 years of tax holiday expire u/s. 80IA

(b) the deduction u/s. 35AD lapses

	(c) in case of individual if the total income of the year in which assessee wants set-off of brought forward AMT, is less than ₹ 20 lakhs
	Assessment of Trust
12AA	One may note that once registration is granted, the provisions shall generally apply from the F.Y. of application. However, the provisions shall continue to apply for preceding years also, if: i. Assessment proceedings are pending before AO on the date of registration ii. Objects and activities of such trust were the same for such preceding year. iii. Registration u/s. 12AA was not rejected/ cancelled at anytime u/s. 12AA Even action u/s. 147 shall not be taken for such preceding years, only for the reason that such institution was not registered in such A.Y.
12AA	***Cancellation of registration***: - If CIT is satisfied that: - a. the activities of trust/ institution are not genuine; or b. not being carried out in accordance with the objects of the trust/ institution; or ***c. Section 13 applies and the exemption is denied wholly or partly (Provision shall not be applicable where the trust proves that there was a reasonable cause for the activities to be carried out in the said manner)*** he shall pass an order in writing cancelling the registration of such trust/ institution.
11	Where exemption is claimed u/s. 11-13, no exemption under any clause of section 10 shall be allowed [Except exemption for Agriculture income u/s. 10(1), 10(23C), 13A, 13B]. The impact of this amendment would be that an institution which is eligible u/s. 11-13 may not get exemption u/s. 10(34) for dividend income, or u/s. 10(38) for LTCG which is STT paid, separately.
11	It may be noted that depreciation on fixed assets is not allowable for computing the "net income" of the trust. Since the cost of fixed assets has been allowed as application of income, the allowance of depreciation would be improper. This amendment has been brought to clarify the earlier conflicting judgments. *[**Earlier judgments -** Gujarati Samaj (2011)(M.P.); Institution of Banking (2005)(Bom.)- where both deductions were allowed. **Contrary** decision had been expressed in Lissie Medical Institutions (2012)(Ker.)]*
10(23C)	An institution would be said to be "Substantially financed by government", if the Government grant to such university/ college/ hospital exceeds such percentage of total receipts (receipts include voluntary contributions) as may be prescribed. (nothing is prescribed till date)
115BBC	**Tax payable shall be aggregate of: -** a) Income-tax calculated on income by way of any anonymous donation, at 30% and b) Income-tax on [Total Income Less Anonymous donation ***(which is not exempt, as below)***] Anonymous donations upto - ₹ 1,00,000; or - 5 % of total donation ***whichever is higher***, shall not be treated as anonymous donation.
	Assessment of Misc. Entities (Business Trust)
	Provisions relating to assessment of business trust (***Annexure 5. Pg. 12)***
	Assessment Procedure
116	Income-tax Authorities. It is further provided that: - (a) Commissioner Includes Principal Commissioner (b) Director includes Principal Director (c) Chief Commissioner includes Principal Chief Commissioner (d) Director-General includes Principal Director-General

133C	**Power to call for information by Prescribed I-T Authority (Section 133C)** (a) Prescribed Income-tax Authority may issue notice (b) to any person (c) to furnish information/ documents verified in the manner specified therein, (d) which may be useful for, any inquiry/ proceedings under this Act (e) This notice can be issued to verify the information in its possession. SALIENT FEATURES: - Proceedings would cover present/ past/ future proceedings.
139(4C)	As per this section**,** where the total income of aforesaid assessees' (*before giving effect to said sections*), exceeds the maximum amount not chargeable to tax, a return of income shall be filed. Following persons are also required to file return: - 1. Mutual Fund u/s. 10(23D) 2. Securitization Trust u/s. 10(23DA) 3. Venture Capital Company or Venture Capital Fund u/s. 10(23FB)
285BA	Annual Information Return (AIR) replaced with Statement of Financial Transaction or Reportable Account (FTRA) (***Annexure 6. Pg. 14***)
142A	Reference to Valuation Officer – Old section replaced by new section. (***Annexure 7. Pg. 15***)
153	Period from when reference to DVO was made till the date when the report of DVO is received by AO shall be excluded for calculating the period of limitation for make assessment.
281B	This provision deals with provisional attachment. Generally, the provisional attachment shall be done for six months. However, the period could be extended. ***Extension of period: -*** CCIT/DGIT/CIT/DIT can grant extension for 2 more years ***or sixty days after the Assessment/ Reassessment order, whichever is later***. ~~While computing extension period,~~ ~~- the period commencing from the date on which application is filed to the Settlement Commission and the date on which order is passed by the Settlement Commission u/s. 245D~~ ~~- period when Stay/ Injunction granted by Court was operational~~ ~~*shall be excluded.*~~
145	Central Government is empowered to issue Accounting Standards. However, it was felt that instead of Accounting Standards, for taxation purposes, "Income Computation and Disclosure Standards" shall be provided. So the words accounting standards shall be replaced by "Income Computation and Disclosure Standards".
153C	Where (a) the AO is ***satisfied*** (b) that any assets/ records seized u/s 132/ requisitioned u/s 132A ***belongs*** to any other person, (c) then he shall ***hand over*** such assets/ records to concerned AO having jurisdiction over such other person (d) the ***jurisdictional AO shall proceed*** against such other person in accordance with the provisions of section 153A, ***if he is satisfied that assets/ records have a bearing on the determination of the total income of such other person.***
133A	During survey books could be impounded. Maximum impounding permitted is for ~~10~~ ***15*** working days. This period can be extended with approval of **CCIT/DGIT/ *CIT/ DIT*.**
133A (2A)	TDS Survey (***Annexure 8. Pg. 15***)
245A	Assessee could not have applied to Settlement Commission, in reassessment cases and in set-aside cases. Section

<table>
<tr><td></td><td>has been amended to provide that assessee can apply in these cases also.

So practically one can apply in every case to Settlement Commission, except where assessment is completed/ pending before appellate authority.</td></tr>
<tr><td>245N</td><td>Now AAR shall be applicable not only in the case of Non-residents, but even a Notified Class of Resident (Notified by Central Government) can apply to the AAR for determination of tax liability of the applicant Resident.

So ultimately, one can apply to AAR with following modified chart:
<table>
<tr><th>Who shall be applicant</th><th>Who shall be non-applicant</th><th>Application for determination of whose tax liability</th><th>When to apply</th><th>Form of application</th></tr>
<tr><td>Non-resident</td><td>Non-resident</td><td>Applicant/ Non-applicant</td><td>Before or after transaction, but before completion of assessment</td><td>34C</td></tr>
<tr><td>Non-resident</td><td>Resident</td><td>Applicant</td><td>---do-----</td><td>34C</td></tr>
<tr><td>Resident</td><td>Transaction with non-resident</td><td>Non-applicant (non-resident)</td><td>---do-----</td><td>34D</td></tr>
<tr><td><u>Notified Class of Resident</u></td><td><u>Any (Resident or non-resident)</u></td><td><u>Applicant</u></td><td><u>---do----</u></td><td><u>To be prescribed</u></td></tr>
<tr><td>Notified Resident (Government Corporation)</td><td>Any (Resident or non-resident)</td><td>Applicant</td><td>Before or after transaction, but before appeal is decided before ITAT</td><td>34E</td></tr>
</table>
Amendment</td></tr>
<tr><td>271H</td><td>Authority who can levy penalty u/s. 271H (for not filing TDS Quarterly Statement) shall be AO.</td></tr>
<tr><td>269SS/ 269T</td><td>Acceptance or Repayment of Loan of ₹20,000 or more
Payment through Electronic Clearing System (ECS) through bank is also permitted now.</td></tr>
<tr><td></td><td>Transfer Pricing</td></tr>
<tr><td>92B</td><td>In case of Deemed Associated Enterprise (AE), the transaction shall be deemed to be with AE. However, there shall still be an International Transaction (IT) for application of Transfer Pricing provisions. Thus, atleast, one of the parties shall be non-resident. <u>It shall be immaterial whether “such other person” (i.e. third person, which is deemed to be AE) is non-resident or not.</u></td></tr>
<tr><td>92C</td><td>While determining the ALP, one has to select the most appropriate method. Where the most appropriate method yields more than one prices, the ALP shall be computed in such manner as may be prescribed. Earlier, arithmetical mean was required to be taken.</td></tr>
<tr><td>271G</td><td>Failure to furnish any information or document as required u/s. 92D
Penalty can be levied @ 2% of the value of international transaction. The penalty could now be levied even by TPO apart from AO and CIT(A).</td></tr>
<tr><td></td><td>Special Rates of Taxation</td></tr>
<tr><td>115A(1)(a)(iiaa)</td><td>Any interest received by non-resident shall be taxable @ 5%, if following conditions are satisfied:
(a) Loan is taken in foreign currency from a source outside India:
(i) Under a loan agreement <u>between 01.07.2012 to 30.06.2017</u>; or
(ii) By way of issue of Long-term infrastructure bonds <u>between 01.07.2012 to 30.09.2014</u>; or
<u>(iii) By issue of a long-term bond (including long-term infrastructure bonds) between 01.07.2012 to 30.06.2017 (to</u></td></tr>
</table>

	cover Business Trust) (b) Approval is obtained by Central Government (CBDT has clarified that no separate approval shall be obtained. Borrower shall comply with External Commercial Borrowing (ECB) Rules) (c) This provision shall apply to the extent of interest approved by Central Government in this behalf. Rate of TDS in such case shall be 5% Similarly 194LC is also amended to cover interest paid by a Business Trust
115(1)(a)(iiac)	Interest Income earned by (a) Foreign Company (b) Non-Resident Non-Corporate By way of - Distributed Income being interest u/s. 115UA (***Business Trust***) - Payable by Business Trust Shall be taxable @ 5%.
111A	In case of units of business trust, if assessee has received the asset u/s. 47, section 111A shall not apply.
112	In case of LTCG on : - (i) Listed securities ***(excluding units)*** ~~(ii) Units of UTI/ Mutual Fund u/s. 10(23D)~~ (iii) Zero Coupon Bonds assessee can opt that lower of following shall be taxable: - - 10% of LTCG without indexation. - 20% of LTCG with indexation. This provision shall apply from 10.07.2014.
	Tax Collection and Recovery
200A	Along-with a quarterly statement, a correction statement can also be filed. This correction statement can also be processed.
201	Order treating assessee as assessee-in-default can be issued within 7 years from the corresponding F.Y. (whether the Quarterly Statement is filed or not). Earlier it was 2 years and 4 years.
194A	***Interest other than interest on securities*** No TDS shall be deducted where the payee is a specified person. In the list, they have also added Business Trust covered u/s. 10(23FC) [as there is a separate TDS provision 194LBA]
194LBA	TDS on Income from units of a Business Trust (***Annexure 9. Pg. 16***)
194DA	Payment in respect of Life Insurance Policy (***Annexure 10. Pg. 16***)
220	Assessee shall be deemed to be assessee in default, even if the assessee challenges the order in appeal and the appeal is pending. This provision would only be clarificatory provision.
220	The addition was deleted by CIT(A). AO passed consequential order, reducing the demand and gave refund. ITAT restored the order of AO. AO again issued demand notice. Interest shall be payable from first demand notice.

ANNEXURE – 1 ---- Rate of Tax

Only a minor change was introduced in the tax computation of Individual/ HUF. All other rates, surcharge and EC/ SHEC remain the same. Even the relief u/s. 87A remains the same (which is reproduced below too). Marginal relief also remains the same.

Tax rates of Individual/ HUF

Individual (male or female) / HUF	Senior Resident (60-79 years)	Super Senior Resident (80 years or above)	Rate
Upto Rs. ~~2,00,000~~ 2,50,000	*Upto Rs. ~~2,50,000~~ 3,00,000*	Upto Rs.5,00,000	No Tax
Rs.2,50,001 – 5,00,000	Rs.3,00,001 – 5,00,000	Not Applicable	10%
Rs.5,00,001 – 10,00,000	Rs.5,00,001 – 10,00,000	Rs.5,00,001 – 10,00,000	20%
Above 10,00,000	Above 10,00,000	Above 10,00,000	30%

SALIENT FEATURES: -

In case of non-resident individual (whether female/ senior/ very-senior non-resident), basic exemption limit shall be ₹ 2,50,000.

Relief for Resident Individual [Section 87A] – In case of resident individual having total income between ₹ 2,50,000 and ₹ 5,00,000, relief of lower of the two shall be available: -

- ₹ 2,000
- Tax liability

} whichever is less

ANNEXURE – 2 ----- Investment Allowance (Section 32AC)

1. **Eligible Assessee:** Company
2. **Eligible business:** Manufacture or production of article or thing
3. **Nature of Expenditure:**

	Old Provision	New Provision
Applicability of provision	F.Y. 2013-14 & F.Y. 2014-15	*F.Y. 2014-15 to 2016-17*
Nature of Investment	New Asset (note 1)	*New Asset (note 1)*
Quantum of Investment	Exceeding ₹ 100 crores	*Exceeding ₹25 crores*
Period in which investment is to be made	Acquired and installed on or after 01.04.2013 but before 31.03.2015	*Acquired and installed in any P.Y.*
Deduction allowable	15% of cost	*15% of cost*

Note 1

"New Asset" means new plant and machinery, except: -

a. Ships/ Aircrafts/ Road transport vehicle
b. Any plant/machinery installed in office/ residential accommodation/ guest house
c. Office appliances (including computer/ computer software)
d. Any plant/machinery, the whole cost of which is allowed as deduction in any one P.Y., whether as depreciation or otherwise.
e. Any plant/machinery used within or outside India (Imported Second Hand) by any other person, before installation by the assessee.

Salient Features: -

(a) The deduction is in addition to depreciation/ additional depreciation. Deduction allowed u/s. 32AC shall not be reduced from block balance.

(b) Where deduction has been claimed under the old provision, no deduction shall be allowed under the new provision.

Amendment

4. Other Conditions: -

(a) Deduction shall be allowed if the asset is held for a minimum lock-in period of 5 years. If the asset is sold in the period, the deduction allowed earlier will become re-taxable. If the asset is transferred within lock-in period, there shall be two incomes: -

- ***Business income*** – deduction allowed earlier shall be re-taxable.
- ***Capital gains*** – as per the provisions of capital gains, on transfer of the asset.

(b) Amalgamation/ Demerger shall be tax neutral.

Example

Manufacturing Company	Investment in new plant and machinery (₹ in crores)		Deduction u/s. 35AC (₹ in crores)		Old/ New Law
	P.Y. 2013-14	P.Y. 2014-15	P.Y. 2013-14	P.Y. 2014-15	
A Ltd.	80	22	NIL	15.30	Old
B Ltd.	70	25	NIL	NIL	-
C Ltd.	60	30	NIL	4.50	New
D Ltd.	75	25	NIL	NIL	-
E Ltd.	105	15	15.75	2.25	Old
F Ltd.	70	30	NIL	4.50	New
G Ltd.	70	40	NIL	16.50	Old

ANNEXURE – 3 ----- Expenditure on Specified Business

Expenditure on Specified Business [Section 35AD]

1. Alongwith list of specified business, now, two more businesses have been added: -

S.N	Type of Assessee	Nature of Industry	Commencement of business on or after [sunrise]	How much deduction allowed for capital expenditure	Conditions specific to industry
12.	***All***	***Laying and operating a slurry pipeline for transportation of iron ore***	***01.04.2014***	***100%***	
13.	***All***	***Setting-up and operating a semi-conducter wafer fabrication manufacturing unit (Notified)***	***01.04.2014***	***100%***	

2. *No deduction shall be allowed under Chapter VIA part C/* ***10AA****.*

Amendment

3. <u>*Subsequent sale of 35AD assets: -*</u>

(a) If the asset is ***converted*** into business asset, same shall be added to block at NIL value.
If the capital asset was purchased by company, which claimed deduction u/s. 35AD and it was subsequently converted into LLP, it shall be taken in block of LLP at NIL value.

SALIENT FEATURES: -

(a) It is interesting to note that if such asset is used for non-specified business (i.e. converted into business asset) within a period of 8 years from its acquisition (except in case of Sick Industrial Company), the notional WDV (after reducing depreciation and additional depreciation, as applicable) shall be regarded as business income.
(b) One may note that the provisions of section 43(1), the words used are deduction "allowed or allowable" u/s. 35AD. Therefore, in my view, if the amount is treated as income, the deduction has not been "allowed or allowable". Therefore, the cost cannot be treated as NIL.

Example
ABC Ltd is a company having two units – Unit A carries on specified business of setting up and operating a warehousing facility for storage of sugar; Unit B carries on non-specified business of operating a warehousing facility for storage of edible oil. Unit A commenced operations on 01.04.2013 nd it claimed deduction of ₹ 100 lacs incurred on purchase of two buildings for ₹ 50 lacs each (for opearting of a warehousing facility for storage of sugar) u/s. 35AD for A.Y. 2014-15. However in Feb 2015, Unit A transferred one of its buildings to Unit B.
Examine the tax implications of such transfer in the hands of ABC Ltd.

Solution
Since the capital asset, in respect of which deduction of ₹ 50 lacs was claimed u/s. 35AD, has been transferred by Unit A carrying on specified business to Unit B carrying on non-specified business in the P.Y. 2014-15, the deeming provision u/s. 35AD(7B) is attracted during the A.Y. 2015-16.

Particulars	Amount
Deduction allowed u/s. 35AD for A.Y. 2014-15	50,00,000
Less: Depreciation allowable u/s. 32 for A.Y. 2014-15 (10% of ₹ 50 lacs)	5,00,000
Deemed income u/s. 35AD(7B)	45,00,000

(b) In case of ***sale (without converting into business asset)***, there shall be two incomes: -

a. <u>*Business Income*</u> – Sale proceeds shall be treated as business income.
b. <u>*Capital Gains*</u> – Full Value of Consideration Less Cost of Acquisition shall be capital gains. Capital Gains may be short term/ long term.

4. <u>*Liability under MAT/* ***AMT****: -*</u> Persons claiming deduction u/s. 35AD shall be liable to MAT/ ***<u>AMT</u>***.

ANNEXURE – 4 ----- Disallowance u/s. 40(a)

Particulars	40(a)(i)	40(a)(iii)	40(a)(ia)
Payer/ Assessee	Any	Any	Any
Payee/ Deductee	Non-resident	Non-resident	Resident
Nature of Payment	Any sum chargeable to tax in India (except Salary)	Salary	TDS was deductible
Deductibility of TDS	TDS was deductible	TDS was deductible	TDS was deductible
Requirement of Section	Deduct and Deposit TDS	Deduct or Deposit TDS	Deduct and Deposit TDS

Due date of deposition	Deposited upto Due date of filing of return	-	Deposited upto Due date of filing of return
Quantum of Disallowance	100%	100%	30%
Subsequent Compliance	Allowed on actual payment basis.	-	Allowed on actual payment basis.
If not deducted by deductor, but tax paid be deductee	No provision	No provision	If conditions of proviso to section 201(1) satisfied, allowed in the year in which deductee files return.
Consequences of Short-deduction	Expenditure allowed. No disallowance can be done.		
If profit rate estimated, can addition be made u/s. 40(a)	If profit rate is applied, it covers everything. No separate addition can be made u/s. 40(a).		

ANNEXURE – 5 ----- Taxation of Business Trust

Due to the tremendous growth in the Real Estate/ Infrastructure Sector in India, there was a need of huge funds in this sector. Being highly capital intensive sector (and therefore banks were not interested in funding such sector much) and the limited capacity of existing Financial Institutions to provide necessary capital, there was requirement of alternative means of funding. Therefore the need of Real Estate Investment Trusts (REIT)/ Infrastructure Investment Trust (Invit) (called as "Business Trust") was emerging. Such concept is already there in US since 1960.

A Business Trust would be a company that operates real estate properties. The source of their funds is from various investors. The Business Trust may invest directly or through a Special Purpose Vehicle (SPV). Real Estate Regulation Bill, 2014 was also presented in the Parliament to legalise the concept.

The Business Trust will further ensure sale of plot, apartment or building, in an efficient and transparent manner and to protect the interest of customers in real estate. The Company, launching a real estate project will have to issue documents, on the similar lines of a prospectus issued by a Company. SEBI has mandated that: -

a. For coming out with initial offer, the size of the assets under REIT shall not be less than ₹ 1000 crores.
b. Further, minimum initial offer size of ₹ 250 cores and minimum public float of 25% is specified to ensure adequate public participation.
c. Minimum subscription size shall be ₹ 2 lacs and the unit size is ₹ 1 lacs.

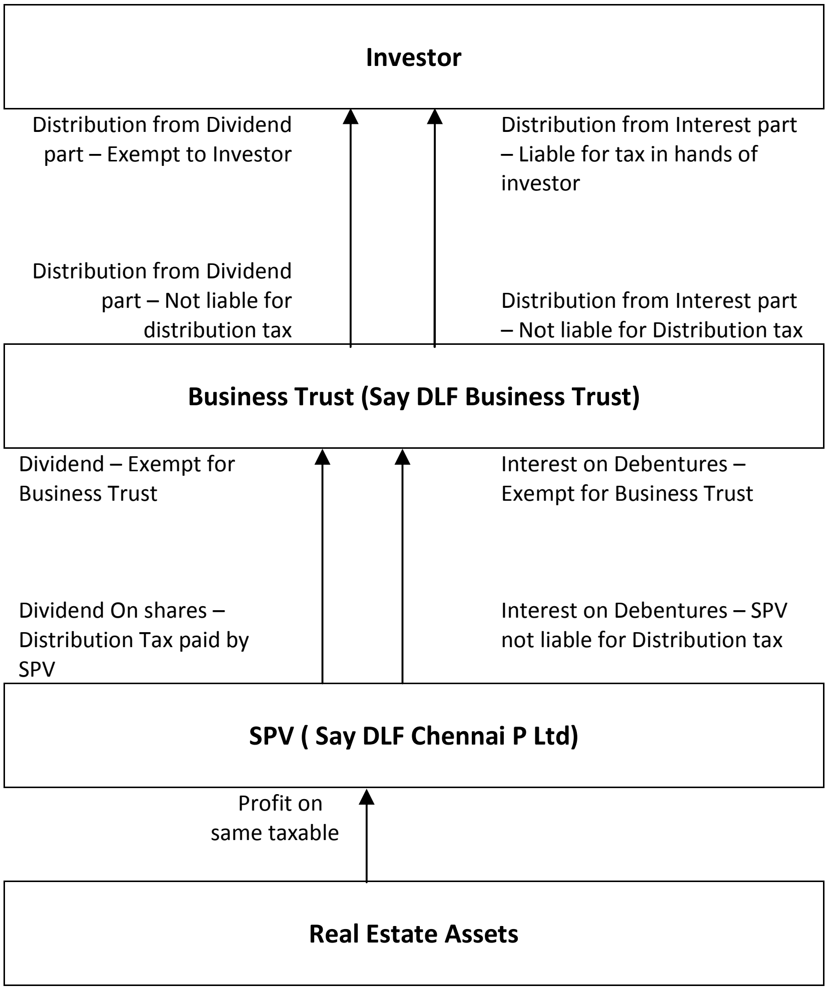
Business trust can raise capital by issue of units, and can raise debt.

Income-tax provisions

U/s. 2(13A) "Business Trust" means
- Trust which is registered as Infrastructure Investment Trust (Invit)/ Real Estate Investment Trust (REIT)
- Units of which are listed on a recognised stock exchange
- Notified by Central Govt.

U/s. 10(23FC), a SPV is
- a company
- in which business trust holds controlling interest
- and any specific percentage of shareholding, as required by Regulations

1. ***Taxation of SPV***
   a. No exemption given for taxation of income of SPV
2. ***Distribution by SPV***
   a. Profit distributed by SPV will be subjected to Distribution tax. The Business Trust will therefore be exempt in regard to Dividend.



b. Interest distributed by SPV to Business Trust will be exempt in the hands of Business Trust. There will be no distribution tax on same.

3. <u>Taxation of Business Trusts</u>

a. Business trust is taxable on capital gains earned by it on disposal of any assets.

b. As stated above, the dividend/ interest from SPV shall be exempt. (U/s. 10(23FC))

4. <u>Distribution by Business Trust</u>

a. *<u>Dividend: -</u>* Dividend component of the income distributed by Business Trust is treated as such in the hands of the unit holder, and therefore is exempt in their hands. (U/s. 10(23FD))

b. *<u>Interest: -</u>* Interest distributed by business trust is taxable in the hands of unit holders. Business Trust shall deduct TDS at following rates: -

i. *<u>Payee is resident –</u>* 10%

ii. *<u>Payee is non-resident –</u>* 5%

5. <u>Taxation of Investors</u>

a. Listed units of Business Trust would attract STT.

b. STCG taxable @ 15%.

c. LTCG exempt u/s. 10(38)

d. As stated above, Dividend from Business Trust is exempt. However, interest from business trust is taxable.

e. If the shares is SPV are exchanges for units in business trust, following special provisions needs to be considered from the capital gains perspective: -

i. *Transfer: -* the transfer will be exempt
ii. *For the subsequent transfer of units of Business Trust: -*
- *Holding Period: -* Shall be taken on both assets
- *COA –* Cost shall be taken of the earlier asset i.e. the cost of shares of SPV.

The concessional capital gain tax for STT, would not apply in such a case.

6. ***Return u/s. 139(4E).*** A **business trust** (which is not required to furnish return of income or loss under any other provisions), shall furnish the return of its income in respect of its income or loss.
However, it may be noted that no penalty has been prescribed for delay/ default by such organizations.

ANNEXURE – 6 ----- Statement of FTRA

(a) ~~*Annual Information Return (AIR)*~~ ***Statement of Financial Transaction or Reportable Account (FTRA) (Section 285BA): -***

This statement is obtained to cross-verify the information in return of income/ TDS etc. Like details are collected from bank as to who deposited amount exceeding ₹ 10 lakhs. Similarly, when property transaction over ₹ 30 lakhs are registered, Registrar office is required to submit information to I-T Department.

ii. *Who is required to file Statement: -* Certain specified persons are required to file Statement of FTRA in respect to specified transactions done through them ***or specified reportable account maintained by them***.
iii. Statement of FTRA is to be filed in *prescribed form*.
iv. Statement of FTRA shall be filed upto *31st August* of the year immediately following the F.Y. in which the transaction is registered or recorded.
v. Statement of FTRA is to be filed in *electronic media*.
vi. If the AO considers that the Statement of FTRA is *defective*, he may intimate defect to the concerned person. Defect shall be rectified within one month of service of the intimation or such extended period as allowed by AO. If the defect is not rectified within the time limit of one month/extended time, the Statement of FTRA shall be deemed to be invalid.
vii. Where the *Statement of FTRA is not submitted in time*, the income-tax authority can issue a notice upon the concerned person and require him to furnish the same within a period not exceeding 60 days from the date of service of such notice. Thereafter the concerned person shall submit Statement of FTRA within the time specified in the notice.
viii. Where the person who submitted Statement of FTRA comes to know or discovers any inaccuracy in the information provided (either suo-motto or on being pointed out) he shall inform the information within 10 days to the specified IT Authority and furnish correct information in prescribed manner.
ix. Central Government has been empowered to make Rules in regard to: -
- ***Registration of person with prescribed IT Authority***
- ***Nature of information and manner in which such information shall be maintained***
- ***Due diligence to be carried out by the persons for the purpose of identification of any reportable account.***

Consequences of Non-filing Statement of FTRA: - U/s. 271FA, the penalty is as under: -

(i) On failure to furnish AIR – penalty is ₹ 100 per day, till the period of notice.
(ii) However, on failure to pay the same after expiry of notice, penalty would be₹ 500 per day after expiry of notice.

Consequences of Filing incorrect information in Statement of FTRA: - U/s. 271FAA, the penalty is ₹ 50,000 for furnishing inaccurate information by Prescribed Reporting Financial Institution. Penalty will be levied only if the prescribed IT Authority is satisfied that: -

(a) ***The inaccuracy is due to failure to comply with the due diligence requirement or is deliberate on the part of that person; or***
(b) ***The person knows of the inaccuracy at the time of furnishing the statement of FTRA, but does not inform the prescribed I-T authority or such other authority or agency; or***
(c) ***The person discovers the inaccuracy after the statement of FTRA is furnished and fails to furnish correct information within section 285BA(6).***

Amendment

ANNEXURE – 7 ----- Reference to Valuation Officer (DVO) (Section 142A)

a. Before making reference

(i) AO may make a reference to DVO for the purposes of assessment or reassessment to estimate the value (including FMV) of any asset/ property/ investment
(ii) AO may make a reference to DVO, whether or not he is satisfied about the correctness or completeness of the accounts.
(iii) Assessment shall be pending

b. Once direction is given: -

(i) DVO shall estimate the value of the property. Assessee should co-operate with the DVO.
(ii) DVO shall estimate the value of the property after considering evidences given by assessee and after providing opportunity of being heard.
(iii) If assessee does not co-operate, DVO shall estimate the value to the Best of his Judgment.
(iv) DVO shall give his report within **6 months** from the end of the month in which reference is made.

c. On receipt of DVO's report: -

(i) A copy of DVO's report shall be supplied to the assessee. Assessee can rebut information contained in DVO's report.
(ii) Further, valuation by DVO is only estimation. As held by courts, difference between assessee's claim of expenditure and that of DVO upto 15% is acceptable and no addition should be made for same.

ANNEXURE – 8 ----- TDS Survey (Section 133A(2A))

1. This survey is conducted to verifying that TDS/ TCS has been deducted/ collected
2. This survey is done by Income-tax Authority.
3. It is conducted based on **jurisdiction**, which may be: -
   (a) area-wise jurisdiction, or
   (b) any other place for which he is authorised (delegated/conferred jurisdiction).
4. **Time of Initiation: -** After sunrise and before sunset
5. **Premises Covered: -** Business Premises/ place where Books/ records/ documents is kept.
6. Survey party may : -
   (a) Verify the Books/ records/ documents.
   (b) Require such information as he may require.
   (c) Record statement.
   (d) Place marks of identification/ obtain copies of Books/ records/ documents.

Salient Features: -

Survey Party cannot: -
(a) Impound the Books/ records/ documents
(b) Make inventory of cash/ stock/ other valuables.

ANNEXURE – 9 ----- TDS on Income from units of a Business Trust (194LBA)

a. ***Deductor/ Payer: -*** Business Trust
b. ***Deductee/ Payee: -*** Unit-holder
c. ***Nature of payment: -*** Distributed Income [Payment is covered u/s. 115UA]
d. ***Rate of TDS: -***
  - ***Resident -*** 10%
  - ***Non-resident Non-corporate assessee or Foreign Company*** – 5%

e. ***Time limit of deduction: -*** Payment or credit, whichever is earlier.
f. ***Exemptions: -*** None.
g. ***Further clarifications: -*** None.

ANNEXURE – 10 ----- TDS on payment in respect of Life Insurance Policy (194DA)

(a) ***Deductor/ Payer: -*** Any.
(b) ***Deductee/ Payee: -*** Resident.
(c) ***Nature of payment: -*** Any sum under life insurance policy (including bonus).
(d) ***Rate of TDS: -*** 2%
(e) ***Time limit of deduction: -*** Payment.
(f) ***Exemptions: -***

PAPA Limit i. Where Payment is **less than ₹ 1,00,000** in a F.Y. to a person, TDS shall not be deducted.
ii. Where the amount is exempt in the hands of recipient u/s. 10(10D)

(g) ***Further clarifications: -*** None.

Circulars/ Notifications etc.

S. No.	Circular Ref.	Relevant section	Contents
1.	Notification No. 73/ 2013 dated 18.09.2013	92CB – Safe Harbour Rules notified	These rules give exemption from the application of Transfer pricing. Please refer ***note 1*** below.
2.	Circular No. 10/ 2013 dated 16.12.2013	40(a)(ia) – Payment to resident – "paid" vs "payable"	Section 40(a)(ia), which deals with disallowance of expenditure, where no TDS is deducted, uses the words "payable". There were divergent views about the allowability of expenditure. One of the views was that the disallowance would be made only if the expenditure was payable at the year end. CBDT clarified that disallowance would be done, even if the amount was payable at anytime during the P.Y. One may note that this Circular was palpably brought to nullify the judgment of ***CIT vs Vector Shipping (All.)***. Although recently the judgment of Allahabad High Court has been confirmed by the Supreme Court.
3.	Circular No. 1/ 2014 dated 13.01.2014	TDS (payments other than 194I) – Whether TDS to be deducted on Service-tax Component?	If the service-tax is separately mentioned in the bill, TDS shall not be deducted on Service-tax component, but only the gross amount excluding service-tax. One may note that this judgment was palpably brought to nullify the judgment of ***CIT (TDS) vs Rajasthan Urban Infrastructure (2013)(Raj.)***
4.	Circular No. 2/ 2014 dated 20.01.2014	10(37)/ 56(2)(vii) – Award by sportsmen who is not a professional	(a) Old Circular no. 447 stated that award received by sportsman who is not a professional shall be exempt as it is a gift. (b) However, the gift is made taxable from 2005. Therefore, the amount received by such sportsman (who is not professional) would be taxable u/s. 56(2)(vii). (c) Sportsman may claim exemption u/s. 10(17A).
5.	Circular No. 5/ 2014 dated 11.02.2014	14A – Expenditure for earning exempt income	Whether disallowance u/s. 14A will be attracted, when there are exempt assets, but no exempt income is incurred during the year? Like a person has invested in shares of a company, but the company did not declare dividend (which is exempt income u/s. 10(34)) It was clarified in this circular that even if there is no exempt income the expenditure shall be disallowed. It may be noted that this circular was given to nullify the judgment of ***CIT vs Delite Enterprises (Bom.); CIT vs Lakhani Marketing (P & H)*** and many similar judgments where it was held that if there is no exempt income, disallowance cannot be made.
6.	Circular No. 6/ 2014 dated 11.02.2014	115R/ 10(35) – Income Distribution Tax (IDT)	Following does not amount to distribution of profit, and therefore no liable for IDT: - (a) Redemption/ Repurchase of Mutual fund units (b) Issue of bonus units However, capital gain tax may arise to the unit holder at the time of redemption/ repurchase of units.

7.	Circular No. 8/ 2014 dated 31.03.2014	10(2A) – Share of partner in firm	Share of the partner in the firm is exempt. Whether, if the firm is exempt u/c. III or u/c. VIA, still the exemption to the partner for his share in the firm would continue? It was clarified that the partner cannot be made liable for tax on the profits of the firm. Therefore, even if the firm is exempt, the share of the partner in the profit of the firm would be exempt.
8.	Circular No. 9/ 2014 dated 23.04.2014	32 – Depreciation in the case of Build Operate Transfer (BOT) Projects	Expenditure on development cost of the road shall be allowed to be distributed over the lifetime of the BOT project following the principles laid down in ***Madras Industrial Investment Corporation Ltd. (SC).*** It may be noted that this circular was palpably given to nullify the allowablity of depreciation on the cost of construction of the road as held in ***Ashoka Info P Ltd (Pune); Maharastra State Road Development Corpn. Ltd. (Mum.).***

Note 1

If the eligible assessee offers income at a particular rate, the same would be accepted by the Income-Tax Department. These are subject to the procedural compliances as given in the Rules: -

<table>
<tr><th>S.No.</th><th>Eligible International Transaction</th><th>Circumstances</th></tr>
<tr><td>1.</td><td>Software development services/ Information Technology Enabled Services (ITeS)</td><td>Operating Profit margin (from Operating Expense) from IT is not less than: -
<table>
<tr><td>Aggregate Transaction during P.Y.</td><td>Min. Operating Profit</td></tr>
<tr><td><=500 crores</td><td>20%</td></tr>
<tr><td>> 500 crores</td><td>22%</td></tr>
</table></td></tr>
<tr><td>2.</td><td>Knowledge Process outsourcing services (KPO)</td><td>Operating Profit margin (from Operating Expense) from IT is not less than 25%</td></tr>
<tr><td>3.</td><td>Contract R &D services wholly or partly relating to Software development</td><td>Operating Profit margin (from Operating Expense) from IT is not less than 30%</td></tr>
<tr><td>4.</td><td>Contract R & D services wholly or partly relating to Pharmaceutical drugs</td><td>Operating Profit margin (from Operating Expense) from IT is not less than 29%</td></tr>
<tr><td>5.</td><td>Manufacture and export of core-auto components (like engine, piston, stearing, wheels etc.)</td><td>Operating Profit margin (from Operating Expense) from IT is not less than 12%</td></tr>
<tr><td>6.</td><td>Manufacture and export of non-core auto components</td><td>Operating Profit margin (from Operating Expense) from IT is not less than 8.50%</td></tr>
<tr><td>7.</td><td>Intra-group loans</td><td>Interest rate is not less than: -
<table>
<tr><td>Loan does not exceed</td><td>Min. Interest rate</td></tr>
<tr><td><=50 crores</td><td>SBI rate + 1.5%</td></tr>
<tr><td>> 50 crores</td><td>SBI rate +3 %</td></tr>
</table>
SBI Rate to be taken as on 30th June of P.Y.</td></tr>
<tr><td>8.</td><td>Corporate Guarantee</td><td>Commission is not less than:
<table>
<tr><td>Amount Guaranteed does not exceed</td><td>Min. Commission Rate</td></tr>
<tr><td><=100 crores</td><td>2% p.a.</td></tr>
<tr><td>> 100 crores</td><td>1.75%</td></tr>
</table></td></tr>
</table>

Safe harbour rules will not apply if the enterprise is located in Notified Jurisdictional Area (NJA).