

AMENDMENTS
AT A GLANCE
-FINANCE ACT 2015

CA FINAL

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(Applicable for May & November 2016)

Expert Professional Academy

Rates of tax

- No change in the rate of personal income-tax and the rate of tax for companies in respect of income earned in the financial year 2015-16, assessable in the assessment year 2016-17.

Surcharge

Type of Person	Total Income	% of Surcharge on total tax
Individual / HUF / AOP / BOI/ Artificial judicial person / Co-operative societies / Local authority / Firms / LLPs	> ₹ 1 Crore	12%
Domestic Company	> ₹1 Crore but is ≤ ₹10 Crore	7%
	> ₹10 Crore	12%
Foreign Company	> ₹1 Crore but is ≤ ₹10 Crore	2%
	> ₹10 Crore	5%

Charitable Purpose: Section 2(15)

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- A glass jar with a black lid, containing coins, and a white tag attached to it that says 'Charity'. The jar is on a wooden surface, and a beam of light shines from the top left corner.

Income: Section 2(24)



- Sub clause (xviii) has been inserted, assistance in form a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement will be taxable as “income”. It will be taxable as income regardless of the fact whether such subsidy or grant is received from central government or state government or any authority or body or agency. Further it will be taxable whether it is received in cash or kind.

Short Term capital asset: Section 2(42A)

- Capital asset being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (xviii) of section 47.
- In order to facilitate consolidation of different schemes of mutual funds having similar features, it is proposed to provide tax neutrality to unit holders upon consolidation or merger of mutual fund schemes provided that the consolidation is of two or more schemes of an equity oriented fund or two or more schemes of a fund other than equity oriented fund.
- The cost of acquisition of the units of consolidated scheme shall be the cost of units in the consolidating scheme and period of holding of the units of the consolidated scheme shall include the period for which the units in consolidating schemes were held by the assessee.
- In case of shares in a company (acquired by the non-resident assessee on redemption of Global Depository Receipts referred to in section 115AC(1)(b) held by such assessee, the period shall be reckoned from the date on which a request for such redemption was made.

With effect from 1st April, 2016

Residential Status: Section 6(1)

- In the case of an individual, being a citizen of India and a member of the crew of a **foreign bound ship** leaving India, he would be considered as resident in India if his stay in India is 182 days or more.
- Earlier an individual, being a citizen of India, who leaves India in any previous year as a member of the crew of an Indian ship was covered under the provision.



- With a view to providing a uniform method of computation of period of stay in India for the purposes of determination of 'resident' status in the case of an India seafarer, whether working on an Indian-ship or foreign-ship, it is proposed to provide an enabling power to CBDT to prescribe the same in the rules.

With retrospective effect from 1st April, 2015

Residential Status of Company: Section 6(3)

- POEM introduced for determining the residential status of company which is in line with DTAA



- Company shall be said to be resident in India, in any previous year, if—
 - a. it is an Indian company; or
 - b. its **place of effective management**, at any time in that year, is in India.
- “place of effective management” to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

With effect from 1st April, 2016

Deemed to accrue or arise in India: Section 9

- Income of a foreign company in respect of transfer of shares in another foreign company outside India is taxable in India, if the following conditions are satisfied:
- Fair market value of the Indian assets of the company whose shares are transferred on the specified date is more than ₹ 10 Crore;
- Indian assets of company whose shares are transferred are more than 50% of its global assets;
- Transfer of shares is not on account of amalgamation/ demerger of transferor/transferee Company
- Transferor Company owns (individually and along with its associated enterprises) more than 5% shares in the company whose shares are transferred.
- Specified date:
The specified date of valuation shall be the date on which the accounting period of the company or entity ends (i.e., 31 March, or accounting period end date, as the case may be) preceding the date of transfer. If however, the book value of assets of the company or entity on the date of transfer exceeds by at least 15% of the book value of the asset as on the last balance sheet preceding the date of transfer, then instead of the date mentioned above, the date of transfer shall be the specified date of valuation.



With effect from 1st April, 2016

Interest paid by Indian PE to its foreign head office bank: Section 9(1)(v)

- If the following two conditions are satisfied, the permanent establishment in India shall be deemed to be a person separate and independent of the non-resident person of which it is a permanent establishment:
 - a) The assessee is a non-resident and engaged in the business of banking
 - b) Interest is payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India.
- In the case of a non-resident being a person engaged in the business of banking, any interest payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any another part of such non-resident outside India shall be deemed to accrue in India and shall be chargeable to tax in addition to any income attributable to the permanent establishment in India.
- Accordingly, the PE in India shall be obligated to deduct tax at source on any interest payable to either the head office or any other branch or PE, etc. of the non-resident outside India.



Insertion of new section 9A-Certain activities not to constitute business connection in India

- In the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.

Through this sub section (1) of section 9A, the provision of existing sub-section (1) of section 9 is override, which talk about Income deemed to accrue or arise in India due to business connection.

- Further, an eligible investment fund shall not be said to be resident in India for this purpose merely because the eligible fund manager, undertaking fund management activities on its behalf, is situated in India.

Through this sub-section (2) of section 9A, the provision of section 6 is override which contains the provisions to become resident in India.

- *Meaning of Eligible Investment Fund:-*A fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions, namely:-

- a. the fund is not a person resident in India;
- b. the fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into (in simple words, the Fund must be a resident of a country/specified territory with whom India has a DTAA agreement);
- c. the aggregate participation or investment in the fund, directly or indirectly, by persons resident in India does not exceed five per cent. of the corpus of the fund (the total investment of person resident in India whether directly or indirectly shall not be more than 5% of corpus of fund);
- d. the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident;
- e. the fund has a minimum of twenty-five members who are, directly or indirectly, not connected persons;
- f. any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding ten per cent.;
- g. the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty per cent.;
- h. the fund shall not invest more than twenty per cent. of its corpus in any entity;
- i. the fund shall not make any investment in its associate entity;
- j. the monthly average of the corpus of the fund shall not be less than one hundred crore rupees: Provided that if the fund has been established or incorporated in the previous year, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year;
- k. the fund shall not carry on or control and manage, directly or indirectly, any business in India or from India;
- l. the fund is neither engaged in any activity which constitutes a business connection in India nor has any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf;

m. the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the arm's length price of the said activity.

- **Meaning of Eligible Fund Manager:-** Any person who is engaged in the activity of fund management and fulfils the following conditions, namely:-
 - a. the person is not an employee of the eligible investment fund or a connected person of the fund;
 - b. the person is registered as a fund manager or an investment advisor in accordance with the specified regulations;
 - c. the person is acting in the ordinary course of his business as a fund manager;
 - d. the person along with his connected persons shall not be entitled, directly or indirectly, to more than twenty per cent of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through the fund manager.
- Every eligible investment fund shall, in respect of its activities in a financial year, furnish within ninety days from the end of the financial year, a statement in the prescribed form, to the prescribed income-tax authority containing information relating to the fulfilment of the conditions specified in this section and also provide such other relevant information or documents as may be prescribed. However, nothing contained in section 9A shall have any effect on the scope of total income or determination of total income in the case of the eligible fund manager

Section 10

Section 10(11A)

- Payment from an account opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873, shall not be included in the total income of the assessee.
- Sukanya Samriddhi Account scheme is declared as EEE (exempt-exempt-exempt) method of taxation.
 1. The investments made in the Scheme will be eligible for deduction under section 80C of the Act.,
 2. The interest accruing on deposits in such account will be exempt from income tax., and
 3. The withdrawal from the said scheme in accordance with the rules of the said scheme will be exempt from tax by introduction of new clause (11A) under section 10 of the Income Tax Act, 1961



With effect from A. Y. 2015-16

Section 10(23C):

- Income received by any person on behalf of the Swachh Bharat Kosh, set up by the Central Government and to exempt income received by any person on behalf of the Clean Ganga Fund, set up by the Central Government.



Under Section 80G (Donations and Contributions to certain funds), some new funds are added in eligible fund list. Like, National Fund for Control of Drug Abuse, Swachh Bharat Kosh (donations made by any donor) and Clean Ganga Fund (donations made by domestic donors). [National Fund for Control of Drug Abuse w.e.f. A.Y. 2016-17 and other two funds w.e.f. A.Y. 2015-16].

Exemption to income of Core Settlement Guarantee Fund (SGF) of the clearing corporations (Section 10(23EE))

- A new clause has been inserted in section 10 to exempt the following income of the core SGF-
 - a) Income by way of contributions received from specified persons, any recognised stock exchange and any clearing member contributing to the core SGF
 - b) income by way of penalties imposed by the recognised clearing corporation and credited to the Core SGF
 - c) Income from investment made by the fund.

Exemption to Income of investment fund: Section 10(23FBA)

- Clause (23FBA) has been inserted in section 10 to provide that any income of an investment fund other than the income chargeable under the head "Profits and gains of business or profession" shall not be included in the total income of such fund.



Exemption to Unit holders of investment fund: Section 10(23FBB)

- Clause (23FBB) has been inserted in section 10 to provide that any income of a unit holder of an investment fund shall not be included in the total income of such person.

Exemption on rental income of real estate investment trust (Section 10(23FCA))

- Any income of REIT by way of renting or leasing or letting out any real estate asset owned directly by such business trust, shall not be included in the total income.

Income from property held for religious and charitable purpose (Section 11)

- For claiming exemption under section 11, the assessee must submit Form 10 to Assessing officer in this regard stating the purpose and period for which income has to be accumulated.
- With effect from Assessment Year 2016-17-

1. Form No. 10 shall be filed before the due date of filing return of income specified under section 139(1) for the fund or institution.
2. In case Form No. 10 is not submitted before this date, then the benefit of accumulation would not be available and such income would be taxable at the applicable
3. Is required to be furnished on or before the due date of filing return of income specified under section 139 (1) for the fund or institution.



- In computing the period of five years referred to in the said clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

With effect from 1st April, 2016

Additional Depreciation when asset is put to use for less than 180 days: Section 32 (1)(iia)

- If the asset is put to use for less than 180 days in the year of acquisition, then additional depreciation would be 10% of the cost of acquisition in the first year and the balance 10% would be available in the immediately succeeding previous year.

With effect from 1st April, 2016

Investment in new plant or machinery in notified backward areas in certain states: Section 32AD

- Additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee, if—



- i. The assessee may be a company or any other person.
- ii. He sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 1st April, 2015 in any notified backward areas in the State of Andhra Pradesh, Bihar, West Bengal or Telangana;
- iii. He/it acquires and installs (for the purposes said undertaking) a "new asset".
- iv. The new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from the 1st April, 2015 to 31st March, 2020.

■ **Withdrawal of investment allowance:**

The new asset should not be sold or otherwise transferred within a period of 5 years from the date of its installation. If the new asset is sold or transferred within 5 years from its installation, the amount of investment allowance allowed to the assessee shall be deemed to be the income of the assessee for the previous year in which such asset is sold or otherwise transferred.

■ **Additional Depreciation at the rate of 35% under section 32(1)(iia)**

Additional depreciation of 20 per cent is allowed under the existing provisions of section 32(1)(ia) in respect of the actual cost of plant or machinery acquired and installed by certain assesses. This depreciation under section 32(1)(ii). For the purpose of the same the following conditions are to be satisfied:

1. Investment in notified backward area in Andhra Pradesh, Bihar, West Bengal or Telangana will qualify for additional depreciation at the rate of 35% (instead of 20%). If however the new plant is put to use for less than 180 days the additional depreciation shall be limited to 17.5% of actual cost in that year. The balance 17.5% is allowed in the immediately succeeding previous year.
2. The new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from the 1st April, 2015 to 31st March, 2020.
3. The eligible machinery or plant for this purpose shall not include the machinery or plant which is currently not eligible for additional depreciation as per the existing proviso to the section 32(1)(ia).

- Illustration - X Ltd sets up an undertaking in a notified backward area in Andhra Pradesh (or in a notified backward area in Bihar, Telangana or West Bengal). For this purpose, it purchases new plant and machinery (rate of normal depreciation: 15%) as follows-

Plant	Actual cost (₹ in Crore)	Date of purchase	Date of installation	Date when put to use
A	18	June 25, 2015	September 1, 2015	November 2, 2015
B	8	June 27, 2015	December 1, 2015	December 3, 2015
C	20	June 29, 2015	March 20, 2016	June 1, 2016
D	7	June 30, 2015	December 1, 2016	December 6, 2016
E	35	September 10, 2015	September 21, 2015	September 28, 2015
TOTAL	88			

In this case, normal depreciation, additional depreciation and investment allowance will be available as follows –

Plant	Previous Year 2015-16				Previous Year 2016-17			
	Normal Depreciation	Additional Depreciation	Investment Allowance		Normal Depreciation	Additional Depreciation	Investment Allowance	
			U/s 32AC	U/s 32AD			U/s 32AC	U/s 32AD
A	7.5%	17.5%	15%	15%	15%	17.5%	Nil	Nil
B	7.5%	17.5%	15%	15%	15%	17.5%	Nil	Nil
C	Nil	Nil	15%	15%	15%	35%	Nil	Nil
D	Nil	Nil	Nil	Nil	15%	35%	15%	15%
E	15%	35%	15%	15%	15%	Nil	Nil	Nil

Notes-

1. Normal depreciation will be available on the basis of written down value of the block of assets on the last date of the previous year.
2. Additional depreciation will be available on the basis of actual cost of the assets.
3. Investment allowance will be available on the basis of actual cost of the assets. However, it will be subject to minimum alternate tax.

4. If the above undertaking is set-up by a concern other than a company, investment allowance under section 32AC will not be available. One can claim investment allowance under section 32AD. Section 32AD in the case of non-corporate assessee will not be subject to alternate minimum tax.

Section 35

- In order to have a better and meaningful monitoring mechanism for weighted deduction allowed under section 35(2AB) the following amendments have been made with effect from the AY 2016-17-

1. Deduction under section 35(2AB) shall be allowed only if the company enters into an agreement with the prescribed authority for co-operation in such research and development facility and fulfills prescribed conditions with regard to maintenance and audit of accounts and also furnish prescribed reports.



2. Reference to the Principal Chief Commissioner has been inserted in the section 35(2AA) and section 35(2AB) so that the report referred to therein may be sent to the principal Chief Commissioner and Chief Commissioner having jurisdiction over the company claiming the weighted deduction under the said section.

With effect from 1st April, 2016

Section 36

The following amendments have been made to section 36 with effect from the assessment year 2016-17 –

- **Interest on capital borrowed to finance acquisition of an asset** – Proviso to section 36(1)(iii) is applicable if the following conditions are satisfied-



- a. Capital is borrowed for acquiring an asset and interest is paid (or payable) in respect of the borrowed capital;
- b. the capital is borrowed for acquisition of the asset for the purpose of extension of an existing business or profession; and
- c. In the books of account, the interest liability may (may not be) capitalised.

If the above conditions are satisfied, then interest liability for the period commencing from the date of borrowing till the date on which such asset is first put to use, shall not be allowed as deduction under section 36(1)(iii) (it may be capitalised to claim depreciation and investment allowance). The above rule is applicable on in the case of extension of an existing business. It is not applicable in the case of a new business or in the case of an existing business where there is no extension.

Amendment:

Interest on capital borrowed to finance asset acquisition in such cases is allowable as deduction, even if the interest liability pertains to the period before the asset is first put to use. To avoid this current mischief, the words “for extension of existing business or profession” have been omitted in the said proviso. After the amendment, the said proviso will be applicable even in the case of a new business or in the case of an existing business when there is no extension.

■ **Bad Debts:**

Bad debts are allowed as deduction in the year in which such debts are written off in the books of account of the assessee. This rule is applicable if such debt has been taken into account in computing the income of the assessee of the current year or earlier year. If such debt becomes irrecoverable on the basis of Income Computation and Disclosure Standards ((ICDS), notified under section 145(2)) without recording the same in the accounts, deduction is not available under the existing provisions of section 36.

Amendment:

Second proviso has been inserted in section 36(1)(vii). It provides that if a debt becomes irrecoverable on the basis of ICDS without recording the same in the accounts, it shall be allowed as deduction in the previous year in which such debt becomes irrecoverable and it shall be deemed that such debt has been written off as irrecoverable in the accounts for the purpose of section 36(1)(iii).

■ **Expenditure by co-operative society for purchase of sugarcane:**

Clause (xvii) has been inserted in section 36(1). Under this clause, deduction will be allowed in respect of expenditure incurred by a co-operative society (engaged in the business of manufacture of sugar) for purchase of sugarcane at a price which is equal to (or less than) the price fixed or approved by the Government.

Transaction not regarded as transfer: Section 47

- Clause (viib) and (viic) Capital gains shall be exempt in respect of transfer of share of a foreign company (deriving value of assets substantially from assets situated in India) on account of amalgamation or demerger of foreign companies.



Clause (xviii) provides that capital gains shall not apply to any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, if the transfer is made in **consideration** of the allotment to him of any unit or units in the consolidated scheme of the mutual fund under the process of consolidation of the schemes of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992.

(With effect from 1st April, 2016)

Modes of acquisition: section 49

Sec 49 has been amended with effect from 2016-17 to provide the following:

- The cost of acquisition of units of consolidated scheme shall be the cost of units in the consolidating scheme.
- Period of holding of the units of the consolidated scheme shall include the period for which the units in consolidating schemes were held by the assessee.
- Where shares in a company is acquired by a non-resident assessee on redemption of global Depository Receipts, the cost of acquisition of such shares shall be calculated on the basis of the price prevailing on any recognised stock exchange on the date on which a request for such redemption was made.

With effect from 1st April, 2016

Deduction in respect of life insurance etc.: Section 80C



- Sum paid or deposited during the year in the Sukanya Samriddhi Account Scheme as a subscription in the name of any girl child of the individual or in the name of any girl child for whom such individual is the legal guardian, would be eligible for deduction under section 80C, if the scheme so specifies.

With retrospective effect from 1st April, 2015

Deduction in respect of contribution to certain pension funds: Section 80CCC

- Limit on deduction on account of contribution to a pension fund of LIC or IRDA approved insurer from ₹ 1 lakh to ₹ 1.5 lakh.
- **Illustration** – X and Y give the following information –

Particulars	X (₹)	Y (₹)
Deposit in public provident fund and payment of life insurance premium	41,000	1,10,000
Contribution to annuity policy of LIC (or any other insurer) (eligible for deduction under section 80CCC)	1,10,000	41,000

Amount deductible for different assessment years-

Particulars	X		Y	
	AY 2015-16 ₹	AY 2016-17 ₹	AY 2015-16 ₹	AY 2016-17 ₹
Public provident fund, life insurance premium	41,000	41,000	1,10,000	1,10,000
Annuity policy of LIC (eligible for deduction under section 80CCC)	1,00,000	1,10,000	41,000	41,000
Total	1,41,000	1,51,000	1,51,000	1,51,000

Amount deductible under sections 80C and 80CCC (subject to maximum ceiling of ₹ 1,50,000 as given by section 80CCE)	1,41,000	1,50,000	1,50,000	1,50,000
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Deduction in respect of contribution to pension scheme of Central Government:

Section 80CCD

- Deduction in respect of contribution by the employee to National Pension Scheme (NPS) increased from ₹ 1 lakh to ₹ 1.50 lakh. It is also proposed to provide a deduction of upto ₹ 50,000 over and above the limit of ₹ 1.50 lakh in respect of contributions made to NPS.

■ Illustration 1:

X is in service of A Ltd. since 1989. Currently, his basic salary plus dearness allowances is ₹ 12,00,000. He contributes ₹ 1,75,000 towards NPS, deposits ₹ 40,000 in PPF and deposits ₹ 60,000 towards annuity plan of LIC which is eligible for deduction under section 80CCC (total investment in NPS, annuity plan and PPF is ₹ 2,75,000). A Ltd. contributes ₹ 1,30,000 towards NPS and gives annual bonus of ₹ 4,40,000. Bank FD interest of X for the previous year 2015-16 is ₹ 4,40,000.

	₹	₹
Basic Salary and dearness allowance		12,00,000
Bonus		4,40,000
Contribution of A Ltd. towards NPS		1,30,000
Income under the head Salaries		17,70,000
Income from other sources		4,00,000
Gross Total Income		21,70,000
Less: Deductions		
Under section 80CCD(1B) (contribution by X towards NPS, subject to maximum of ₹ 50,000)		50,000
Under section 80CCD(2) (contribution by A Ltd. of ₹ 1,30,000 or 10% of salary, whichever is less)		1,20,000
Under section 80C	40,000	
Under section 80CCC	60,000	
Under section 80CCD(1) (contribution : ₹ 1,25,000*, 10% of salary : ₹ 1,20,000, whichever is less)	1,20,000	
Total	2,20,000	
Under section 80C, 80CCC, 80CCD(1) (subject to maximum ceiling of ₹ 1,50,000 under section 80CCE)		1,50,000
Net Income		18,50,000

*NPS contribution by X ₹ 1,75,000 minus ₹ 50,000 (i.e. amount claimed as deduction under section 80CCD(1B)).

■ Illustration 2

X is a businessman. His business income for the assessment year 2016-17 is ₹ 15,60,000. He deposits ₹ 1,50,000 in public provident fund. HE contributes ₹ 50,000 towards NPS during the previous year 2015-16.

Income of X for the assessment year 2016-17 will be determined as follows –

	₹
Business income	15,60,000
Any other income	-
Gross total income	15,60,000
Less: Deductions	
Under section 80C	1,50,000
Under section 80CCD(1B)	50,000
Net Income	13,60,000

Deduction in respect of health insurance premia: Section 80D

- The limit of deduction u/s 80D in respect health insurance premia of the Income-tax Act from ₹ 15,000 to ₹ 25,000 (in case of senior citizen from ₹ 20,000 to ₹ 30,000).
- For very senior citizen who do not qualify for health insurance, ₹ 30,000 in medical expense will qualify for deduction.



■ Illustration

X (49 years) incurs the following expenses for the benefit of his family (i.e., X, Mrs. X and dependent children) and parents (father (80 years), mother (76 years)) during the previous year 2015-16 –

	Medi-claim insurance premium (by cheque)	Preventive health check-up expenditure (in cash)	Medical expenditure
For the benefit of X, Mrs. X and children	A = ₹ 22,000	D = 0	G = ₹ 2,000
For the benefit of father	B = 0	E = ₹ 7,000	H = ₹ 18,000
For the benefit of mother	C = ₹ 6,000	F = 0	J = ₹ 1,000

The above medical expenditure is paid by cheque.

Medical expenditure will be deductible only if it is incurred on the health of a super senior citizen. Consequently, the expenses G and J are not deductible. Preventive health check-up expenditure cannot be more than ₹ 5,000. Consequently, amount deductible pertaining to E will be limited to ₹ 5,000. Amount of deduction under section 80D will be as follows –

	Medi-claim insurance premium (including preventive health check-up expenditure) ₹	Medical Expenditure ₹	Total ₹
X, Mrs. X and children	22,000	Nil	22,000
Parents	11,000	18,000	29,000
Total			51,000

With effect from 1st April, 2016

Section 80DD

- The limit from A.Y. 2016-17 to ₹ 75,000 from existing ₹ 50,000/- and for person with severe disability to ₹ 1.25 lakh from existing ₹ 1 Lakh.

Deduction in respect of medical treatment, etc.: Section 80DDB

- In case of super senior citizens-expenditure in respect of the medical treatment of a super senior citizen from ₹ 60,000 to ₹ 80,000.

■ Illustration

X (59 years) incurs the following expenditure-

Expenditure on medical treatment of X's father (80 years) (suffering from chronic disease given under section 80DDB) is ₹ 1,30,000

Medi-claim insurance premium for X is ₹ 26,000

Business income of X is ₹ 27,50,000. Find put net income of X in the following situations-

1. X's father is dependent on X
2. X's father is not dependent on X.
3. The above expenditure of ₹ 1,30,000 is incurred for the medical treatment of X's brother (68 years who is dependent on him).

	Situation 1	Situation 2	Situation 3
Business income	27,50,000	27,50,000	27,50,000
Any other income	-	-	-
Gross total income	27,50,000	27,50,000	27,50,000
Less: Deductions			
Under section 80D (medi-claim insurance premium of X)	25,000	25,000	25,000
Under section 80D (medical expenditure of father of father (dependent or otherwise), who is super senior citizen)	30,000	30,000	-
Under section 80DDB (medical expenditure of dependent father subject to maximum of ₹ 80,000)	80,000	-	80,000
Net Income	26,15,000	26,95,000	26,45,000

With effect from 1st April, 2016

Donations to certain funds, charitable institutions, etc.: Section 80G

Donee Institute	Status of the Donor	With effect from Assessment Year
Swachh Bharat Kosh	Resident/ Non Resident	2015-16
Clean Ganga Fund	Resident	2015-16
National Fund for Control of Drug Abuse	Resident/ Non Resident	2016-17

With retrospective effect from 1st April, 2015



Deduction in respect of employment of new workmen: Section 80JJAA



- Where the gross total income of any assessee includes any profits and gains derived from the manufacture of goods in a factory, the assessee shall be allowed a deduction equal to 30% of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.
- The benefit under the section 80JJAA has been extended to all the assessees having manufacturing units rather than restricting it to corporate assesses only.
- Deduction allowed if the factory is acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation.
- Tax benefit under the said section shall be available to a 'person' deriving profits from manufacture of goods in a factory and paying wages to new regular workmen. The eligibility threshold of minimum 100 workmen is reduce to 50.
- **Illustration**

X Ltd. is a manufacturing company. It owns a factory in Orissa since 2008. X Ltd. is not eligible for any deduction under section 80JJAA up to the assessment year 2015-16, as it employees less than 100 workmen in the factory. On March 31, 2015, it has 49 workmen out of which 3 are casual workmen. On May 1, 2015, the company engages 8 "regular workmen" (wages being ₹ 6,000 per month). Discuss whether deduction is available under section 80JJAA.

Deduction under section 80JJAA is not available in the case of an existing assessee if number of newly appointed "regular workmen" is lower than 10% of the strength of "workmen" as on the last day of the preceding year. In this case, X Ltd. had 49 workmen on March 31, 2015. 10 % of it comes to 4.9. Deduction under section 80JJAA is not available if number of newly appointed regular workmen is 4 or less than 4 (such number should be 5 or more than 5). In this case, the company has appointed 8 regular workmen during the previous year 2015-16. Therefore, deduction is available under section 80JJAA. However, no deduction is available in respect of wages payable to initial 50 workmen.

49 workmen as on April 1, 2015	No deduction under section 80JJAA
1 regular workman appointed on May 1, 2015	No deduction under section 80JJAA
7 regular workmen appointed on May 1, 2015	Deduction would be available under section 80JJAA

Therefore, the amount of deduction under section 80JJAA is ₹ 1,38,600 (30% of ₹ 6000 X 11 months X 7 regular workmen). Besides, wages payable to all 57 workmen would be deductible under section 37(1).

Deduction in respect of a disabled person: Section 80U

- Increase in the limit of deduction u/s 80U of the Income-tax Act in case of a person with disability, from ₹ 50,000 to ₹ 75,000. It is also proposed to increase the limit of deduction from ₹ 1 lakh to ₹ 1.25 lakh in case of severe disability.

With effect from 1st April, 2016

Specified domestic transaction: Section 92BA



- The existing threshold limit for specified domestic transactions of ₹ 5 Crore under section 92BA has been extended to ₹ 20 Crore from the assessment year 2016-17. *With effect from 1 April 2016.*

Applicability of GAAR: Section 95

- Applicability of General Anti Avoidance Rule (GAAR) has been deferred by 2 years.
- Accordingly, it will be applicable for income of the financial year 2017-18 (A.Y. 2018-19) and subsequent years.

Royalty & Fee for technical services: Section 115A

- In case of a non-resident taxpayer, where the total income includes any income by way of Royalty and Fees for technical Services received under an agreement entered after the 31st March, 1976, and which are not effectively connected with permanent establishment, if any, of the non-resident in India, the rate of tax on the gross amount of such income shall be 10%. (Earlier 25%).

Modification in the taxation scheme of Minimum Alternate Tax: Section 115JB

- Share of profit from AOP, credited to the profit and loss account of the company (on which no income tax is payable in accordance with the provisions of Sec-86), shall be excluded while computing book profit.
- Any expenditure (debited to the profit and loss account), corresponding to such income, shall be added back to convert net profit into book profit.
- MAT provision under section 115JB not to apply to capital gain arising on transactions in securities and interest, royalty or technical fees chargeable to tax under sections 115A to 115BBE.

Tax on income of unit holder and business trust: Section 115UA



- In respect of Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (INvITs), the sponsor will be given the same treatment on offloading of units at the time of listing as would have been available to him if he had offloaded his shareholding of special purpose vehicle (SPV) at the stage of direct listing. Further, the rental income arising from real estate assets directly held by the REIT shall be allowed to pass through and to be taxed in the hands of the unit holders of the REIT.
- The distributed income or any part thereof, received by a unit holder from the business trust, being a real estate investment trust, which is in the nature of income by way of renting or leasing or letting out any real estate asset owned directly by such business trust, shall be deemed to be income of such unit holder and shall be charged to tax.
- The Finance Act, 2004 has been amended (with effect from June 1, 2015) to provide that STT shall be levied on sale of such units of business trust which are required in lieu of shares of SPV, under an Initial offer at the time of listing of units of business trust on similar lines as in the case of sale of unlisted equity shares under an IPO.
- Section 111A has been amended (with effect from the assessment year 2016-17) to provide the benefit of concessional tax regime of tax at 15 percent on short-term capital gain. Similarly, section 10(38) has been amended (with effect from the assessment year 2016-17) to provide exemption to long-term capital gain. These benefits will be available to the sponsor on sale of units received in lieu of shares of SPV subject to levy of STT.
- Rental Income of REITs –
 1. Any income of a business trust, being REIT by way of renting or leasing or letting out any real estate asset owned directly by such business trust shall be exempt under section 10(23FCA).
 2. The distributed income (or any part thereof) received by a unit holder from the REIT, which is in the nature of income by way of renting or leasing or letting out any real estate asset owned directly by such REIT, shall be deemed to be income of such unit holder and shall be charged to tax.
 3. The REIT shall deduct tax at source on rental income allowed to be passed through. In case of resident unit holder, tax shall deducted at the rate of 10 % under section 194LBA and in case of distribution to non-resident unit holder, the tax shall be deducted at the rate in force as applicable for deduction of tax on payment to the non-resident of any sum chargeable to tax (i.e., at 30 % (+SC+EC+SHEC) if the recipient is a non-resident (not being a foreign company) or at 40 % (+SC+EC+SHEC) if the recipient is a foreign company.
 4. No deduction shall be made under section 194-I where the income by way of rent is credited or paid by a tenant to a business trust, being a REIT, in respect of any real estate asset held by such REIT.

- **Illustration:** X is a shareholder in S Ltd., a SPV. On January 5, 2015, he gets 1,000 unlisted units in DEF, a business trust, by surrendering his shareholding in S Ltd. These unlisted units in DEF are transferred under an IPO as follows –

1. 500 units are transferred on March 30, 2015.
2. 300 units are transferred on May 10, 2015.
3. 200 units are transferred on June 10, 2015.

Tax treatment will be as follows –

1. Transfer of 500 units on March 30, 2015 – Capital gain is taxable for the assessment year 2015-16. The amended provisions are applicable from the assessment year 2016-17. Long-term capital gain/short-term capital gain will be taxable under normal provisions. The concessional tax treatment of section 111A in the case of short-term capital gain and exemption under section 10(38) are not available.
2. Transfer of 300 units on May 10, 2015 – Units are transferred during the previous year 2015-16 (i.e., assessment year 2016-17). The amended provisions of sections 10(38) and 111A are applicable from the assessment year 2016-17. However, the concession given by these sections is applicable only if securities transaction tax is payable. For this purpose, the Finance (No. 2) Act, 2004 is amended only from June 1, 2015. On May 10, 2015, securities transaction tax is not applicable. Consequently, long-term capital gain/short-term capital gain will be taxable under normal provisions. In the absence of securities transaction tax, the concessional tax treatment of section 111A in the case of short-term capital gain and exemption under section 10(38) are not available.
3. Transfer of 200 units on June 10, 2015 - Units are transferred during the previous year 2015-16 (i.e., assessment year 2016-17). Securities transaction tax is applicable from June 1, 2015. Short-term capital gain will be taxable in the hands of X under section 111A at the rate of 15% (+SC+EC+SHEC). However, long-term capital gain will be exempt by virtue of section 10(38).

■ **Illustration –**

DEF is a real estate investment trust (REIT). It owns house properties in different parts of Maharashtra. Besides, it holds controlling interest in A Ltd. (A Ltd., an Indian company, is SPV created by DEF for the purpose of owning commercial properties). Annual taxable income of DEF is calculated as follows-

	₹ in Crore
Rental income from properties directly owned by DEF (annual value : ₹ 13 Crore – municipal tax : ₹ 3 Crore – standard deduction : ₹ 3 Crore)	7
Long-term capital gain on sale of land and buildings directly owned by DEF (computed as per section 48 after deducting indexed cost of acquisition)	20
Interest from A Ltd.	13
Dividend from A Ltd.	10
Total	50

DEF distributes ₹ 40 Crore to its unit holders. X is one of the unit holders. He holds 10 % units in DEF and is entitled to ₹ 4 Crore (before TDS).

The above information pertains to (a) previous year 2014-15 (Situation 1) or (b) previous year 2015-16 (Situation 2).

Income of DEF-

	AY 2015-16	AY 2016-17
Rental Income (*exempt under section 10(23FCA))	7	Nil
Long-term capital gain	20	20
Interest from A Ltd. (*Exempt under section 10(23FC))	Nil	Nil
Dividend (Exempt under section 10(34))	Nil	Nil
Net Income	27	20
Income Tax (30% of ₹ 7 Crore + 20% of ₹ 20 Crore), (**20% of ₹ 20 Crore))	6.1	4
Add: Surcharge	0.61	0.48
Income tax and surcharge	6.71	4.48
Add: Education cess	0.2013	0.1344
Tax Liability of DEF	6.9113	4.6144

Income of X-

	AY 2015-16	AY 2016-17
Rental Income (₹ 4 Crore X ₹ 7 Crore / ₹ 50 Crore): ₹ 0.56 Crore	¹ Exempt	0.56
Long-term capital gain (₹ 4 Crore X ₹ 20 Crore / ₹ 50 Crore): ₹ 1.6 Crore	¹ Exempt	¹ Exempt
Interest (₹ 4 Crore X ₹ 13 Crore / ₹ 50 Crore): ₹ 1.04 Crore	1.04	1.04
Dividend (₹ 4 Crore X ₹ 10 Crore / ₹ 50 Crore): ₹ 0.8 Crore	¹ Exempt	¹ Exempt
Net Income	1.04	1.6

¹Exempt under section 10(23FD)

With effect from 1st April, 2016

Seized cash can be adjusted towards assesses tax liability: Section 132B

- The asset seized under section 132 or requisitioned under section 132A may be adjusted against the amount of existing liability under the Income tax act, Wealth tax act and the amount of liability determined on completion of assessment. These provision has been amended w.e.f June 1, 2015 to provide that the asset seized under section 132 or requisitioned under section 132A may be adjusted against the amount of liability arising on an application made before the Settlement commission under section 245C(1).

With effect from 1st June, 2015

Return of income: Section 139

■ Compulsory filing of income-tax return in relation to assets located outside India



In the case of a resident person (but other than not ordinarily resident), it is mandatory to furnish return of income (from the assessment year 2016-17) if he/it at any time during the previous year,

- a. holds (as a beneficial owner or otherwise) any asset (including financial interest in any entity) located outside India or has signing authority in any account located outside India, or
- b. is beneficiary in any asset (including any financial interest in any entity) located outside India.

Sanction for issue of notice u/s 148: Section 151



- No notice u/s 148 shall be issued by Assessing officer
 1. Upto 4 years from the end of relevant assessment year without the approval of Joint commissioner.
 2. Beyond 4 years from the end of relevant assessment year without the approval of the Principal Chief Commissioner or commissioner.

With effect from 1st June, 2015

Assessment of income of a person other than the person in whose case search has been initiated: Section 153C

- Where the Assessing Officer is satisfied that,
 - (a) **any money, bullion, jewellery or other valuable article or thing**, seized or requisitioned, belongs to; or
 - (b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to



a person **other than the person** referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned, shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person.

With effect from 1st June, 2015

Rectification of mistake: Section 154

- An income tax authority may amend an intimation issued under section 206CB(1).
- In addition to assessee or deductor, reference of “collector” to be inserted so as to provide a reasonable opportunity of being heard to collector in accordance with the provision of section 154(3).

With effect from 1st June, 2015

Notice of demand: Section 156

- Where any sum is determined to be payable by the assessee or the deductor or the collector under sub-section 143 (1) or section 200A (1) or section 206CB (1), the intimation under those sub-sections shall be deemed to be a notice of demand.

With effect from 1st June, 2015

Procedure when in an appeal by revenue an identical question of law is pending before Supreme Court: Section 158AA

- This section is applicable when department is in appeal before the Supreme Court. It provides that where there is question of law arising in the case of an assessee for any year is identical with the question of law arising in case of another assessment year which is pending before the Supreme Court)in an appeal or in a special leave petition) filed by the revenue, against the order of the High Court in favour of the assessee, the Commissioner or the Principal Commissioner, direct the AO to make an application to the Appellate Tribunal in the prescribed form within 60 days from the receipt of order of the Commissioner (Appeals) stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the earlier case.
- The commissioner or Principal Commissioner shall proceed under above provisions only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case. However, in case no such acceptance is received the commissioner shall proceed in accordance with the provisions contained in section 253(2)/(2A) and, accordingly, may, if he objects to the order passed by the commissioner (Appeals), direct the Assessing Officer to appeal to the Appellate Tribunal.
- Where the order of the Commissioner (Appeals) is not in conformity with the final decision on the question of law in the other case (if the supreme Court decides the earlier case in favour of the Department), the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal against such order within 60 days from the date on which the order of Supreme Court is communicated to the Commissioner or Principal Commissioner.



Tax deduction from salary: Section 192

- Section 192 has been amended with effect from June 1, 2015. Amended provisions provide that the person responsible for paying salary shall obtain from the recipients evidence or proof or particulars of the prescribed claim (including claim for set-off of house property loss) under the provisions of the Act in the prescribed form and manner.

Simplified TDS mechanism for employees provident fund scheme: Section 192A

- The trustees of the Employees' Provident Fund Scheme, or any person authorised under the scheme to make payment of accumulated balance due to employees, shall, in a case where the accumulated balance due to an employee participating in a recognised provident fund is includible in his total income, at the time of payment of accumulated balance due to the employee, deduct income-tax thereon at the rate of **ten per cent**.



- No deduction under the aforesaid section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payment to the payee is **less than thirty thousand rupees**.

With effect from 1st June, 2015

Interest other than interest on securities: Section 194A

- *Interest by co-operative bank to its members:*
The provisions of sub-section (1) of section 194A shall not apply to income credited or paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society.



- *Recurring deposit interest is now subject to TDS:*

Payment of interest on recurring deposits by banking company or co-operative bank is currently not subject to TDS. The scope of TDS provisions has been extended to cover interest on recurring deposits within its scope for the purposes of deduction of tax under section 194A. However, the existing threshold limit of ₹ 10,000 for non-deduction of tax shall also be applicable in case of interest payment on recurring deposits to safeguard interests of small depositors.

Computation of threshold limit of ₹ 10,000 to be made entity wise not branch wise.

- *Tax to be deducted on interest on compensation awarded by Motor Accidents Claims Tribunal only at the time of payment:*

The provisions of sub-section (1) of section 194A shall not apply to income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount

of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed **fifty thousand rupees**.

With effect from 1st June, 2015

Payments to contractors: Section 194C



- No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, where such contractor
 - owns ten or less than ten goods carriages at any time during the previous year;
 - furnishes a declaration to that effect along with his Permanent Account Number, to the person paying or crediting such sum.

- **Illustration:** X Ltd is a fertilizer manufacturing company located in Telangana. During the financial year 2015-16, it makes the following payments to transport contractors who are in the business of plying goods carriages-

1. ₹ 6,20,000 to A Ltd on May 1, 2015 (A Ltd owns 25 goods carriages during the financial year 2015-16).
2. ₹ 11,70,000 to B & Co., a partnership firm of B, C and D, on December 1, 2015 (B & Co. owns 9 goods carriages on April 1, 2015 and it purchases 5 goods carriages on November 1, 2015). Partner B owns 40 goods carriages in his sole proprietary capacity.
3. ₹ 5,90,000 to C on June 15, 2015. C is not in the business of plying of goods carriages up to April 10, 2015. Business of carriage of goods is newly started on April 11, 2015 by purchasing 50 goods carriages.
4. ₹ 8,45,000 to D Ltd on January 1, 2016. D Ltd is in the business of carriage of goods and passengers. On April 1, 2015, it owns 11 goods carriages. It transfers 2 old goods carriages on November 10, 2015 and purchases 5 new goods carriages on November 12, 2015. Besides, it owns 17 air-conditioned buses.

Besides, X Ltd pays ₹ 2,30,000 to E Ltd on January 10, 2016. The payment pertains to transportation of employees of X Ltd in the city of Hyderabad. E Ltd does not own more than 10 buses during the financial year 2015-16.

X Ltd has PAN of A Ltd, B & Co, C, D Ltd and these persons have submitted relevant declaration about the ownership of goods carriages/buses for the purpose of non-deduction of tax under section 194C. Point for consideration is whether tax is deductible under section 194C.

Solution:

- a. *Payment to A Ltd.* – Payment is made on May 1, 2015. Recipient is transport contractor who is in the business of plying goods carriages. Recipient has given PAN to X Ltd tax is not deductible under section 194C. The amended provisions are applicable from June 1, 2015.
- b. *Payment to B & Co.* – This payment is made on December 1, 2015. Amended provisions are applicable. Recipient is in the business of plying goods carriages. Recipient has submitted a declaration (along with its PAN) that it owns 10 (or less than 10) goods carriages at any time

during the FY 2015-16 (it owns 9 goods carriages before November 1, 2015 and 14 goods carriages afterwards, goods carriages owned by partners in their individual capacity are not considered for this purpose). Consequently, tax is not deductible under section 194C. It may be noted that if the recipient owns 10 (or less than 10) goods carriages even for 1 day during the FY, tax is not deductible throughout the entire FY (submission of declaration to this effect along with PAN is, however, required).

- c. *Payment to c* – Payment is made on June 15, 2015. Amended provisions are applicable. C does not own any goods carriages up to April 10, 2015. He can give a declaration that he owns 10 (or less than 10) during April 11, 2015 and April 10, 2015. Consequently, tax is not deductible under section 194C.
- d. *Payment to D Ltd.* – D Ltd owns only 9 goods carriages on November 11, 2015. D Ltd had given a declaration to this effect. No tax is deductible under section 194C.
- e. *Payment to E Ltd.* – Payment to E Ltd pertains to carriage of passengers (not carriage of goods). Exemption is not applicable. Tax is deductible under section 194C even if the recipient owns 10 (or less than 10) buses.

With effect from 1st June, 2015

TDS on rent: Section 194-I



- No deduction shall be made under the section where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in clause (23FCA) of section 10, owned directly by such business trust.

With effect from 1st June, 2015

Income in respect of units of investment fund: Section 194LBB

- Any income other than that proportion of income which is of the same nature as income referred to in clause (23FBB) of section 10, is payable to a unit holder in respect of units of an investment fund specified in clause (a) of the *Explanation 1* to section 115UB, the person responsible for making the payment shall, at the time of credit of such income to the account of payee, or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.

Extension of eligible period of concessional tax rate under Section 194LD

- The period of applicability of reduced rate of tax at 5% in respect of income of foreign investors (FIIs and QFIs) from corporate bonds and government securities, from 31.5.2015 to 30.06.2017.

Section 195(6)

- The provisions of section 195(6) have been amended with effect from June 1, 2015. The amended provisions provide that the person responsible for paying to a non-resident/foreign company, any sum (whether or not chargeable under the provisions of this Act in the hands of recipient) shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.



No deduction to be made in certain cases: Section 197A

- The facility of filing self-declaration of non-deduction of tax in Form No. 15G/ 15H by the recipients of taxable maturity proceeds of life insurance policy (section 194DA) and payment of accumulated balance of provident fund (section 192A).

Section 200

- Sub-section (2A) has been inserted in section 200 with effect from June 1, 2015. It provides that in case of an office of Government, where TDS has been paid to the credit of the Central Government without the production of a Challan, the Pay and Accounts Officer/ Treasury Officer/ Cheque Drawing and Disbursing Officer/ any other person, who is responsible for crediting TDS to the credit of the Central Government, shall deliver to the prescribed income-tax authority, or the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.



Section 200A

- Section 200A provides for processing of TDS statements for determining the amount payable or refundable to the deductor. However, as section 234E was inserted after the insertion of section 200A, the existing provisions of section 200A do not provide for determination of fee payable under section 234E at the time of processing of TDS statements. Therefore, the above provision has been amended with effect from June 1, 2015 so as to enable computation of fee payable under section 234E at the time of processing of TDS statement under section 200A.

Settlement Commission

- An assessee becomes eligible to approach Settlement Commission only for the assessment year for which notice under Sec- 148 has been issued.
- A proceeding for assessment or reassessment or recomputation under sec 147 shall be deemed to have commenced-

- From the date on which a notice under section 148 is issued for any assessment year;
- From the date of issuance of such notice, for any other AYs for which a notice under sec 148 has not been issued but could have been issued on such date, if the return of income has been furnished u/s 139 or in response to Sec- 142.

Interest for defaults in payment of advance tax: Section 234B

- Sub section 3 of section 234B has been amended to provide that the period for which the interest is to be computed will begin from 1st day of April following the FY and end on the date of determination of total income u/s 147 or sec 153A.
- Similarly, sub section 2A(a) has been introduced to provide that the assessee shall be liable to pay simple interest @ 1% on additional amt of income tax on income offered under sub sec (1) of section 245 from the date of relevant AY to the date of making such application and sec 2A(b) provide if the amount offered is increased by SC then, interest @ 1% on tax on enhanced income from the end of relevant AY to date of order.

Section 245-O

- With effect from April 1, 2015, a person shall be qualified for appointment as law Member from the Indian Legal Service, if he is an Additional Secretary to the Government of India or if he is qualified to be an Additional Secretary to the Government of India.



Order passed under section 10(23C) (vi)/ (via) made appealable before ITAT: Section 253



An assessee aggrieved by the order passed by the prescribed authority under sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 may prefer an appeal to the Appellate Tribunal.

With effect from 1st June, 2015

Raising of the income-limit in the case that may be decided by single member bench of ITAT: Section 255

- A single member Bench may dispose of a case where the total income as computed by the Assessing Officer does not exceed ₹ 15,00,000. (previously it was ₹ 5,00,000)

With effect from 1st June, 2015

Revision of order that is erroneous in so far as it is prejudicial to the interest of revenue: Section 263

- Explanation 2 inserted to provide that the order passed by the assessing officer shall be deemed to be erroneous in so far as prejudicial to the interest of revenue, if in the opinion of principal commissioner or commissioner:-
 - If the order is passed without making any inquiry or verification which should have been made
 - The order is passed allowing any relief without enquiring into the claim
 - The order has not been made in accordance with any order, direction or instruction issued by the Board under section 119 or
 - The order has not been passed in accordance with any decision prejudicial to the assessee rendered by the jurisdictional High Court or Supreme Court in the case of assessee or any other person

With effect from 1st June 2015

Mode of taking or accepting certain loans, deposits and specified sums and mode of repayment of loans or deposits and specified advances: Section 269SS and 269T



In order to curb generation of black money by way of dealings in cash in immovable property transactions, sections 269SS and 269T have been amended with effect from June 1, 2015. After the amendment, no person shall accept from any person any loan or deposit or any sum of money, whether as advance or otherwise, in relation to transfer of an immovable property otherwise than by an account-payee cheque/draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is ₹20,000 or more.

- Likewise, no person shall repay any loan or deposit made with it or any specified advance received by it, otherwise than by an account-payee cheque/draft or by clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is ₹ 20,000 or more.

Amount of Tax sought to be evaded for the purposes of concealment penalty under Section 271(1)(c)



- Under the existing provision contained in section 271(1)(c) penalty for concealment of income or furnishing inaccurate particulars of income is levied on the “amount of tax sought to be evaded”, which has been defined, inter alia, as the difference between the tax due on the income assessed and the tax which would have been chargeable had such total income been reduced by the amount of concealed income.

- New definition of “tax sought to be evaded”- To make the above calculations, “tax sought to be evaded” shall be determined in accordance with the following formula-

$$\text{Tax sought to be evaded} = (A-B) + (C-D)$$

A = Amount of tax on the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (hereinafter referred to as “general provisions”)

B = Amount of tax that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished

C = Amount of tax on the total income assessed as per the provisions contained in section 115JB or section 115JC

D = Amount of tax that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished.

- Illustration: The following information is noted from the records of X Ltd. for the assessment year 2016-17 –

	General Provisions ₹	MAT ₹
Income/book profit as per return of income	6,00,000	14,00,000
Add: Addition on estimate basis (not representing concealed income)	50,000	Nil
Add: Amount of concealed income (as per assessment order)	40,000	Nil
Net income/book profit (as per assessment order)	6,90,000	14,00,000
Tax liability/MAT	2,13,210	2,66,770

Tax payable as per assessment order is ₹ 2,66,770. What is tax sought to be evaded for the purpose of concealment penalty under section 271(1)(C).

Tax sought to be evaded will be calculated as follows –

	₹
A = Normal tax on ₹ 6,90,000	2,13,210
B = Normal tax on (₹ 6,90,000 – ₹ 40,000)	2,00,850
C = MAT on ₹ 14,00,000	2,66,770
D = MAT on (₹ 14,00,000 – nil)	2,66,770
Tax sought to be evaded = (A – B) + (C – D)	12,360

Sections 271D and 271E

- Section 271D provides that if a person accepts any loan or deposit in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so accepted.
 - Likewise, section 271E provides that if person repays any loan or deposits referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so repaid. These two sections have been amended with effect from June 1, 2015 to incorporate the reference of “specified sum” in section 271D and “specified advance” in section 271E consequent to the modification in sections 269SS and 269T.
- 
- “Specified advance” means any sum of money any sum of money in the nature of an advance, by whatever name called, in relation to transfer of an immovable property whether or not the transfer takes place.

Penalty for failure to furnish statement or information or document by an eligible investment fund: Section 271FAB

- If any eligible investment fund which is required to furnish a statement or any information and document under sub-section (5) of section 9A fails to furnish such statement or information and the document within 90 days from the end of the previous year, the concerned income tax authority may direct that such fund shall pay, by way of penalty, a sum equal to ₹ 5,00,000.

With effect from 1st April, 2016

Penalty for failure to furnish information or document under section 285A: Section 271GA

- Any Indian concern which is required to furnish any information or document under the proposed section 285A, fails to do so, the Income-tax authority as may be prescribed in the said section 285A, may direct that such Indian concern shall pay, by way of penalty,—
 - i. a sum equal to two per cent. of the value of the transaction, in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;
 - ii. a sum ₹ 5,00,000 in any other case.



With effect from 1st April, 2016

Penalty for failure to furnish information or for furnishing inaccurate information under section 195: Section 271-I

- If a person, who is required to furnish information under subsection (6) of section 195, fails to furnish such information; or furnishes inaccurate information, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ₹ 1,00,000.

With effect from 1st June, 2015

Section 272A

- Section 272A has been amended with effect from June 1, 2015 on the following lines –
 1. If any person fails to deliver (or cause to be delivered) a statement within the time as may be prescribed under section 200(2A) or section 206C(3A), then such person shall pay, by way of penalty, a sum of ₹ 100 for every day such default.
 2. The above penalty shall not exceed the amount of tax deductible or tax collectible, as the case may be.



Furnishing of information by an Indian concern in certain cases: Section 285A



- Where any share or interest in a company or entity registered or incorporated outside India derives, directly or indirectly, its value substantially from the assets located in India as referred to in the *Explanation 5* to clause (i) of sub-section (1) of section 9, and such company or, as the case may be, entity holds such assets in India through or in an Indian concern, then, any such Indian concern shall, for the purposes of determination of income accruing or arising in India, under the clause (i) of sub-section (1) of section 9, furnish within the prescribed period to the prescribed income-tax authority the relevant information or document, in such manner and form as is prescribed in this behalf.

With effect from 1st April, 2016

Section 288

In section 288 of the Income-tax Act, with effect from the 1st day of June, 2015,—

■ *Certain Chartered Accountants not to give reports/certificates –*

- The following Chartered Accountants will not be eligible to furnish audit reports and certificates under different provisions of the Income-tax Act. However, these persons can attend income-tax proceeding before income-tax authorities and ITAT as authorised representative on behalf of the assessee.
- i. after sub-section (2), for the Explanation, the following Explanation shall be substituted, namely:—
- ‘Explanation.—In this section, “accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, but does not include [except for the purposes of representing the assessee under sub-section (1)]—
- a) in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013; or
 - b) in any other case,—
 - i. the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family;
 - ii. in case of the assessee, being a trust or institution, any person referred to in clauses (a), (b), (c) and (cc) of sub-section (3) of section 13;
 - iii. in case of any person other than persons referred to in sub-clauses (i) and (ii), the person who is competent to verify the return under section 139 in accordance with the provisions of section 140;
 - iv. an individual who, or his relative or partner—

is holding any security of, or interest in, the assessee: Provided that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees;

is indebted to the assessee: Provided that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees;

has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee: Provided that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;

- v. a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;
 - vi. a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.
 - vii. an individual who, or his relative or partner—
 - is holding any security of, or interest in, the assessee:
Provided that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees
 - is indebted to the assessee:
Provided that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees;
 - has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee:
Provided that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;
 - viii. a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;
 - ix. a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.
- ii. in sub-section (4), for the portion beginning with brackets, letter and words “(c) who has become an insolvent,” and ending with the words, brackets and letter “in the case of a person referred to in sub-clause (c)”, the following shall be substituted, namely:— “(c) who has become an insolvent; or (d) who has been convicted by a court for an offence involving fraud, shall be qualified to represent an assessee under sub-section (1), for all times in the case of a person referred to in clause (a), for such time as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may by order determine in the case of a person referred to in clause (b), for the period during which the insolvency continues in the case of a person referred to in clause (c), and for a period of ten years from the date of conviction in the case of person referred to in clause (d).”
- iii. after sub-section (7), the following Explanation shall be inserted, namely:— ‘Explanation.—For the purposes of this section, “relative” in relation to an individual, means—
- (a) spouse of the individual;
 - (b) brother or sister of the individual;

- (c) brother or sister of the spouse of the individual;
- (d) any lineal ascendant or descendant of the individual;
- (e) any lineal ascendant or descendant of the spouse of the individual;
- (f) spouse of a person referred to in clause (b), clause (c), clause (d) or clause (e);
- (g) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.

■ **Illustration:**

X is a chartered Accountant practicing in Mumbai. On June 5, 2015 he holds appointment as a statutory auditor of 21 companies. On June 6, 2015, he wants to sign and upload following reports/certificates-

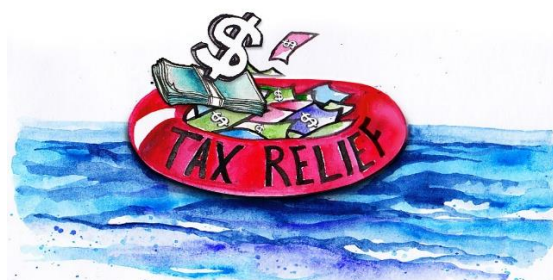
1. Tax audit report in form 3CA and 3CD pertaining to A Ltd for the assessment year 2015-16. (professional fees ₹ 180000)
2. Report in Form 3CEA under section 50B(3) relating to computation of capital gain in the case of slump sale made by B & co (a partnership firm) during the previous year 2014-15. (Professional fees ₹ 30000)
3. Audit report section 80-IA(7) for C Ltd for the assessment 2015-16 (professional fees ₹ 5000)
4. Tax audit under section 44AB for D (D is a sole proprietor having turnover of ₹ 5.5 Crores) for the assessment year 2015-16 (professional fees ₹ 105000).

Solution:

X holds appointment as a statutory auditor of more than 20 companies on June 6, 2015. He will vacate the office of the statutory auditor of more than 20 companies on June 6, 2015. He will have to vacate the office of the statutory auditor of one of the companies. Till he vacates the office of the statutory auditor of one of the companies, he cannot sign and upload any report/certificate pertaining to a company. However, there is no such limitation for report/certificate pertaining to a person other than company. Consequently, X is not competent to sign and upload audit reports pertaining to A Ltd and C Ltd on June 6, 2015. Slump sale report for B & co and tax audit report of D can be signed and uploaded on June 6, 2015.

Board to notify rules for giving foreign tax credit: Section 295

- The Board may, by rules, provide the procedures for the granting of relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, against the income-tax payable under this Act.



Abolition of levy of wealth-tax under Wealth-tax Act, 1957

- Levy of wealth tax under the Wealth-tax act has been abolished with effect from the assessment year 2016-17.

Amendment to Finance (No. 2) Act, 2004 pertaining to securities transaction tax

- The Finance (No. 2), 2004 has been amended with effect from June 1, 2015 to provide that securities transaction tax (STT) shall be levied on sale of such units of business trust which are acquired in lieu of shares of SPV, under an initial offer at the time of listing of units of business trust on similar lines as in the case of sale of unlisted equity shares under an IPO.
- It shall be payable by the seller at the rate of 0.2 per cent and collected by the lead merchant banker appointed by the business trust in respect of an initial offer.