INCOME TAX AMENDMENTS AY 2015 - 2016

RATES OF TAX

Basic Tax

(Rs In Lacs)

Sr No	Assessee Type	RATES (%)			
		0%	**10%**	**20%**	**30%**
1	Individual, HUF, AOP , BOI	0 –2.5	2.5 - 5.0	5 - 10	Above10
2	Senior Citizen (60 or more) (R)	0 –3.0	3.0 - 5.0	5 - 10	Above 10
3	Super Senior Citizen (80 or more)(R)	Nil	Nil	5 - 10	Above 10
4	Co operative Society	NA	0 – 0.10	0.10 – 0.20	Above 0.20
5	Firms (incl LLP)	NA	NA	NA	Any Amount
6	Local Authority	NA	NA	NA	Any Amount
7	Domestic Company	NA	NA	NA	Any Amount
8	Foreign Company	NA	NA	NA	40% (Any Amt)

Surcharge

Net Total Income (NTI)	Corporate Assessee		Others (Individual, Huf, Firms, AOP, BOI)
	Domestic Company	**Foreign Company**	
Upto 1 Crore	*Nil*	*Nil*	*Nil*
Exceeds 1 Crore – Upto 10 Crore	*5%*	*2%*	*10%*
Exceeds 10 Crore -	*10%*	*5%*	*10%*

EC & SHEC

It is levied @ 2% & 1% resp on all assesses.

TAX REBATE

Available to Resident Individual having GTI upto Rs 5 Lacs to the tune of “Basic Tax Liability OR Rs 2000/-. Whichever is Less”

CHARITABLE TRUST

1. **No depreciation to be allowed while computing income in respect of asset for which 100% Expense is claimed under Application of Income**
   (wef 1/10/2014)
2. **Benefit of section 11 and section 12 can be claimed even for period when trust or institution was not registered.**
   Also u/s 147, AO cannot take any action on this matter.
   (wef 1/10/2014)

3. Scope of power for cancellation of registration by CIT under section 12AA being widened:

So Now, the Commissioner can cancel the registration if the activities are being carried whereby its income does not endure for the benefit of general public or it is for the benefit of any particular religious community or caste or income is being applied for the benefit of specified persons or the funds are invested in prohibited modes. This proposed amendment will increase litigation.
(wef 1/10/2014)

INCOME FROM HOUSE PROPERTY

From 1/4/2014 Onwards, Interest on Borrowed Capital for Purchase/New Construction of SELF OCCUPIED House is Admissible upto Rs 2.00 Lacs (Previously it was Rs 1.50 Lacs).

EXEMPT INCOME

1. Depreciation will not be available to the institutes referred u/s 10(23C) on the cost of assets which are allowed as application of income.

BUSINESS & PROFESSION

Corporate Social Responsibility Expenditure u/s 135 of Companies Act 2013: (AMND AY 15-16)

If assessee had incurred aforementioned expenditure, Then, 100% Such Expenditure will be disallowed.

Plying, Hiring or Leasing of Goods Carriage: (AMND AY 15-16)

Minimum Income Per Truck = Rs 7500 per month (Full or Part), irrespective whether it is Heavy Or Light Goods Carriage.

Tds & Expenditure : (AMND AY 15-16)

1. From Py 14-15, if in case of **Payment to Resident**, assessee had not paid his TDS till ROI,
   Then, 30% Expenditure will be disallowed.
   However, such 30% Expenditure will be allowed as deduction in year when TDS is paid by assessee.

2. From Py 14-15, if in case of **Payment Outside India or Payment to Non – Resident in India**, assessee had not paid his TDS till ROI (previously it was due date of Tds payment),
   Then, 100% Expenditure will be disallowed.
   However, Such Expenditure will be allowed as deduction in year when TDS is paid by assessee.

Investment Allowance U/S 32 AC :

1. It is equivalent to Depreciation & Available Apart From Normal Depreciation & Additional Depreciation.
2. **Eligible Assessee :**
   - **a** It is must be the company.
     " & "
   - **b** It must be engaged in the production or manufacture of any article / thing.
     " & "
   - **c** It should install plant & Machinery from 1/4/13 till 31/3/15 of the aggregate actual cost of new assets **EXCEEDING 100 CRORE** rupees in these two years.
3. **Ineligible P & M :**
   Same as discussed in additional depreciation.
4. **Amt of Deduction :**
   15 % of total cost of P&M installed.
   It should be noted that in 2ndyr only on balance amt 15 % will be available if assessee had claimed 15 % in 1st year.
   (Here 1styr = PY 13-14 & 2ndyr = PY 14-15.)

NOTE:

1. Such P & M should be kept/held for at-least 5 years from its date of installation.
   Else, in case of sale, dispose, scrap of such asset the earlier deduction claimed U/S 32 AC will be taxable in the head B & P in the yr of violation of condition.
   However this limitation is NA in case of merger or demerger. But in that case new company formed has to comply with the conditions as were imposed on old company for balance years.

AMENDMENT IN 32AC FROM AY 15-16:

1. From PY 2014-15, Requirement of 100 Crore is Decreased to Rs 25.00 Crore.
2. Also, previously this deduction was available when assessee crossed 100 Crores investment. But as of PY 2014-15, it is available year wise.
3. Also if assessee had made investment Rs 100.00 Crore till PY 2014-15 (Py 13-14 & 14-15), then also he can get this deduction.
   Eg: Py 13-14 = Rs 90.00 Crores & Py 14-15 = Rs 20.00 Crores, then assessee though not covered under present criteria of Rs 25.00 Crores, will get benefit of this deduction ie. Rs 16.50 Lacs {(90+20) x 15%}

Examples for Section 32AC:

Case	Investment in Eligible P/M		*Dedn Avbl?*	*Reasons*
	PY	Amt (INR Crores)		
A	13-14 14-15	70.00 20.00	*Nil* *(0 + 0)*	*As total Investment is 90.00 Cr, so it does not comply with old law & For Py 14-15 investment is 20 Crore, so it is below 25 Crores.*
B	13-14 14-15	70.00 40.00	*16.50* *(90+40 = 130 x 15%)*	*Avbl Rs 16.50 in Py 14-15 as total investment amount crossed 100 Crores in Py 14-15*
C	13-14 14-15	70.00 28.00	*4.20* *(0+28 = 28 x 15%)*	*Avbl on 28 lacs of Py 14-15 only as it crossed rs 25 crores limit & overall it had not crossed 100 lacs (70+28 = 98) hence on 70 crores dedn not avbl*
D	14-15 15-16 16-17	125.00 25.00 30.00	*Yes, 18.75 in 14-15* *No* *Yes, 4.50 in 16-17*	*As it crossed 25 crore limit* *As it did not crossed 25 crore limit* *As it crossed 25 crore limit*

Specified Business Deduction u/s 35AD :

Sr No	Heading	Description	Date of Starting	Deduction Allowed (% x Capital Expense)
1	Cold Chain	Set up & operate Cold Chain Facility for specified products (Agriculture, Horticulture, Floriculture, Apiculture, Dairy, Meat, Poultry, Marine, Forest, Processed Food Items)	1/4/2009	150%
2	Warehousing	Set up & operate Warehouses for storing Agricultural products	1/4/2009	150%
3	Hospitals	Build and operate Hospitals (with Minimum 100 beds for patients)	1/4/2010	150%
4	Affordable Housing Projects	Develop & build affordable houses as per the scheme framed by CG, SG and notified by CBDT	1/4/2011	150%
5	Fertilizer Plant	Production of fertilizer in New Plant Or Newly Installed Capacity in Existing Plant	1/4/2011	150%
6	Cross Country Natural Gas Pipeline	Laying & Operating Cross Country Natural Gas Pipeline for distribution, storage. It must be Company or Its Consortium.	1/4/2007	100%
7	Cross Country Crude, Petroleum Oil Pipeline	Laying & Operating Cross Country Crude, Petroleum Oil Pipeline for distribution, storage. It must be Company or Its Consortium.	1/4/2009	100%
8	Hotel	Building OR Operating OR Both Hotel (Min 2 Star)	1/4/2010	100%
9	Slum Development Housing Projects	Develop & build slum redevelopment or rehabilitation houses as per the scheme framed by CG, SG and notified by CBDT	1/4/2010	100%
10	ICD/CFS	Set up and operate ICD, CFS as notified under Customs Act	1/4/2012	100%
11	Beekeeping	Beekeeping and production of Honey, Beeswax	1/4/2012	100%
12	Sugar Warehousing	Set up & operate Warehouses for storing Sugar	1/4/2012	100%
13	***Slurry Pipeline***	***Laying & Operating Slurry Pipeline for Transporting Iron Ore (AMND AY 15-16)***	***1/4/2014***	***100%***
14	***Semi Conductor***	***Setting up and operating Semi-Conductor Wafer Fabrication Manufacturing Unit(AMND AY 15-16)***	***1/4/2014***	***100%***

NOTE: (For 35AD Section)

1 Deduction will be allowed for Capital Expense Incurred of Current Year & also of Last Year provided such expense is Capitalised WIP in Books of Accounts
2 Expense incurred in respect of Land, Goodwill & Financial Instruments is NOT ELIGIBLE HERE.
3 Unit should be New Unit, it should not be formed by way of Amalgamation, Demerger, etc
4 Old Indian Plant Machinery upto 20% (of Total Value of P/M) can be accommodate in this section.
5 Old Imported Plant Machinery is accommodated in this section, provided In India No Depreciation is claimed by anyone.
6 No Other Income Tax Benefit will be available to assessee apart from 35AD Deduction.
7 Loss of 35AD Business Can Be Set Off ONLY AGAINST Other 35AD Business Only.
Further It Can Be Carried Forward For "N" Years & with no barring to file Income Tax Return in Time u/s 139(1).
8 ***From PY 14-15, The Asset on which 35AD is claimed is to be hold for MINIUM 8 YEARS.***
9 ***From PY 14-15, if The Asset on which 35AD is claimed is not used for 35AD Business, then in Year of Violation of Condition Deduction Claimed Earlier As Reduced by the Depreciation u/s 32 will be Taxable in that Year.***

CAPITAL GAINS

Capital Asset:

It means: a) property of any kind held by the assessee (whether or not connected with B&P)

OR

b) any securities held by FII invested as per SEBI Regulations. (AMND AY 2015-16)

Exceptions:

- ***Any Stock in Trade (except "b" above), Consumable Stores, Raw Materials held in B & P.***
- Personal effects Ex: Phones, Watches, Cars, vehicles, etc.
- 6.5%, 7% National Defense Bond
- Gold deposit bonds under 1999 Scheme.
- Special Bearer Bonds.
- Agricultural land in India which is situated on RURAL LAND

Inclusions:

- Jewellery, gold, silver, platinum, other precious metals and things made of same.
- Archaeological collections, Drawings, Paintings, Sculptures, any work of art.
- Any rights in or in relation to an Indian Company including rights of management, control, whatsoever kind(Amendment AY 13-14 w.r.e.f AY 62-63)

Rural Agricultural Land :

Land which is OUTSIDE the Limits of Municipality, Cantonment Board, subject to following:

Kms (Measured Aerially)		**Population More Than**	**Population Upto**
Upto 2 Kms	➔	10,000	1 Lac
Upto 4 Kms	➔	1 Lac	10 Lacs
Upto 8 Kms	➔	10 Lacs	$\propto$

Short Term Capital Asset (AMND AY 2015-16) from 11/7/2014:

Take 12 Months instead of 36 Months in case of :

1) Securities (not units) Listed on RSE
2) Units of UTI, Units of Equity Oriented Funds
3) Zero Coupon Bonds.

Hence, for Unlisted Shares & Mutual Funds Units we have to take 36 months only from 11/7/2014.

Treatment of Advance Money Received: (AMND AY 2015-16)

If case if assessee receives advance money for selling the capital asset & owing to some reasons the capital asset is not transferred, then the amount so received being forfeited by assessee **WILL NOW BE TAXABLE UNDER IFOS (AMND AY 2015-16).**

Note if the amount forfeited is before 1/4/14, then the same is to be deducted from Cost of Acquisition as this amendment is from 1/4/14.

- **SECTION 54EC [Exemption : Capital Assets ⟶ Bonds]:**
  - Available to :- Any Assessee
  - Asset transferred :- Any Capital asset [Long only]
  - Conditions:
    a) Assessee should invest money in RECL bonds, NHAI bonds within 6 months from date of transfer.
  - Additional Conditions:
    1) Maximum Investment is restricted to Rs.50 lacs **(OVERALL LIMIT IS 50 LACS, AFTER CONSIDERING INVESTMENTS IN TWO FINANCIAL YEARS) – AMND AY 2015-16**
    2) Amount invested means date of receipt of bonds but not allotment date of bonds.

- **SECTION 54 & 54F : [Exemption: Residential House Purchase / Construction]**
  - Available to: Individual/HUF
  - Asset transferred : Long Term Residential house (Sec 54) / Any other Long Term Asset (54F)
  - Conditions:
    a) Purchase **ONE RESIDENTIAL HOUSE IN INDIA** (Amnd Ay 15-16), 1 year before or 2 years after date of transfer OR
    b) Construct new house within 3 years from transfer date.

SET OFF & CARRY FORWARD OF LOSSES:

1. The company whose main business is trading in shares Shall Not Be Deemed to Be Carrying Speculative Business. (Sec 73).

DEDUCTIONS

1. **80C:** Only Section 80C (General Deduction) Limit is raised to Rs 1.50 Lacs (previously it was Rs 1.00 Lacs)

2. **Sec 80CCD:** Private Sector Employees can now deposit their money in NPS (New Pension Scheme)

3. **Sec 80 IA:**
   Extension till 31.3.2017 of Tax Holiday to Power Sector Undertakings, provided foll conditions are satisfied:
   a. **Set up** for Generation & Distribution of Power => Generate power **from 1.4.93** till 31.3.14
   b. **Starts Transmission** / Distribution => Laying Network of New Transmission Lines **from 1.4.99** till 31.3.14
   c. **Undertakes Substantial Renovation**& Modernization of Existing Lines =>**from 1.4.04** till 31.3.14
   So for 3 years extension is granted (iecut off date from 2014 to 2017)

TRANSFER PRICING

1. Rationalization of Definition of International Transaction: (Sec 92B)

If there is prior agreement & then transaction is entered by an enterprise with other than associated enterprise, then the transaction will be deemed to be International Transactions irrespective of whether parties resident or not.

2. More Than 1 ALP : (Sec 92C)

Generally if more than 1 ALP are derived by following most appropriate method, the Arithmetic Mean of these ALP are taken to be ALP. But as of Now, government had power to compute the ALP in such a manner as may be prescribed.

3. Rolling Back Concept in Advance Pricing Agreement – APA (Advance Ruling in Trf Pricing) : (Sec 92CC)

From 1/10/14, in APA agreement will have effect to the previous 4 years back. Rolling back means mechanism for dealing with ALP issues relating to transactions entered prior to APA.

COMPANIES – TAXATION

1. Dividend Distribution Tax – DDT (Sec 115O):

It is Payable by Domestic Companies.
Its Basic Rate is 15% **PLUS** 10% Surcharge (Always) **PLUS** 3% Cess Always.

Mode of Calculation of DDT:

DDT Pybl Upto 30/9/2014

Dividend Amount	X	DDT Basic Rate	XX
+ 10% Surcharge			XX
+ 3% Cess			XX
		Total DDT Pybl	**XX**

DDT Pybl From 1/10/2014

Dividend Amount	X	$\frac{\text{DDT Basic Rate}}{100 - \text{DDT Basic Rate}}$	XX
+ 10% Surcharge			XX
+ 3% Cess			XX
		Total DDT Pybl	**XX**

2. Tax on Income Distributed to Units Holders (Sec 115R):

It is Payable by Mutual Funds, UTI.
Its Basic Rate is 25% (For Ind, HUF), 30% (For Others)**PLUS** 10% Surcharge (Always) **PLUS** 3% Cess Always.

Mode of Calculation of Tax:

DDT Pybl Upto 30/9/2014

Distributed Amount	X	Tax Basic Rate	XX
+ 10% Surcharge			XX
+ 3% Cess			XX
		Total TaxPybl	**XX**

DDT Pybl From 1/10/2014

Distributed Amount	X	$\frac{\text{Tax Basic Rate}}{100 - \text{Tax Basic Rate}}$	XX
+ 10% Surcharge			XX
+ 3% Cess			XX
		Total TaxPybl	**XX**

INCOME TAX AUTHORITIES

1. Who are IT Authorities (Sec 116):

1 Central Board of Direct Taxes (CBDT)
2 Director General of Income Tax (DGIT) OR Chief Commissioner of Income Tax (CCIT)
3 Director of Income Tax (DIT) OR Commissioner of Income Tax (CIT) OR CIT Appeals
4 Additional Director of Income Tax (ADIT) OR Additional Commissioner of Income Tax (ACIT) OR ACIT Appeals
5 Joint Director of Income Tax (JDIT) OR Joint Commissioner of Income Tax (JCIT)
6 Deputy Director of Income Tax (DDIT) OR Deputy Commissioner of Income Tax (DCIT) OR DCIT Appeals
7 Assistant Director of Income Tax (ADIT) OR Assistant Commissioner of Income Tax (ACIT)
8 Income Tax Officer (ITO)
9 Tax Recovery Officer (TRO)
10 Inspector of Income Tax

Amendment in IT Authorities AY 2015-16 (wef 1/6/2013)

1 Principal Chief Commissioner of Income Tax (PCCIT) is ALSO Chief Commissioner of Income Tax
PCCIT means a person appointed to be PCC u/s 117(1)
2 Principal Commissioner of Income Tax (PCIT) is ALSO Commissioner of Income Tax
PCIT means a person appointed to be PC u/s 117(1)
3 Principal Director of Income Tax (PDIT) is ALSO Director of Income Tax
PDIT means a person appointed to be PD u/s 117(1)
4 Principal Director General of Income Tax (PDGIT) is ALSO Director General of Income Tax
PDGIT means a person appointed to be PDG u/s 117(1)

2. Power to Call Information By Prescribed Income Tax Authority : (Sec 133C) wef 1/10/14

1 Prescribed IT Authority may issue notice to the persons requiring them to furnish information, documents which are to be verified in a specified manner and which the IT Authority may find useful, relevant in relation to any inquiry, proceedings.
2 The aforementioned persons shall have to comply with the notice as per the time mentioned in the above notice.
3 Information called under this section is not only confined to the assessee himself but also for any other person also.
4 Proceedings means Pending Proceedings, Completed Proceedings, Future Proceedings that are to be commenced.

3. CBDT Power to Relax Provisions of Section 234E

From 1/10/2014, u/s 119CBDT has power to relax provisions of Section 234E (Tds Return Late Fees)

SURVEY

1. Right of Income Tax Authority During Survey: (wef 1/10/14)

During the Survey, IT Authority had right to Impound & Retain Books of Accounts, Documents Inspected by them. It should be noted that above can be impound & retained for period Not Exceeding **15 DAYS EXCLUDING HOLDAYS (AMND WEF 1/10/14, Previously it was 10 Days)**, **WITHOUT OBTAINING (AMND WEF 1/10/14,Previously Approval was Needed)** Prior Approval of PCCIT, PDGIT, CCIT, DGIT, PCIT, PDIT, CIT, DIT.

So, as of Now Impound & Retain for 15 Working Days WITHOUT Obtaining Prior Approval.

2. TDS SURVEY {Sec 133A(2A)} - Amendment Ay 2015-16 wef 1/10/2014

1. An income-tax authority acting under this sub-section **may**
2. For the purpose of verifying that tax has been deducted or collected at source in accordance with the provisions under sub-heading B of Chapter XVII or under sub-heading BB of Chapter XVII, as the case may be,
3. Enter, **after sunrise and before sunset**, any office, or any other place where business or profession is carried on,
4. Within the limits of the area assigned to him,

   OR

   Any place in respect of which he is authorised for the purposes of this section by such income-tax authority who is assigned the area within which such place is situated, where books of account or documents are kept
5. Require the Deductor or the Collector or any other person who may at that time and place be attending in any manner to such work,
   a) *to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place, and*
   b) *to furnish such information as he may require in relation to such matter.*
6. *Under TDS Survey, IT Authority **CANNOT:***
   a) Impound & Retain in their custody any books of A/c's, documents which are inspected by them
   b) Make an inventory (Statement) of any cash, stock, other valuable things checked or verified by them.
7. *Under TDS Survey, IT Authority **CAN, IF IT AUTHORITY DEEMS SO NECESSARY:***
   a) Place marks of identification on the books of A/c's, documents inspected by them and they also have power to make (also cause to make) zerox copy of same.
   b) Record the statement of any person which may be useful or relevant in the proceeding of case.
      It should be noted that statement on oath cannot be taken here.

FILING OF RETURNS

1. Filing of IT Returns:

Mutual Funds u/s 10(23D), Securitization Trust u/s 10(23DA) & Venture Capital Company/Fund u/s 10(23FB) have to file their ITR, if their Income Before Giving Effect of Section 10 Benefit exceeds Basic Limit.

2. Verification of IT Returns:

As of now, instead of signing the return, word "Verified" is placed. So as of now returns are no signed and they are verified.

3. Reference to Valuation Officer by AO in course of Assessment (Sec 142A): (wef 1/10/14)

1 **Reference by AO to VO During Assessment :**
AO may for the purpose of assessment, reassessment, make a reference to VO to estimate the value (including fair value) of ANY asset, property or investment & submit a copy to him

2 **Reference Can Be Made Even Without Rejection of Books of Accounts :**
AO can refer VO irrespective whether Books of Accounts are correct or not.

3 **Powers of VO :**
VO under this section had all the powers as vested with VO under section 38A of Wealth Tax Act 1957

4 **Estimation of Value by VO :**
VO after taking into consideration such evidence as the assessee may produce and any other evidence in his possession gathered & after giving OBH, will then estimate value of asset, property, investments.

5 **Estimation of Value on Best Judgment :**
If assessee does not co-operate to VO, then VO may estimate value of asset, property, investment to the best of his judgement.

6 **Report of VO :**
VO shall, within 6 months from end of month in which he was referred, send his report to the AO & assessee both.

7 **AO to complete assessment after considering Report of VO :**
AO may after receiving VO Report & after giving OBH to assessee by considering report of VO will have to

complete the assessment.
It should also be noted AO will get extension of Time Limit to complete the case for the period commencing from date when VO was referred till date of receiving from VO.

4. Computation & Disclosure Standards by Central Government: {Sec 145 (2) & 145 (3)}

The Income from B&P, IFOS is to be computed as per the Income Computation & Disclosures as notified by CG in the official Gazette. (they are yet to be finalized).

Henceforth, If assessee does not follow the aforementioned to compute his B&P & IFOS income and AO is not satisfied about completeness/correctness of accounts, then AO can take assessment in Best Judgment u/s 144.

5. Assessment of Other Person under Search : {Sec 153C} (from 1/10/14)

In case of Search where the gold, bullion, jewellery, books are found to of other person, then AO of Searched Person hands over the same to the AO of Other Person.

Then AO of that Other Person will start search assessment of that other person in same style **PROVIDED AO IS SATISFIED ABOUT BEARING EFFECT OF SAME ON THE INCOME REFERRED IN SEARCH YEARS.**

Hence the law for the Other Person who is trapped in the Search is made flexible. Previously it was compulsory to start search assessment of such other persons in each and every case.

DEMANDS & RECOVERIES:

1. Validity of Demands Raised – Sec 220 (1A) – from 1/10/14

Generally 30 days are given to recover demand u/s 156. Also in cases where AO feels that it is detrimental to revenue then these 30 days are shortened by taking prior approval of JCIT to recover the demand.

From 1/10/14, if any demand notice is served & assessee had filed appeal/proceeding is filed, Then such Demand Notice Shall Be Valid Till The Disposal of Appeal/Proceeding by the Last Authority & this demand notice will be squarely covered u/s 3 of Taxation Laws (Continuation & Validity of Recovery Proceedings) Act 1964.

2. Interest on Demand Not Paid – Sec 220 (2) :

Generally 30 days are given to recover demand u/s 156. If assessee does not clear demand then Interest @ 1% pm (or part) is levied on assessee from last due date till date of payment of demand. Also if amount of demand is reduced u/s 154, 155, 250, 254, 260, 262, 264, Settlement Commission ,then excess interest paid by the assessee is refunded to him

From 1/10/14, it has now been provided that if the amount of demand is increased u/s 263, then assessee will be liable to interest on Increased Demand Amount from Last Due Date of Original Demand Notice Till the Date of Payment of Interest @ 1% pm (or part).

This amendment needs to be given second thought.

SETTLEMENT COMMISSION (SC)

1. Meaning of CASE under Application to SC:

Upto 30/9/2014, Following Will **NOT** be Regarded As Case

a) Assessment, Reassessment u/s 147
b) In pursuance of Sec 263, 264, 254 where Assessment is Freshly Started by Cancelling Old Assmt.

From 1/10/14, Following Will **BE Regarded** As Case

a) Scrutiny u/s 143
b) Best Judgment u/s 144
c) Search Assessment u/s 153
d) Assessment, Reassessment u/s 147
e) Revision By Commissioner u/s 263, 264
f) Rectification by ITAT u/s 254.

Hence from 1/10/14, the scope of CASE has been widen under SC.

2. Wealth Tax Case: wef 1/10/14

From 1/10/14,the Pending Cases under Wealth Tax (Case means as referred above from 1/10/14) can be moved to Settlement Commission. All the procedure is same as discussed in chapter.

ADVANCE RULINGS

1. Constitution of Authority for Advance Rulings (AAR):

AAR shall consist of Chairman, Such Number of Vice Chairman, Revenue Members, Law Members as may be specified by CG. They are as under:

a) **CHAIRMAN** – Who has been a Judge of Supreme Court.
b) **VICE CHAIRMAN** – Who has been a Judge of High Court.
c) **REVENUE MEMBERS** - Principal Chief Comm, Principal Director General, Chief Comm, Director General of Income Tax
d) **LAW MEMBERS** - Person who us Additional Secretary to Government of India.

AAR shall be located in the National Capital Territory of Delhi & its Benches (Chairman or Vice Chairman + 1 Revenue Member + 1 Law Member) shall be located at such places as the Central Government may specify.

MISCELLEANOUS PROVISIONS

1. Acceptance & Repayment of Loans/Deposits – Sec 269SS & 269T:

Electronic Banking Means (NEFT, RTGS) are now permissible mode to Accept or Repay the Loans / Deposits u/s 269SS & 269T.

2. 2% Penalty in Transfer Pricing :

2% Penalty is imposed on the value of Each International / Specified Domestic Transaction in case assessee fails to furnish such information.

From 1/10/14, Transfer Pricing Officer has also power to levy the same on assessee.

3. Penalty on TDS, TCS Return by AO {Sec 271H 91)} (wef 1/10/14)

AO can levy penalty on the person who :

a) Fails to furnish TDS, TCS Return under prescribed time limit
b) Furnishes Incorrect Information in the TDS, TCS Return.

This is complementary gift along with Late Fees of Section 234E.

4. Wilfully Failure to Comply Notices u/s 142(1) & Special Audit : Sec 276D (wef 1/10/14)

If any person willfully does not comply notice u/s 142(1) or 142(2A), then he shall be punishable with rigorous imprisonment which may extend to 1 year along with fine. Due to this the powers of courts are hindered as now they cannot protect the person from imprisonment.

5. Annual Information Return (Sec 285) in a New Avtar (Sec 285A) :

- The existing section 285BA requires filing of Annual Information Return (AIR).

- The amendment seeks to substitute existing section by a new section so as to make the provision more wide and detailed. Hence, for a better understanding, the entire gamut of new section is produced below.

- **Section 285BA(1)** - Any person, being –
  (a) an assessee,
  (b) the prescribed person in the case of an office of Govt., or
  (c) a local authority or other public body or association, or
  (d) the Registrar or Sub-Registrar u/s 6 of Registration Act, 1908, or
  (e) the Registering Authority empowered to register vehicles under Motor Vehicles Act, 1988, or
  (f) the Post Master General under Indian Post Office Act, 1898, or
  (g) the Collector referred to in section 3 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, or
  (h) a recognised stock exchange under the Securities Contracts (Regulation) Act, 1956, or
  (i) an officer of RBI, or
  (j) a depository under Depositories Act, 1996, or
  (k) a prescribed reporting financial institution,

  who is responsible for registering, or, maintaining books of account or other document containing a record of any "specified financial transaction" or any "reportable account" as may be prescribed, shall furnish a **"Statement in respect of such specified financial transaction or such reportable account"** which is registered, recorded or maintained by him.

- **Section 285BA(2)** - The Statement shall be filed for such period, within such time and in such form and manner, as may be prescribed.

- **Section 285BA(3) - "Specified financial transaction"** means:
  (a) transaction of purchase, sale or exchange of goods or property or right or interest in a property,
  (b) transaction for rendering any service,
  (c) transaction under a works contract,
  (d) transaction by way of investment made,
  (e) transaction by way of expenditure incurred, or
  (f) transaction for taking or accepting any loan or deposit,
  as may be prescribed.

  The CBDT can prescribe different values for different transactions in respect of different persons. However, the value or the aggregate value of such transactions during a financial year so prescribed shall not be less than Rs. 50,000.

- **Section 285BA(4) -** If the income-tax authority considers that the **Statement is DEFECTIVE**, he may intimate defect to the person. The person shall rectify defect within 30 days from the date of such intimation. This time-limit can be extended by the authority on an application by the person. If the defect is not rectified within 30 days / extended time, the Statement shall be treated as invalid and all provisions of the Act shall apply as if such Statement was not filed.

- **Section 285BA(5)** - Where the **Statement is NOT FILED** within the time prescribed under sub-section (2), the income-tax authority may serve a notice upon the person requiring him to furnish such Statement within a period not exceeding 30 days from the date of service of notice and thereafter such person shall furnish Statement within the time specified in the notice.

- **Section 285BA(6)** - If the person, having filed the Statement under sub-section (1) or in response to the notice under sub-section (5), comes to know or discovers any inaccuracy in the information provided in the Statement, he shall within a period of 10 days inform the income-tax authority, the inaccuracy and furnish the correct information in the manner as may be prescribed.

- **Section 285BA(7) -** The Central Govt. can make rules and specify:
  (a) the persons to be registered within the income-tax authority, or
  (b) the nature of information and the manner in which such information shall be maintained by the persons, and the due diligence to be carried out by the persons for the purpose of identification of any reportable account.

- **Section 271A: Penal Provisions:**
  (a) Penalty @ Rs 100/- day (during period when failure continues) will be levied in case if above mentioned Return is not Filed within DUE DATE.
  (b) Penalty @ Rs 500/- day (from last due date specified under notice till date of furnishing return) will be levied in case if above mentioned Return is not Filed within NOTICE ISSUED u/s 285BA (5).

- **Section 271AA: Another Penal Provisions:**
  This section prescribes that if the **person referred to in clause (k) of sub-section (1) of section 285BA** [i.e. a prescribed reporting financial institution], who is required to furnish a **"Statement of Financial Transaction or Reportable Account",** provides inaccurate information in such statement, and where –
  (a) the inaccuracy is due to a failure to comply with the due diligence requirement prescribed under sub-section (7) of section 285BA or is deliberate on the part of that person; or
  (b) the person knows of the inaccuracy at the time of furnishing the statement, but does not inform the prescribed income-tax authority; or
  (c) the person discovers the inaccuracy after furnishing the statement and fails to inform and furnish correct information within the time specified under sub-section (6) of section 285BA,
  then, the prescribed income-tax authority may direct that such person shall pay, a penalty of a sum of Rs. 50,000/-. Also under this section penalty cannot be waived on the ground that there was sufficient cause. Hence the assessee had no ground to get him saved u/s 273B where he can argue that there was sufficient cause for above mistake.

WEALTH TAX

From 1/10/14, the Pending Cases under Wealth Tax (Case means as referred above from 1/10/14) can be moved to Settlement Commission. All the procedure is same as discussed in chapter.

NON RESIDENT TAXATION :

1. Distributed Income Received By Non Resident (Not being company) or Foreign Company from Business Trust:

a) Taxable to Recipient @ 5%.
b) NR will not be required to File Income Tax Return, if he earns only this income & on which Tds is deducted.
c) No 80C to 80U Deduction & No Set Off Carry Forward of Losses Benefit is available.
d) The Person Making Payment to NR will deduct TDS @ 5% u/s 194LBA(2).

TAX DEDUCTED AT SOURCE & TAX COLLECTED AT SOURCE :

1. Tds on Interest Income Section 194A: (wef 1/10/14)

a Generally Tds is to be done on Interest Income
b From 1/10/14, No Tds is to be done on Interest Income u/s 10(23FC) which the SPV will give to Business Trust (REIT) because the Income of Business Trust is Exempt.

2. Tds on Interest Income By Business Trust to its Recipients Section 194LBA: (wef 1/10/14)

a When the Business Trust distributes the Interest Income to their Unit Holders being Resident or Non Resident, then Business Trust (REIT) will have to deduct the Tds.
b Tds Rate is 10% (for Resident) & Tds @ 5% for Non Resident Receiver of Interest Income
c Tds Timing is “At the Time of Credit OR Payment, whichever is Earlier”.

3. Tds on Interest on Foreign Currency Loan Section 194LC(1) : (wef 1/10/14)

a When the **Business Trust** borrows money in foreign currency (as approved by CG) Under:
a) Loan Agreement (From 1/7/12 but before 1/7/17) **OR**
b) Issuing Long Term Infra Bonds (From 1/7/12 but before 1/10/14) **OR**
c) Issuing Long Term Bonds (From 1/10/14 but before 1/7/17)
b Tds Rate is 5%.
Previously only Specified Company was covered under this Section.

4. Tds on Life Insurance Policy Section 194DA: (wef 1/10/14)

Tds By Whom to Be Made	:	Any Person responsible for paying to RESIDENT any sum of Life Insurance Policy Including Bonus.
Timing	:	Payment or Credit, whichever is Earlier
Amount for Tds	:	Amount Paid to Resident (ie Basic Sum Assured + Bonus)
Rate of Tds	:	2%
No Tds	:	**a)** No Tds if Amount of Life Insurance is Exempt to Resident u/s 10(10D), *ie upto 20% if Policy is upto 31/3/12,* *upto 10% of Basic if Policy is From 1/4/12,* *upto 15% of Basic if Policy is From 1/4/13 for 80U & 80DDB Persons. (Same as in 80C)* **b)** No Tds if aggregate amount during the Financial Year is LESS THAN Rs 1.00 Lacs.

5. Time Limit for Deeming Person to be in Default in TDS: Section 201(3): (wef 1/10/14)

No Order will be passed deeming person to be in default under TDS as per the aforementioned time limit:

Till 30/9/2014
2 years From End of FY in Which Statement is Filed
6 years From End of FY in Which Payment is Made (in other case)

From 1/10/2014
7 years From End of FY in Which Payment is Made

6. Filing of Tds Correction Statement: Section 200A(1) & (3): (wef 1/10/14)

Till 30/9/14, there was no provision for filing correction statement in Tds and department was accepting Tds Correction Statement. So a formal amendment has been made so as to make Correction of Tds Statement valid in the eyes of law by way of amendment.

ALTERNATE MINIMUM TAX (AMT) :

1. Adjusted Total Income (ATI)

a ATI = NTI + Deductions Claimed u/s 80IA to 80 RRB (except 80P) + Exemption Claimed u/s 10AA + **Deduction Claimed u/s 35AD. Hence from now 35AD Deduction is to be Added to Compute ATI under AMT.**

b ***HINT : If you see a sum where there 35AD Deduction or 10AA Exemption, then Do Calculate the Tax Liability in a Normal Way & As Per AMT Way. Its Important.***

BUSINESS TRUST :

Introduction

"Business Trust" to mean a trust registered as an Infrastructure Investment Trust or a Real Estate Investment Trust (REIT), the units of which are required to be listed on a recognised stock exchange, in accordance with the regulations made under the Securities Exchange Board of India Act, 1992 and notified by the Central Government in this behalf.

Income of Business Trust - Sec 10(23FC)

It will derive its income in nature of any income of a business trust by way of interest received or receivable from a special purpose vehicle (SPV). The said income is exempted u/s 10(23FC). 'SPV' means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the regulations under which such trust is granted registration.

Income Received to Units Holder of Business Trust – Sec 115 UA:

Units holder receiving income from Business Trust (115 UA) will be exempt to him u/s 10(23FD) to the extent the income received by the unit holder corresponds to the income of business trust as referred in section 10(23FC) only. The balance income will be taxable @ 30%.

Tds on Income Distributed By Business Trust to Unit Holder (Sec 194LBA& 194LC):

Unit Holder	*Resident*	*Non Resident*
Tds Rate	*10%*	*5%*
Income for Tds Deduction	*Any distributed income u/s 115UA being in the nature of 10(23FC)*	
Timing of Deduction	*Date of Payment OR Date of Credit (EARLIER)*	

Tds on Interest on Infrastructure Bonds By Business Trust to NR Investor (194LC):

Investor	*Non Resident*
Tds Rate	*5%*
Income for Tds Deduction	*Interest Accrued on Bonds*
Timing of Deduction	*Date of Payment OR Date of Credit (EARLIER)*

Capital Gains on Selling of Units to Unit Holder:

Nature	*Short Term*	*Long Term*
Section Relevant	*111A*	*10(38)*
Tax Rate	*15%*	*Exempt*
Period of Holding	*12Months or Less*	*More Than 12 Months*

Exchange of Shares of SPV for units allotted by Business Trust:

a) The said exchange will not be considered as "Transfer" as per section 47(xvii). So No Capital Gains attracted on Exchange.
b) If then afterwards the **Unit Holder SELLS SUCH UNITS**, then Capital Gains Taxable As under:

PERIOD OF HOLDING = Counted from DATE OF SHARES HELD BY THE ASSESSEE.
COST OF UNITS = COST OF SHARES HELD BY ASSESSEE.
MONTHS TO BE TAKEN FOR DETERMING SHORT / LONG TERM NATURE = 12 MONTHS

Securities Transaction Tax on Units :

Securities Transaction Tax will be levied in the same way as it is levied on securities on RSE on the units of Business Trust also.

Return of Income :

They have to File ROI, if Their GTI EXCEEDS Basic Exemption Limit u/s 139(1).