

Basic Concept

Rates of Income Tax for assessment year 2016-17

A. Individual

1. **In case of individual being resident of India of the age of 60 years or more but less than 80 years at any time upto the end of relevant previous year. (senior citizen)**

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

2. **In case of individual being resident of India of the age of 80 years or more at any time upto the end of relevant previous year. (very senior citizen)**

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

3. **In case of every individual (resident or non-resident) [other than individual covered by 1 or 2 above] or HUF or AOP/BOI (other than co-operative society) whether incorporated or not, or every artificial judicial person.**

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

Surcharge: In case of person having total income exceeding ₹1 crore. Then income tax computed above shall be increased by a surcharge @ ~~10%~~ (12%) of such income tax.

(Amended by Finance Act 2015)

Marginal relief: As per marginal relief the additional income tax payable (including surcharge) on the excess of income over ₹1 crore cannot exceed the income in excess of ₹1 crore.

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Cess: Education cess @ 2 % and secondary and higher education cess @1% on the Income tax shall be chargeable.

B. Co-operative society

Upto ₹10,000	10%
₹10,001 to ₹20,000	20%
Above ₹20,000	30%

Surcharge: *In case of co-operative society having total income exceeding ₹1 crore. Then income tax computed above shall be increased by a surcharge @ ~~10%~~ (12%) of such income tax.*

(Amended by Finance Act 2015)

Marginal relief: Available, same as per Individual.

Cess: Education cess @ 2 % and secondary and higher education cess @1% on the Income tax shall be chargeable.

Rebate (Section 87A):

Available to:

- (a) Resident Individual (ROR and RNOR) and
- (b) His total income does not exceed ₹5,00,000

Amount of rebate: ₹2000 or Amount of Income tax, whichever is less

The cess shall be calculated after giving the rebate of ₹2,000

C. Firm (including LLP)

Tax Rate: 30%

Surcharge: *In case of firm having total income exceeding ₹1 crore. Then income tax computed above shall be increased by a surcharge @ ~~10%~~ (12%) of such income tax.*

(Amended by Finance Act 2015)

Marginal relief: Available, same as per Individual.

Cess: Education cess @ 2 % and secondary and higher education cess @1% on the Income tax shall be chargeable.

D. Company

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(i) Domestic Company- Tax rate is 30%

Surcharge: *In case of firm having total income exceeding ₹1 crore but not exceed ₹10 crores. Then income tax computed above shall be increased by a surcharge @ 5% (7%) of such income tax.*

If total income exceeds ₹10 crore then surcharge @ ~~10%~~(12%) shall be levied.
(Amended by Finance Act 2015)

Marginal relief: As per marginal relief the additional income tax payable, including surcharge, on the excess of income over ₹1 crore (or ₹10 crore) cannot exceed the income in excess of ₹1 crore (or ₹10 crore).

Cess: Education cess @ 2 % and secondary and higher education cess @1% on the Income tax shall be chargeable.

(ii) Foreign Company- tax rate is 40%

Surcharge: In case of firm having total income exceeding ₹1 crore but not exceed ₹10 crores. Then income tax computed above shall be increased by a surcharge @ 2% of such income tax.

If total income exceeds 10 crore then surcharge @5% shall be levied.

Marginal relief: As per marginal relief the additional income tax payable, including surcharge, on the excess of income over ₹1 crore (or ₹10 crore) cannot exceed the income in excess of ₹1 crore (or ₹10 crore).

Cess: Education cess @ 2 % and secondary and higher education cess @1% on the Income tax shall be chargeable.

Question

Compute the tax liability in the following cases for the AY 2016-17

- (i) Mr. X , a resident assessee, has total income of ₹1,01,00,000
- (ii) Mr. X , a resident assessee, has total income of ₹1,05,50,000
- (iii) XYZ Ltd, a domestic company, has total income of ₹1,01,00,000
- (iv) XYZ Ltd, a domestic company, has total income of ₹10,01,00,000

Answer:**(i) Computation of Tax Liability of Mr.X (Resident)**

Total Income	1,01,00,000
Tax on ₹1,01,00,000 at slab rate	28,55,000
Add: Surcharge @ 12%	3,42,600
Tax before education cess	31,97,600

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As per marginal relief ,tax and surcharge shall be restricted to ₹29,25,000

[i.e. ₹28,25,000 (tax on ₹1 crore) + ₹1,00,000 (additional income over ₹1 crore)]

Therefore, Marginal relief shall be (₹31,97,600 - ₹29,25,000) 2,72,600

Tax after marginal relief 29,25,000

Add: E.Cess & SHEC@ 3% 87,750

Tax liability 30,12,750

In other words, Increase in income over ₹1 crore is ₹1,00,000 and increase in tax in comparison to income of ₹1 crore is ₹3,72,600. But increase in tax cannot be more than increase in income. Therefore, marginal relief shall be ₹2,72,600 (i.e. ₹3,72,600- ₹1,00,000)

(ii) Computation of Tax Liability of Mr.X (Resident)

	₹
Total Income	1,05,50,000
Tax on ₹1,05,50,000 at slab rate	29,90,000
Add: Surcharge @ 12%	3,58,800
Tax before education cess (A)	33,48,800

₹28,25,000 (tax on ₹1 crore) + ₹5,50,000 (additional income over ₹1 crore)

=₹33,75,000 (B)

In this case B is greater than A

Therefore, Marginal relief shall be shall not be available

Add: E.Cess & SHEC@ 3% 100,464

Tax liability 34,49,264

(iii) Computation of Tax Liability of Mr.XYZ Ltd. (Domestic Company)

	₹
Total Income	1,01,00,000
Tax on ₹1,01,00,000 @ 30%	30,30,000
Add: Surcharge @ 7%	2,12,100
Tax before education cess	32,42,100

As per marginal relief,tax and surcharge shall be restricted to ₹31,00,000

[i.e. ₹30,00,000 (tax on ₹1 crore) + ₹1,00,000 (additional income over ₹1 crore)]

Therefore, Marginal relief shall be (₹32,42,100 - ₹31,00,000) 1,42,100

Tax after marginal relief 31,00,000

Add: E.Cess & SHEC@ 3% 93,000

Tax liability 31,93,000

In other words, Increase in income over ₹1 crore is ₹1,00,000 and increase in tax in comparison to income of ₹1 crore is ₹2,42,100. But increase in tax cannot be more than increase in income. Therefore, marginal relief shall be ₹1,42,100 (i.e ₹2,42,100- ₹1,00,000)

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(iv) Computation of Tax Liability of Mr.XYZ Ltd. (Domestic Company)

	₹
Total Income	10,01,00,000
Tax on ₹1,01,00,000 @ 30%	3,00,30,000
Add: Surcharge @ 12%	36,03,600
Tax before education cess	3,36,33,600
As per marginal relief ,tax and surcharge shall be restricted to ₹3,22,00,000	
[i.e. ₹3,21,00,000 (tax on ₹10 crore including surcharge @ 7%) + ₹1,00,000 (additional income over ₹10 crore)]	
Therefore, Marginal relief shall be (₹3,36,33,600 - ₹3,22,00,000)	14,33,600
Tax after marginal relief	3,22,00,000
Add: E.Cess & SHEC@ 3%	9,66,000
Tax liability	3,31,66,000

In other words, Increase in income over ₹10 crore is ₹1,00,000 and increase in tax in comparison to income of ₹10 crore is ₹15,33,600. But increase in tax cannot be more than increase in income. Therefore, marginal relief shall be ₹14,33,600 (i.e ₹15,33,600- ₹1,00,000)

**Income
Section 2(24)**

Income includes:

- 1) Profits and gains of business or profession.
- 2) Dividend.
- 3) Voluntary contributions received by a trust/institution created wholly or partly for charitable or religious purposes/Universities/Educational institutions/ Hospitals/Electoral Trust/Approved research association or institutions.
- 4) The value of any perquisite or profit in lieu of salary taxable under section 17.
- 5) Any special allowance or benefit other than the perquisite included above, specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit.
- 6) Any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living.
- 7) Export Incentive, like duty drawback, cash compensatory support, sale of import licences etc.
- 8) Interest, salary, bonus, commission or remuneration earned by a partner of a firm from such firm.
- 9) Any capital gains chargeable under section 45.
- 10) The profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members.
- 11) The profits and gains of any business of Insurance carried on by mutual insurance company or by a co-operative society with its members.
- 12) Income received by a Trade, Professional or similar association, from specific services performed for its member.
- 13) Any winnings from lotteries, cross-word puzzles, races including horse races, card games and other games of any sort or from gambling, or betting of any form or nature whatsoever
- 14) Deemed profits chargeable to tax under section 41 or section 59.

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- 15) Any sum received by the assessee from his employees as contributions to any provident fund (PF) or superannuation fund or Employees State Insurance Fund (ESI) or any other fund for the welfare of such employees.
- 16) Any sum received under a Keyman insurance policy including bonus thereon.
- 17) Any sum referred to clause (va) of section 28. Thus, any sum, whether received or receivable in cash or kind, under an agreement for not carrying out any activity in relation to any business; or not sharing any know-how, patent, copy right, trade-mark, licence, franchise, or any other business or commercial right of a similar nature, or information or technique likely to assist in the manufacture or processing of goods or provision of services.
- 18) Value of any benefit or perquisite, whether convertible into money or not, arising from business or exercise of a profession.
- 19) Any some of money or value of property as defined u/s 56(2)(vii)
- 20) Value of closely held company received in any previous year, by a firm or closely held company, from any person, as explained in section 56(2)(viiia)
- 21) Consideration received for issue of shares as exceeds the fair market value of the share referred to u/s 56(2)(viib)
- 22) Any some of money received as an advance or otherwise ion the course of negotiation for transfer of a capital asset, if such sum is forfeited and the negotiation do not result in transfer of such capital asset.
- 23) Assistance in the form of:**
- **subsidy**
 - **grant**
 - **cash incentive**
 - **duty drawback**
 - **waiver**
 - **concession**
 - **reimbursement, by whatever name called,**
 - **by the Central Government or a State Government or any authority or body or agency**
 - **in cash or kind**
 - **to the assessee**
 - **is included in the definition of income.**
 - **However, subsidy or grant or reimbursement which has been taken into account for determination of the actual cost of the asset in accordance with Explanation 10 to section 43(1) shall not be treated as income.**

[Note: LPG subsidy or any other welfare subsidy received by an individual in his personal capacity (not in connection with the business or profession carried on by him) shall not be chargeable as Income (Press release dated 05.05.2015)]

[Amendment by finance Act, 2015]

Analysis

1. In case grant/subsidy received for acquisition of depreciable asset, then it shall be deduction from actual cost (Explanation 10 to section 43(1))
2. In case grant received for non-depreciable asset or any other subsidy/grant received, will be taxable under head PGBP or Income from other sources, as the case may be.
3. If any loan is waived by the government which was taken for acquisition of an asset, then such loan shall be deducted from actual cost of asset.

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Residential Status

Residential Status Section 6

In case of Individual

I. Resident in India: An individual is said to be resident in India if he satisfies **any one** of the following two basic conditions:

(i) He is in India for 182 days or more during the previous year.

OR

(ii) He is in India for 60 days or more during the previous year and has been in India for 365 days or more during 4 years immediately preceding the previous year.

In the following two cases (Special category) residential status shall be determined on the basis of basic condition no. (i) and basic condition no.(ii) shall be ignored. In other words in the following two cases individual said to be resident if he was in India for 182 days or more during the previous year otherwise he shall be considered as Non-resident.

(a) An individual, being a citizen of India, who leaves India in any previous year for the purpose of employment outside India or **as a member of crew of an Indian ship.**

(b) In the case of an individual, being a citizen of India, or a person of Indian origin, who, being outside India, comes on a visit to India in any previous year.

Computation of period of stay in case of crew member

In case of an individual, being a citizen of India and a member of the crew of a foreign-bound ship leaving India, the period or periods of stay in India shall, in respect of an eligible voyage, not include the following period:

Period commencing from the date of joining the ship to date of signing off from the ship as entered in the Continuous Discharge Certificate.

Eligible voyage

A voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where –

- (i) for the voyage having originated from any port in India, has as its destination any port outside India; and***
- (ii) for the voyage having originated from any port outside India, has as its destination any port in India.***

(Amended by Finance Act 2015)

Question:

Mr.Ashish, Indian citizen, is crew member of Shiva ocean transport Ltd, Which operates foreign voyage from Mumbai to south Africa. Mr. Ashish provides you the following information about his voyage during the FY 2015-16.

- (i) Ship left mumbai on 01.06.2015 for south Africa, however to take passengers from Tamilnadu, ship reached Tamilnadu on 10.06.2015 and after taking passengers ship moved for south Africa and reached there on 15.07.2015.
- (ii) Ship returned from south Africa on 01.09.2015 and reached Mumbai on 15.11.2015
- (iii) Date entered into the continuous discharge certificate for joining the ship- 01.06.2015
- (iv) Date entered into the continuous discharge certificate for signing off from the ship- 15.11.2015

Determine the residential status of Mr.Ashish for the AY 2016-17.

Solution

As per section 6, An individual (citizen of India), who is crew member of an Indian Ship, shall be resident of India if he stayed in India for 182 days or more during the previous year

Period of stay in case of crew member

in case of an individual, being a citizen of India and a member of the crew of a foreign-bound ship leaving India, the period or periods of stay in India shall, in respect of an eligible voyage, not include the following period:

Period commencing from the date of joining the ship to date of signing off from the ship as entered in the Continuous Discharge Certificate.

In this case Mr.Ashish is (i) an Individual (Indian citizen), (ii) member of Indian ship and (iii) ship is eligible voyage as the ship is engaged in the carriage of passenger or freight in international traffic having originated from port in India and has its destination any port outside india.

Therefore, period of exclusion from stay in India= 168 days (from 01.06.2015 to 15.11.2015)

Mr.Ashish stayed in India for 198 days (366 days- 168 days) during the previous year 2015-16 and hence he is resident for AY 2016-17.

**Residential status of Company
Section 6(3)**

(I) Indian Company: It is always resident in India.

(II) Foreign Company:

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~~Resident in India if control and management of its affairs is situated wholly in India during relevant previous year i.e. if all the board meetings of the foreign company is held in India, then it shall be resident, otherwise non-resident.~~

*(i) **Resident in India: Place of effective management (POEM), in that year, is in India.***

*(ii) **Non-resident in India: Place of effective management (POEM), in that year, is not in India.***

Notes: "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 made.

CBDT has recently issued draft guidelines to determine POEM and has invited comments and suggestions.

(Amended by Finance Act 2015)

Reason behind the above amendment

Under section 6(3), conditions to be satisfied by a company, to be a resident in India for a previous year are provided.

A company is said to be resident in India in any previous year, if-

- (a) it is an Indian company; or
- (b) during that year, the control and management of its affairs is situated wholly in India.

Since the condition for a company to be resident was that the whole of control and management should be situated in India and that too for whole of the year, a company could easily avoid becoming a resident by simply holding a board meeting outside India. The existing provision gave scope for creation of shell companies which were incorporated outside but controlled from India.

'Place of effective management' (POEM) is a globally recognized concept for determination of residence of a company incorporated in a foreign jurisdiction.

Incorporation of the concept of POEM in the Income-tax Act, 1961 to determine the residence of a company is in line with international standards. This requirement would discourage the creation of shell companies outside India but being controlled and managed from India.

**Income accrues or arises in India
Or
Income deemed to accrue or arise in India
Section 9**

(A)Accrue or arise in India: Income accrued in India is chargeable in all cases irrespective of residential status of an assessee. The words "accrues" and "arise" are used in contradiction to the word "receive". Income said to be received when it reaches the assessee; when right to receive the income becomes vested in the assessee, it is said to accrue or arise.

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(B) Incomes which are deemed to accrue or arise in India: In some cases, Income is deemed to accrue or arise in India even though it may actually accrue or arise outside India irrespective of residential status and place of business of an assessee.

- (1) Income from business connection in India
- (2) Income from any property (tangible, intangible, movable or immovable), asset or source of income situated in India.
- (3) Income from the transfer of any capital asset situated in India.

Explanation 5 (retrospective amendment applicable w.e.f. 1st April 1961 by Finance Act, 2012):

Any share or interest in a company registered outside India shall be deemed to be situated in India, if the share or interest derives, directly or indirectly, its value from the asset located in India. (to overrule judgement in Vodafone case)

Circular No. 4/2015, dated 26-03-2015, therefore, clarifies that the dividends declared and paid by a foreign company outside India in respect of shares which derive their value substantially from assets situated in India would NOT be deemed to be income accruing or arising in India.

- (4) Any income which falls under the head 'Salaries' if service is rendered in India. Therefore, place of accrual of salary is the place of work done.
- (5) Salary payable by the Government to an Indian citizen for services rendered outside India
- (6) Dividend paid by an Indian company outside India
- (7) Income by way of Interest
- (8) Income by way of Royalty:
- (9) Income by way of fee for technical services.

Reason behind the issuance of circular

Explanation 5 would be applicable in relation to deeming any income arising outside India from any transaction in respect of any share or interest in a foreign company or entity, which has the effect of transferring, directly or indirectly, the underlying assets located in India, as income accruing or arising in India. Declaration of dividend by a foreign company outside India does not have the effect of transfer of any underlying assets located in India. This circular, therefore, clarifies that the dividends declared and paid by a foreign company outside India in respect of shares which derive their value substantially from assets situated in India would NOT be deemed to be income accruing or arising in India by virtue of the provisions of *Explanation 5* to section 9(1)(i).

For Example:

CGP investment Ltd. (foreign company registered in Cayman island) is a 100% subsidiary of Hutchison Telecommunication International Ltd (foreign company registered in Hong Kong). CGP Investment Ltd. holds 67% share in Hutchison Essar Ltd. (Indian company registered in India). Now CGP Investment Ltd. declares dividend of \$ 1,00,000 and said dividend is received by Hutchison Telecommunication International Ltd. As per circular N0.4/2015, such dividend shall not be deemed to accrue or arise in India in the hands of Hutchison Telecommunication International Ltd.

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Profit from Business or Profession

**Additional depreciation on new machinery or plant
Sec 32(1) (ii a)**

In the case of new machinery or plant (other than ships or aircraft), which has been acquired and installed by an assessee engaged in the business of manufacture or production of any article or thing, additional depreciation of 20% of actual cost of machinery/plant shall be allowed.

If plant and machinery is acquired and put to use for the purpose of business or profession for less than 180 days during the previous year in which it is acquired, additional depreciation will get restricted to 50% of the depreciation allowable. ***The balance 50% of additional depreciation will be allowed in the immediately succeeding previous year.***

(Third proviso to section 32(1)(ii) , Amended by Finance Act 2015)

No deduction shall be allowed in respect of used machinery, machinery used in office premises or residential accommodation, office appliances, motor vehicles etc.

Provided further that rate of additional depreciation shall be 35% (instead of 20%) of actual cost if new plant and machinery (other than ships or aircrafts) acquired and installed by an assessee for setting up manufacturing unit in the notified backward areas of the States of Andhra Pradesh, Bihar, Telangana and West Bengal. It should be acquired and installed during the period between 1st April, 2015 and 31st March, 2020 by a manufacturing undertaking or enterprise which is set up in the notified backward areas of these specified States on or after 1st April, 2015.

(Amended by Finance Act 2015)

Such additional depreciation shall be restricted to 17.5% (i.e., 50% of 35%), if the new plant and machinery acquired is put to use for the purpose of business for less than 180 days in the year of acquisition and installation. The balance 50% of additional depreciation (i.e., 50% of 35%) would, however, be allowed in the immediately succeeding financial year.

Question-1

Mr.X engaged in the manufacturing business	
Opening WDV of plant and machinery on 01.04.2015	10,00,000
Purchase of new plant and machinery on 05.10.2015	1,00,000
Purchase of old plant and machinery on 03.10.2015	50,000
Calculate depreciation	

Answer

Calculation of WDV and depreciation	
WDV of Plant and machinery as on 01.04.2015	10,00,000
Add: Purchased new plant and machinery on 05.10.2015	1,00,000

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Add: Purchased old plant and machinery on 03.10.2015	50,000
WDV of plant and machinery as on 31.03.2016	11,50,000
Depreciation @7.5% on ₹1,00,000	7,500
Depreciation @15% on ₹10,50,000	1,57,500
Additional depreciation @ 10% on ₹1,00,000 (as new machinery put to use less than 180 days)	10,000
Total depreciation	1,75,000
WDV as on 01.04.2016	9,75,000

Balance additional depreciation of ₹10,000 will be allowed in next year.

Question-2

XYZ Ltd., a manufacturing concern, furnishes the following particulars:

	₹
(1) Opening WDV of plant and machinery as on 1.4.2015	30,00,000
(2) New plant and machinery purchased and put to use on 08.06.2015	20,00,000
(3) New plant and machinery acquired and put to use on 15.12.2015	8,00,000
(4) Computer acquired and installed in the office premises on 2.1.2016	3,00,000
Compute the amount of depreciation and additional depreciation as per the Income-tax Act, 1961 for the A.Y. 2016-17	

Answer

Computation of depreciation and additional depreciation for A.Y. 2016-17

Plant & Machinery (15%)

Normal depreciation @ 15% on ₹ 50,00,000 [Working Notes 1]	7,50,000
Normal depreciation @ 7.5% on ₹8,00,000 (put to use for less than 180 days)	60,000
Additional Depreciation @ 20% on ₹ 20,00,000 (new plant and machinery put to use for more than 180 days)	4,00,000
Additional depreciation @10% on ₹8,00,000 (put to use for less than 180)	80,000
Total depreciation on Plant & Machinery	12,90,000

Working Notes:

(1) Computation of written down value of Plant & Machinery as on 31.03.2016

	Plant & Machinery	Computer
Written down value as on 1.4.2015	30,00,000	-
Add: Plant & Machinery purchased on 08.6.2015	20,00,000	-
Add: Plant & Machinery acquired on 15.12.2015	8,00,000	-
Computer acquired and installed in the office premises	-	3,00,000
Written down value as on 31.03.2016	58,00,000	3,00,000

Notes:

As per section 32(1)(iia), additional depreciation is allowable in the case of any new machinery or plant acquired and installed after 31.3.2005 by an assessee engaged, *inter alia*, in the business of manufacture or production of any article or thing, @20% of the actual cost of such machinery or plant. However, additional depreciation shall not be allowed in respect of, *inter alia*, any machinery or plant installed in office premises, residential accommodation or in any guest house. Accordingly, additional depreciation is not allowable on computer installed in the office premises.

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**Incentive for Installation of New Plant or Machinery by manufacturing company
Sec 32AC****No changes only for reading**

- Investment allowance shall be allowed to the manufacturing company and who has invested more than 25 crores in new plant and machinery during a particular year.
- Investment allowance shall be **15% of actual cost** of new plant & Machinery acquired and installed during the previous year.
- **New plant and machinery doesn't include:-**
 - i. any vehicle, ship or aircraft; or
 - ii. Any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or
 - iii. Any machinery or plant installed in any office premises or any residential accommodation/guest house; or
 - iv. Any office appliances including computers or computer software; or
 - v. Any plant or machinery whose 100% deduction is allowed in one year.
- This allowance is in addition to the depreciation and additional depreciation allowable under section 32 and it should not be deducted to calculate WDV.
- New plant or machinery in respect of which investment allowance has been claimed cannot be sold or otherwise transfer for a period of **5 years from the date of installation**. If sold within this period deduction allowed earlier shall be added back in the income under head PGBP. In case of amalgamation or demerger this restriction would continue to apply to amalgamated or resulting company.
- No deduction shall be allowed for any assessment year commencing on or after the 1st April 2018. In other words, eligible plant or machinery should be acquired and installed upto 31.3.2017, to claim exemption.
- This allowance is only for corporate assessee.
- There is no condition that plant and machinery should be actually put to use.

**Incentive for Installation of New Plant or Machinery by manufacturing company
in notified backward areas of specified states
Sec 32AD**

New Section Inserted by Finance Act,2015

- Investment allowance shall be allowed to an **assessee** and who has acquired and installed new plant and machinery for manufacture or production of any article or thing on or after 01.04.2015 **in the notified backward areas of** the States of Andhra Pradesh, Bihar, Telangana and West Bengal.
- Investment allowance shall be **15% of actual cost** of new plant & Machinery **installed** during any previous year.
- **New plant and machinery doesn't include:-**
 - i. any vehicle, ship or aircraft; or
 - ii. Any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or
 - iii. Any machinery or plant installed in any office premises or any residential accommodation/guest house; or
 - iv. Any office appliances including computers or computer software; or
 - v. Any plant or machinery whose 100% deduction is allowed in one year.
- This allowance is in addition to the depreciation and additional depreciation allowable under section 32 and it should not be deducted to calculate WDV.
- New plant or machinery in respect of which investment allowance has been claimed cannot be sold or otherwise transfer for a period of **5 years from the date of installation**. If sold within this period deduction allowed earlier shall be added back in the income under head PGBP. In case of amalgamation or demerger this restriction would continue to apply to amalgamated or resulting company.
- It should be acquired and installed during the period between 1st April, 2015 and 31st March,2020 by a manufacturing undertaking or enterprise which is set up in the notified backward areas of these specified States on or after 1st April, 2015.
- Accordingly, if an undertaking is set up in the notified backward areas in the States of Andhra Pradesh or Bihar or Telangana or West Bengal **by a company**, it shall be eligible to claim deduction under section 32AC as well as under section 32AD, if it fulfills the conditions specified in section 32AC and the conditions specified under section 32AD.
- There is no condition that plant and machinery should be actually put to use.

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Difference between Section 32AC & Section 32AD

Basis	Section 32AC	Section 32AD
Applicability	Company	Any Assessee
Condition for setting up	No condition, can be set at any time during the particular year	Set-up on or after 01.04.2015
Location	Manufacture or production of article or thing can be anywhere in India	Undertaking should be set up in the notified backward areas in the States of Andhra Pradesh or Bihar or Telangana or West Bengal
Condition of Actual cost of an asset	Actual cost of new assets acquired and installed during the previous year should exceed ` 25 crores.	No such condition of actual cost.
Assessment year in which deduction is available	AY 2015-16 to AY 2017-18	AY 2016-17 to AY 2020-21
Period of acquisition and installation	Deduction is available only if asset is acquired and installed during the same previous year	New machinery should be acquired and installed between 01.04.2015 to 31.03.2020. Deduction is available in the year of installation of asset.

Question

X Ltd. set up a manufacturing unit in notified backward area in the state of Telangana on 01.06.2015. It invested ₹30 crore in new plant and machinery on 1.6.2015. Further, it invested ₹25 crore in the plant and machinery on 01.11.2015, out of which ₹5 crore was second hand plant and machinery. Compute the depreciation allowable under section 32.

Is X Ltd. entitled for any other benefit in respect of such investment? If so, what is the benefit available?

Would your answer change where such manufacturing unit is set up by a firm, say, X & Co., instead of X Ltd.?

Answer**(i) Computation of depreciation under section 32 for X Ltd. for A.Y. 2016-17**

	₹ (in crores)
Plant and machinery acquired on 01.06.2015	30.000
Plant and machinery acquired on 01.11.2015	25.000
WDV as on 31.03.2016	55.000

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Less: Depreciation @ 15% on ₹ 30 crore	4.500	
Depreciation @ 7.5% (50% of 15%) on ₹ 25 crore	1.875	
Additional Depreciation@35% on ₹ 30 crore	10.500	
Additional Depreciation@17.5% (50% of 35%) on ₹ 20 crore	3.500	20.375
WDV as on 01.04.2016		34.625

Computation of deduction under section 32AC & 32AD for X Ltd. for A.Y. 2016-17

Particulars	₹ (in crores)
Deduction under section 32AC(1A) @ 15% on ₹ 50 crore (since investment in new plant and machinery acquired and installed in the previous year 2015-16 by X Ltd., a manufacturing company, exceeds ₹ 25 crore)	7.50
Deduction under section 32AD @ 15% on ₹ 50 crore	7.50
Total benefit	15.00

- (ii) Yes, the answer would be different, where the manufacturing unit is set up by a firm. The deduction under section 32AC is available only to corporate assesses, and therefore, the deduction of ₹ 7.50 crore under section 32AC would not be available if the manufacturing unit is set up by X & Co., a firm. However, it would be eligible for deduction of ₹ 7.50 crore under section 32AD.

Other Deductions [Sec 36]

Sec 36(1)(iii) – Interest on borrowed capital – interest paid on capital borrowed for business or profession.

Provided that, interest paid in respect of capital borrowed for acquisition of an asset for extension of existing business or profession (whether capitalized in the books of account or not) for the period beginning from the date on which capital was borrowed for acquisition of the asset till the date on which such asset was first put to use shall not be allowed as deduction

(Amended by Finance Act 2015)

Effect of Amendment

Interest on borrowing for acquisition of an asset (whether for extension of existing business or not) shall not be allowed as deduction until the asset is put into use. In other words, interest shall be added to the cost of the asset until put into use.

Question:

X Ltd engaged in manufacturing of TV w.e.f. 01.02.2001 in Gujrat. Now the company has set-up new factory in Haryana. The construction started on 10.05.2012 and completed on 30.01.2014. Company bought one plant and machinery on 10.02.2013 (financed by PNB). Machinery was first put to use on 22.08.2015 for commercial production.

Discuss the allowability of interest to X Ltd.

Answer:

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Interest from 10.02.2013 to 21.08.2015 shall be added to the cost of Plant and machinery as per section 36(1)(iii). Interest on or after 22.08.2015 shall be claimed as revenue expenditure.

Section 36(1)(vii)- Bad Debts- Amount of bad debt which has been written off as irrecoverable in the books of account shall be allowed as deduction. It shall not include any provision for bad debt.

Where the amount of debt taken into account in computing the income of the assessee on the basis of notified ICDSs (without recording the same in the accounts) to be allowed as deduction in the previous year in which such debt or part thereof becomes irrecoverable.

(Amended by Finance Act 2015)

Following are the requisite condition for allowance of debt as a bad debt:

- (i) It must be a debt or part thereof;
- (ii) Such debt must be revenue in nature;
- (iii) Such debt must have taken into account in computing the income of the assessee or it represents money lent in the ordinary course of business of banking or money lending which is carried on by the assessee.
- (iv) Such debt must be incidental to the business or profession of the assessee.
- (v) Such debt must have been written off as irrevocable in the account of the assessee for the previous year.

Section 36(1)(xvii) – Expenditure on purchase of sugarcane – any amount of expenditure incurred by a co-operative society for purchase of sugarcane at fixed price by the government allowable as deduction.

(Added by Finance Act 2015)

Reason behind the amendment:

Sugar factories operating in the co-operative sectors pay the sugarcane growers a final amount (decided by the society on the basis of working result of the factory) which is over and above the statutory minimum price(SMP) fixed by the CG.

Co-operative societies paying price over and above to the SMP, claimed excess payment as deduction. However, Assessing officer disallowed such amount on the ground that excess amount is in the nature of appropriation/distribution of profit and hence not allowable as deduction.

Therefore, in order to encourage co-operative movement in sugar sector, new clause (xvii) has been added.

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Income Computation and Disclosure Standards

- CG has notified 10 Income Computation and Disclosure Standards (ICDS) vide Notification No. 32/2015 dated 31.03.2015.
- It should be followed by all assesses who follow mercantile system of accounting.
- It is applicable for the purpose of computation of income chargeable to income-tax under the head "Profit and gains of business or profession" or "Income from other sources"
- ICDS are applicable for the AY 2016-17 and subsequent AY's.
- In the case of conflict between the provisions of the Income-tax Act, 1961 and the notified ICDSs, the provisions of the Act shall prevail to that extent.
- No separate books of accounts required to be maintained by the assessee for the purpose of ICDS.

Salient Features of ICDSs**ICDS I: Accounting Policies**

- Similar to AS-1 issued by ICAI
- This ICDS deals with significant accounting policies.
- While it recognizes the fundamental accounting assumptions of going concern, consistency and accrual, it does not recognize the concepts of "materiality" and "prudence" in selection of accounting policies.
- Treatment and presentation of transactions have to be governed by their substance and not form.
- Marked to market loss or an expected loss is not to be recognized unless recognition of such loss is in accordance with the provisions of any other ICDS.
- accounting policy shall not be changed without reasonable cause
- All significant accounting policies adopted by a person and any material effect after change of policy shall be disclosed.

ICDS II : Valuation of Inventories

- Similar to AS-2 issued by ICAI
- "Inventories" means assets held for:-
 - (a) sale in the ordinary course of business;
 - (b) in the process of production for such sale;
 - (c) in the form of materials or supplies to be consumed in the production process or in the rendering of services.
- Inventory to be valued at cost or net realizable value, whichever is lower.
- Cost of inventories shall comprise of all costs of purchase, costs of services, costs of conversion and other costs incurred in bringing the inventories to their present location and condition.
- Disclosure of the accounting policies adopted in measuring inventories including the cost formulae used and the total carrying amount of inventories and its classification appropriate to a person.
- The method of valuation of inventories once adopted by a person in any previous year shall not be changed without reasonable cause.

ICDS III: Construction Contracts

- Similar to AS-7 issued by ICAI
- It is applied in determination of income for a construction contract of a contractor.

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- It recognizes percentage of completion method (POCM) for recognizing contract revenue and contract costs associated with a construction contract.
- Disclosures- contract revenue recognized as revenue, the methods used to determine the stage of completion of contracts in progress etc.

ICDS IV: Revenue Recognition

- Similar to AS-9 issued by ICAI
- This ICDS deals with the bases for recognition of revenue arising in the course of the ordinary activities of a person from :-
 - (a) the sale of goods;
 - (b) the rendering of services;
 - (c) the use by others of the person's resources yielding interest, royalties or dividends.
- It does not, however, deal with the aspects of revenue recognition which are dealt with by other ICDSs.
- This ICDS also contains a provision wherein the revenue from sale of goods could be recognized when there is reasonable certainty of its ultimate collection. However, "reasonable certainty for ultimate collection" is not a criterion for recognition of revenue from rendering of services or use by others of person's resources yielding interest, royalties or dividends.
- Disclosure - Amount of revenue from service transactions recognized as revenue during the previous year, the method used to determine the stage of completion of service, information relating to service transactions in progress at the end of the previous year etc.

ICDS V: Tangible Fixed Assets

- Similar to AS-10 issued by ICAI
- It deals with the treatment of tangible fixed assets.
- "Tangible fixed asset" is an asset being land, building, machinery, plant or furniture held with the intention of being used for the purpose of producing or providing goods or services and is not held for sale in the normal course of business.
- The fair value of a tangible fixed asset acquired in exchange for shares or other securities or another asset shall be its actual cost.
- The ICDS also provides that depreciation on such assets and income arising on transfer of such assets shall be computed in accordance with the provisions of the Income-tax Act, 1961.
- Disclosure - Description of asset or block of assets, rate of depreciation, actual cost or written down value, as the case may be, etc.

ICDS VI: The Effects of changes in foreign exchange rates

- Similar to AS-11 issued by ICAI
- It deals with:
 - treatment of transactions in foreign currencies,
 - translating the financial statements of foreign operations and
 - treatment of foreign currency transactions in the nature of forward exchange contracts.
- It requires exchange differences arising on settlement of monetary items (like cash, receivable etc) or conversion thereof at last day of the previous year to be recognized as income or as expense in that previous year.
- In respect of non-monetary items (Like Fixed asset, inventories etc.), exchange differences arising on conversion thereof as at the last day of the previous year shall not be recognized as income or as expense in that previous year.

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- The ICDS contains provisions for initial recognition, conversion at the last date of the previous year and recognition of exchange differences. These provisions shall be subject to the provisions of section 43B of the Income tax Act, 1961.

ICDS VII: Government Grants

- Similar to AS-12 issued by ICAI
- It deals with the treatment of government grants. government grants are sometimes called by other names such as subsidies, cash incentives, duty drawbacks etc.
- It does not deal with Government assistance other than in the form of Government grants and Government participation in the ownership of the enterprise.
- It requires recognition of Government Grants when there is a **reasonable assurance** that the person shall comply with the conditions attached to them and the grants shall be received. However, it also states that recognition of Government grant shall not be postponed beyond the date of actual receipt.
- It requires Government grants relating to depreciable fixed assets should be deducted from actual cost/WDV.
- where the Government grant is not directly relatable to the asset acquired, then a pro-rata reduction of the amount of grant should be made from the actual cost of the asset to which grant relates to.
- The standard requires grants relating to non-depreciable fixed assets or asset of a person requiring fulfilment of certain obligation, the grant shall be recognized as income over the same period over which the cost of meeting such obligations is charged to income.
- All other Government Grants have to be recognized as income over the periods necessary to match them with the related costs which they are intended to compensate.
- Disclosure - Nature and extent of Government grants recognized during the previous year as income, nature and extent of Government grants not recognized during the previous year as income and reasons thereof etc.

ICDS VIII: Securities

- Similar to AS-13 issued by ICAI
- It deals with securities held as stock-in-trade.
- It requires securities to be recognized at actual cost on acquisition, which shall comprise of its purchase price and include acquisition charges like brokerage, fees, tax, duty or cess.
- The actual cost of a security acquired in exchange for other securities or another asset shall be the fair value of the security so acquired.
- Subsequently, at the end of any previous year, securities held as stock-in-trade have to be valued at actual cost initially recognized or net realizable value at the end of that previous year, whichever is lower.

ICDS IX: Borrowing Costs

- Similar to AS-16 issued by ICAI
- It deals with the treatment of borrowing costs. It does not deal with the actual or imputed cost of owners' equity and preference share capital.
- It requires borrowing costs which are directly attributable to the acquisition, construction or production of a qualifying asset to be capitalized as part of the cost of that asset. Other borrowing costs have to be recognized in accordance with the provisions of the Act.
- Qualifying asset means :-
 - land, building, machinery, plant or furniture, being tangible assets;
 - know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets;
 - inventories that require a period of twelve months or more to bring them to a saleable condition.

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- It provides the formula for capitalization of borrowing costs when funds are borrowed generally and used for the purpose of acquisition, construction or production of a qualifying asset.
- Till the qualifying asset is put to use, capitalization shall continue.
- Disclosure- Accounting policy adopted for borrowing costs and the amount of borrowing costs capitalized during the year.

ICDS X: Provisions, Contingent Liabilities and Contingent Assets

- Similar to AS-29 issued by ICAI
- It deals with Provisions, Contingent Liabilities and Contingent Assets. However, it does not deal with provisions, contingent liabilities and contingent assets –
 - resulting from financial instruments,
 - resulting from executory contracts,
 - arising in insurance business from contracts with policyholders and
 - covered by another ICDS.
- It also does not deal with recognition of revenue dealt with by ICDS on Revenue Recognition.
- The ICDS specifies the conditions for recognition of a provision, namely, existence of a present obligation as a result of a past event, reasonable certainty that outflow of resources embodying economic benefits will be required to settle the obligation and making a reliable estimate of the amount of the obligation.
- It provides that a person shall not recognize a contingent liability or a contingent asset. However, it requires contingent assets to be assessed continually. When it becomes reasonably certain that inflow of economic benefit will arise, the asset and related income have to be recognized in the previous year in which the change occurs.
- It contains provisions for measurement and review of a provision and asset and related income.
- It also provides that a provision shall be used only for expenditures for which the provision was originally recognized.
- The ICDS also contains specific disclosure requirements in respect of each class of provision, asset and related income recognized.

Income from Capital Gain

Cost Inflation Index as notified by the central government.

Financial Year	Cost inflation Index	Financial year	Cost inflation index
1981-1982	100	2002-2003	447
1982-1983	109	2003-2004	463
1983-1984	116	2004-2005	480
1984-1985	125	2005-2006	497
1985-1986	133	2006-2007	519
1986-1987	140	2007-2008	551
1987-1988	150	2008-2009	582
1988-1989	161	2009-2010	632
1989-1990	172	2010-2011	711
1990-1991	182	2011-2012	785
1991-1992	199	2012-2013	852
1992-1993	223	2013-2014	939
1993-1994	244	2014-2015	1024
1994-1995	259	2015-2016	1081
1995-1996	281		
1996-1997	305		
1997-1998	331		
1998-1999	351		
1999-2000	389		
2000-2001	406		
2001-2002	426		

Transactions not regarded as transfer
[Section 47]

Following new clauses have been inserted by Finance Act, 2015

Section 47 (viab)

any transfer, in a scheme of amalgamation, of a capital asset, being a share of a foreign company referred to in Explanation 5 to section 9(1)(i), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company.

Condition:

- (a) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and***
(b) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated.

- COA as per Sec-49 - Cost to previous owner
- POH as per Sec-2(42A)-POH of previous owner is also included.

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Section 47 (viii)

any transfer in case of a demerger of a capital asset, being a share of a foreign company, referred to in *Explanation 5* to section 9(1)(i), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company.

Condition:

- (a) the shareholders, holding not less than three-fourths in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and
- (b) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated

- *COA as per Sec-49 - Cost to previous owner*
- *POH as per Sec-2(42A)-POH of previous owner is also included.*

Section 47 (xviii)

Transfer of units by unit holders in consolidation scheme of mutual funds.

Condition:

This exemption would be available only if, the consolidation takes place of :-

- (a) two or more schemes of equity oriented fund or
- (b) of two or more schemes of a fund other than equity oriented fund.

- *COA as per Sec-49 (2AD) - Cost of acquisition to him of the units in the consolidating scheme of the mutual fund*
- *POH as per Sec-2(42A)-POH of the units before consolidation shall also included.*

Example:

- (1) Consolidated Equity oriented fund X and Equity oriented fund Y and issued Equity Oriented Fund Z

Comment:

- (2) Consolidated Equity oriented fund X and Debt oriented fund Y and issued Equity Oriented Fund Z

Comment:

- (3) Debt Oriented fund X and Debt oriented fund Y and issued Debt Oriented Fund Z

Comment:**Reason behind the amendment:**

With a view to have simple and fewer numbers of schemes, the Securities and Exchange Board of India (SEBI) has been encouraging mutual funds to consolidate its various schemes having like features.

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Deductions

Deductions for Life Insurance Premium, Provident Fund etc. Section 80C

Deduction allowed only to: Individual or HUF

Amount of deduction: ₹1,50,000 or Amount paid/deposited, whichever is less.

New clause has been inserted under section 80C

Any Deposits made in **Sukanya Samridhi Account**, in the name of

- the individual or
- any girl child of that individual, or
- any girl child for whom such individual is the legal guardian,

shall be allowed as deduction.

Note: As per section 10, any Interest accruing on deposits and withdrawal from the account under this scheme shall be exempt.

Contribution to certain pension funds Section 80CCC
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Deduction allowed only to: Individual

Amount of deduction: ~~₹1,00,000~~ (**₹1,50,000**) or Amount paid/deposited, whichever is less.

(Amended by Finance Act, 2015)

- (1) Payment made towards annuity plan of LIC or any other insurance company for receiving annuity or pension from pension fund.
- (2) The amount is to be paid out of the income chargeable to tax.
- (3) If the assessee has surrendered the policy, amount received on account of surrender shall be considered to be income of the assessee under the head Other Sources.
- (4) If any pension has been received under this policy, it will be considered to be income under the head Other Sources.

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**Contribution to pension scheme of Central Government
Section 80CCD****Section 80CCD (1)**

Where a self-employed individual or a person employed by the central government or any other employer, has deposited any amount in his account under a notified pension scheme, he shall be allowed a deduction of

- (i) The amount deposited or
- (ii) 10% of Salary (In case of employee)
10% of Gross total income (in case of self-employed)

Whichever is less.

Section 80CCD (2)

Where the central government or any other employer makes any contribution to his account, the assessee shall be allowed a deduction of

- (i) Amount contributed by central government or any other employer or
- (ii) 10% of salary

Whichever is less.

Section 80CCD (1B)

An additional deduction of up to ₹50,000 in respect of the whole of the amount paid or deposited by an individual assessee under NPS in the previous year, whether or not any deduction is allowed under section 80CCD(1)
(Amended by Finance Act, 2015)

Notes:

1. Salary means Basic salary and dearness allowance but excludes other allowances and perquisites.
2. Contributions u/s 80CCD(1) shall not exceed 10% of Salary or Gross Total Income as the case may be and subject to overall limit of ₹1,50,000 under section 80CCE. However, Section 80CCE doesn't apply on contribution made by CG to pension scheme u/s 80CCD(2).
3. The entire employer's contribution would be included in the salary of the employee. However, deduction under section 80CCD(2) would be restricted to 10% of salary
4. ***the deduction of upto ₹50,000 under section 80CCD(1B) is in addition to the overall limit of ₹1.50 lakh provided under section 80CCE.***
(Amended by Finance Act, 2015)
5. Amount received from such pension fund is taxable at the time of receipt.

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6. No deduction will be allowed under section 80C in respect of amounts paid or deposited by the assessee, for which deduction has been allowed under section 80CCD(1)

Example

The following are the particulars of investments and payments made by Mr. A, employed with ABC Ltd., during the previous year 2015-16:

- Deposited ₹1,20,000 in public provident fund
- Paid life insurance premium of ₹15,000 on the policy taken on 1.5.2012 to insure his life (Sum assured – ₹1,20,000).
- Deposited ₹30,000 in a five year term deposit with bank.
- Contributed ₹1,80,000, being 15% of his salary, to the NPS of the Central Government.

A matching contribution was made by ABC Ltd.

- Compute the deduction available to Mr. A under Chapter VI-A for A.Y.2016-17.
- Would your answer be different, if Mr. A contributed ₹1,20,000 (being, 10% of his salary) towards NPS of the Central Government ?

Answer

- Deduction available to Mr. A under Chapter VI-A for A.Y.2016-17**

Section	Particulars	₹	₹
80C	- Deposit in public provident fund - Life insurance premium paid ₹15,000 (deduction restricted to ₹12,000, being 10% of ₹1,20,000, being sum assured) - Five year term deposit with bank	1,20,000 12,000 <u>30,000</u> 1,62,000	1,50,000
80CCD(1)	Contribution to NPS of the Central Government, ₹1,30,000 [₹1,80,000 – ₹50,000, being deduction under section 80CCD(1B)], restricted to 10% of salary [₹1,80,000 × 10/15] [See Note 1]		1,20,000
			2,70,000
80CCE	Aggregate deduction under section 80C and 80CCD(1), ₹2,70,000, but restricted to		1,50,000
80CCD(1B)	₹50,000 would be eligible for deduction in respect of contribution to NPS of the Central Government		50,000
80CCD(2)	Employer contribution to NPS, restricted to 10% of salary [See Note 2]		1,20,000
	Deduction under Chapter VI-A		3,20,000

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Notes:

- (1) The deduction under section 80CCD(1B) would not be subject to overall limit of ₹1.50 lakh under section 80CCE. Therefore, it is more beneficial for Mr. A to claim deduction under section 80CCD(1B) first in respect of contribution to NPS. Thereafter, the remaining amount of ₹1,30,000 can be claimed as deduction under section 80CCD(1), subject to a maximum of 10% of salary.
- (2) The entire employer's contribution to notified pension scheme has to be first included under the head "Salaries" while computing gross total income and thereafter, deduction under section 80CCD(2) would be allowed, subject to maximum of 10% of salary.
- (ii) If the contribution towards NPS is ₹1,20,000, here again, it is beneficial for Mr. A to first claim deduction of ₹50,000 under section 80CCD(1B) and the balance of ₹70,000 can be claimed under section 80CCD(1), since the deduction available under section 80CCD(1B) is over and above the aggregate limit of ₹1,50,000 under section 80CCE. In any case, the aggregate deduction of ₹2,20,000 [i.e. ₹1,50,000 under section 80C and ₹70,000 under section 80CCD(1)] cannot exceed the overall limit of ₹1,50,000 under section 80CCE. The total deduction under Chapter VIA would remain the same i.e., ₹3,20,000.

**Deduction in respect of medical insurance premium
Section 80D**

Deduction allowed only to: Individual and HUF

Payment for:

- (a) Medical Insurance Premium or
 - (b) any contribution made to the Central Government Health Scheme or
 - (c) Preventive health check-up.
- by any mode **other than cash.**

However, preventive health check-up can be made in cash also and deduction in respect of (b) & (c) above are not available for a HUF.

Amount of deduction:

- (i) Maximum ~~₹15,000~~ **(₹25,000)** (For insurance of Individual, Spouse, Dependent Children) or ~~₹20,000~~ **(₹30,000)** in case of senior citizen, **and**
- (ii) Maximum ~~₹15,000~~ **(₹25,000)** (For insurance of Parents (both dependent or independent)) or ~~₹20,000~~ **(₹30,000)** if parents are senior citizen.

(Amended by Finance Act, 2015)

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(iii) Maximum ₹5,000 (for preventive health check-up) in aggregate for self, spouse, dependent children and parents.

However, the maximum limit of total deduction u/s 80D shall remain ₹25,000/₹30,000 (including preventive health check-up of ₹5,000).

Hindu Undivided Family can take the health Insurance policy in the name of any of its members and deduction shall be allowed in the similar manner.

“Senior citizen” means an **individual resident in India** who is of the age of **60 years or more** at any time during the relevant previous year.

Medical Expenditure for very senior citizen

- *person of the age of 80 years or more and resident in India,*
- *who are unable to get health insurance coverage and*
- *no payment has been made to keep in force an insurance on the health of such person(s)*
- *deduction of upto ₹30,000 would be allowed in respect of any payment made on account of medical expenditure in respect of a such person(s)*

However, aggregate of deduction u/s 80D including medical expenditure for very senior citizen shall not exceed ₹30,000.

(Inserted by Finance Act, 2015)

S.No.	Expenditure	Amount paid for	Amount of deduction
1	Individual		
	Premium paid otherwise than by way of cash	• self, spouse and dependent children	25,000
	Contribution to central government health scheme otherwise than by way of cash	• If any of the above 60 years or more+ resident in India	30,000
	Expenditure on preventive health check-up (it may be on cash)		
2	HUF		
	Premium paid otherwise than by way of cash	• Family member	25,000
		• If any of the above 60 years or more+ resident in India	30,000

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3	Parents		
	Premium paid otherwise than by way of cash	- Parents - Resident in India+ 60 years or more (both or either of the parents)	25,000 30,000
	Expenditure on preventive health check-up (it may be on cash)		
Aggregate payment on account of preventive health check-up of self, spouse, dependent children, father and mother cannot exceed ₹5,000 and subject to overall limit of ₹25,000 or ₹30,000, as the case may be)			
4.	Medical Expenditure paid (Super Senior citizen)	For self/ spouse/ parents + who is of the age of 80 years or more + Resident in India + no payment has been made to keep in force an insurance on the health of such person	30,000
Maximum deduction in respect of 1 & 4 cannot exceed			30,000
Maximum deduction in respect of 2 & 4 cannot exceed			30,000
Maximum deduction in respect of 3 & 4 cannot exceed			30,000

Example:

Mr. Arjun (52 years old) furnishes the following particulars in respect of the following payments:

S. No.	Particulars	Amount (₹)
1.	Premium paid for insuring the health of – - Self - Spouse - dependant son - mother	10,000 8,000 4,000 18,000
2.	Paid for Preventive Health Check up of - himself - spouse - mother	2,000 1,500 4,000

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3.	Incurred medical expenditure of ₹25,000 and ₹15,000 for his mother, aged 80 years and father, aged 85 years. Both mother and father are resident in India.	
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Compute the deduction available to Mr. Arjun under section 80D for the A.Y. 2016-17.

Solution

Computation of deduction under section 80D for the A.Y. 2016-17

S. No.	Particulars	Amount (₹)
1.	I. In respect of premium paid for insuring the health of - - Self 10,000 - Spouse 8,000 - dependant son 4,000 22,000	
	II. In respect of expenditure on preventive health check -up of - - Self 2,000 - spouse 1,500 3,500	
	Restricted to [₹ 25,000 – ₹22,000, since maximum deduction is ₹25,000]	3,000
	Aggregate of deduction (I+II) under (1) restricted to	25,000
2.	I. In respect of payment towards health insurance premium for his mother 18,000	
	II. In respect of preventive health check up of his mother [₹4,000, restricted to ₹2,000, (₹5,000 – ₹3,000), since maximum deduction for preventive health check up under section 80D is ₹5,000] 2,000	
	III. Medical expenditure for father would only be eligible for deduction [See Note below] 15,000	
		35,000
	Amount of deduction under (2) restricted to	30,000
	Total deduction under section 80D [(1) + (2)]	55,000

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Note: Irrespective of the fact that the mother of Arjun is a very senior citizen the deduction under section 80D would not be available to him in respect of the medical expenditure incurred for his mother, since Mr. Arjun has taken a health insurance policy for his mother.

**Medical treatment of dependent handicapped
Section 80DD**

Deduction allowed only to: Resident individual and HUF

Payment for: Medical treatment or training and rehabilitation of a dependent relative who is a person with disability. Deduction is also allowed for payment towards deposit in a scheme (framed by the LIC or any other insurer or UTI, which is approved by the CBDT) for receiving annuity or lump sum amount for the benefit of such disabled person.

Dependent Relative:

for individual:

- spouse,
- children,
- brothers,
- sisters and
- parents.

for HUF:

- its members

and has not claimed any deduction under section 80U.

Amount of deduction:

- **Person with disability:-** ~~₹50,000~~ **(₹75,000)** irrespective of the actual amount spent or deposited.
- **Person with severe disability** (80% or more disability): ~~₹1,00,000~~ **(₹1,25,000)** irrespective of the amount spent or deposited.

(Amended by Finance Act 2015)

The assessee shall furnish a copy of the certificate issued by the medical authority in the prescribed form and manner, along with the return of income under section 139

Example:

Mr. X is a resident individual. He deposits a sum of ₹50,000 with Life Insurance Corporation every year for the maintenance of his handicapped grandfather who is wholly dependent upon him. The disability is one which comes under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. A copy of the certificate from the medical authority is submitted. Compute the amount of deduction available under section 80DD for the A.Y. 2016-17.

Answer

Since the amount deposited by Mr. X was for his grandfather, he will not be allowed any deduction under section 80DD. The deduction is available if the individual assessee incurs any

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expense for a dependant disabled relative. Grandfather does not come within the definition of dependant relative.

Example

What will be the deduction if Mr. X had made this deposit for his dependant father?

Answer

Since the expense was incurred for a dependant disabled relative, Mr. X will be entitled to claim a deduction of ₹75,000 under section 80DD, irrespective of the amount deposited. In case his father has severe disability, the deduction would be ₹1,25,000.

**Deduction of medical treatment etc. of specified disease
Section 80DDB**

Deduction allowed only to: Resident individual and HUF

Payment for: Medical treatment of specified disease of self or dependent relative or member of HUF.

Specified Diseases: Neurological diseases, Cancer, AIDS, Thalassaemia etc.

Amount of deduction:

- (i) amount actually spent or
- (ii) ₹40,000 (₹60,000 in case of senior citizen/ **₹80,000 in case of Very Senior Citizen**),
whichever is less.

(Amended by Finance Act, 2015)

Dependent Relative:

for individual:

- spouse,
- children,
- brothers,
- sisters and
- parents.

for HUF:

- its members

and has not claimed any deduction under section 80U.

"Senior citizen" means an **individual resident in India** who is of the age of **60 years** or **more** at any time during the relevant previous year.

"Very Senior citizen" means an **individual resident in India** who is of the age of **80 years** or **more** at any time during the relevant previous year.

(Amended by Finance Act, 2015)

Deduction shall be reduced by the amount received from the insurer or employer.

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~~Further, a certificate from the doctor of government hospital has to be furnished for claiming the deduction.~~

The assessee will be required to obtain a prescription for such medical treatment from a specialist doctor for the purpose of availing this deduction

(Amended by Finance Act, 2015)

Deduction for donations Section 80G
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Deduction allowed to: All assessee

Payment for: payments made to specified funds/ institutions

Conditions:

1. Donation shall be sum of money; Donation in kind is not deductible.
2. Proof of payment shall be furnished with the return

Part A: Donations made to following are eligible for 100% deduction without any qualifying limit:

1. National Defence Fund set up by the Central Government
2. Prime Minister's National Relief Fund
3. Prime Minister's Armenia Earthquake Relief Fund
4. Africa (Public Contributions - India) Fund
5. National Children's Fund
6. National Foundation for Communal Harmony
7. a University or any educational institution of national eminence as may be approved by the prescribed authority
8. Chief Minister's Earthquake Relief Fund, Maharashtra
9. any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat
10. Zila Saksharta Samiti constituted in any district
11. National Blood Transfusion Council
12. any fund set up by a State Government to provide medical relief to the poor
13. Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund
14. Andhra Pradesh Chief Minister's Cyclone Relief Fund
15. National Illness Assistance Fund
16. Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund
17. National Sports Fund set up by the Central Government
18. National Cultural Fund set up by the Central Government
19. Fund for Technology Development and Application set up by the Central Government National
20. Trust for Welfare of Persons with mental retardation and multiple disabilities.

21. Swachh Baharat Kosh set-up by the CG. (Note-1)

22. Clean Ganga Fund set-up by the CG. (Note-1)

23. National fund for control of Drug Abuse.

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Note-1: Deduction is not available for the sum spent by the assessee in pursuance of Corporate Social Responsibility u/s 135(5) of the Companies Act, 2013 and Income of Swachh Bharat Kosh & clean Ganga Fund shall be exempt under section 10(23C).

(Amended by Finance Act, 2015)

Part B: Donations made to following are eligible for 50% deduction without any qualifying limit:

1. Jawaharlal Nehru memorial fund
2. Prime Minister's Drought Relief Fund
3. Indira Gandhi Memorial Trust
4. Rajiv Gandhi Foundation

Part C: Donations made to following are eligible for 100% deduction subject to qualifying limit:

1. Donation to Government or any approved local authority, institution or association to be utilized for promoting family planning.
2. Donation made by a company to Indian Olympic Association or to any other notified institution, for development of infrastructure for sports in India.

Part D: Donations made to following are eligible for 50% deduction *subject to* qualifying limit:

1. Donation to Government or any approved local authority, institution or association to be utilized for any other charitable purpose other than promoting family planning.
 2. Donation to any approved charitable institution which satisfies the condition of Section 80G.
 3. Donation to any authority for satisfying the need for housing accommodation or any corporation for promoting interest of minority community.
 4. Donation to any notified temple, mosque, gurudwara, church or other place notified by the Central Government to be of historical, archaeological or artistic importance for renovation or repair of such place.
- Donations under Part C and Part D above shall not exceed the qualifying limit. for calculation of qualifying limit all donations made to funds or institutions covered under part C and Part D above shall be aggregated.
- **Qualifying limit means 10% of adjusted Gross Total Income.**

Adjusted Gross Total Income means:

Gross Total Income
Less: Long Term Capital Gains
Less: Short Term Capital Gains u/s 111A
Less: Deductions u/s 80C to 80U (Except 80G)

Amount of Deduction: The amount of deduction shall be the aggregate of the deductions permissible under part (A), (B), (C) and (D).

If donation of more than Rs.10,000 is given in cash, then total donation shall disallowed.

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

Deduction allowed to: Indian Company (*All assessee whose gross total income includes profits and gains derived from manufacture of goods in a factory*)
(Amended by Finance Act, 2015)

Amount of deduction: Amount equal to 30% wages of the new regular workman for 3 assessment years including the year in which the employment is provided.

Wages qualifying for deduction:

- In the case of new company – wages paid to workers in excess of ₹100 (**50**)
- In the case of existing company – wages paid to workers in excess of ₹100 (**50**), but there should be at least 10% increase in number of workers, as employed on the last day of the preceding year.

(Amended by Finance Act, 2015)

Conditions:

Accounts must be audited by Chartered Accountant and the report shall be furnished with the return of income.

Regular Workmen does not include:

- i. Person employed in managerial or administrative capacity or
- ii. Workman employed as a casual workman or contract labour or
- iii. Any other workman employed for a period of less than 300 days during the previous year

No deduction is allowed if the industrial undertaking is formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking.

Example

Mr. A has commenced the operations of manufacture of goods in a factory on 1.4.2015. He employed 125 new workmen during the P.Y.2015-16, which included –

- (i) 15 casual workmen;
- (ii) 15 workmen employed through contract labour;
- (iii) 25 regular workmen employed on 1.4.2015;
- (iv) 55 regular workmen employed on 1.5.2015; and
- (v) 15 regular workmen employed on 1.7.2015

Compute the deduction, if any, available to Mr.A for A.Y.2016-17, if wages@` 5,000 per month is paid to each workman and the profits and gains derived from manufacture of

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goods in the factory for the A.Y.2016-17 is ` 4.75 lakhs.

Answer

Mr. A is eligible for deduction under section 80JJAA since his gross total income includes profits and gains derived from the manufacture of goods in a factory and he has employed more than 50 new regular workmen in his factory.

Additional wages = ₹5,000 × 30 [Note-1] = ₹1,50,000

Deduction under section 80JJAA = 30% of ₹1,50,000 = ₹45,000.

Note-1:

Total number of workmen employed during the year	125
--	-----

Less: Casual workmen employed during the year	15
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Less: Workmen employed through contract labour	15
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Less: Workmen employed for a period of less than 300 days during the P.Y.2015-16 (workmen employed on 1.7.2015)	15
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Total number of regular workmen	80
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Number of new regular workmen in excess of 50 (80 – 50)	30
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Note -2

“Regular workman” does not include a casual workman or a workman employed through contract labour or any other workman employed for a period of less than 300 days during the previous year.

Deduction in case of handicapped Person Section 80U

Deduction allowed to: A resident individual who is suffering from specified disability at any time during the previous year.

Quantum of deduction:

Such assessee shall be allowed fixed deduction of ~~₹ 50,000~~ **(₹75,000)** irrespective of actual amount spent or ~~₹1,00,000~~ **(₹1,25,000)** in case of severe disability (80% or more disability).

(Amended by Finance Act,2015)

Condition

A certificate issued by the medical authority should be furnished along with the return.

- “Person with disability” means a person suffering from not less 40% of any disability as certify by the medical authority.
- “Disability” is defined under section 2(i) of Person with Disability Act,1995, i.e. blindness, leprosy-cured, hearing impairment, loco motor disability etc. it also includes autism, cerebral palsy.

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Return of Income

Submission of return of income Section 139(1)

Every person,—

- (a) being **a company** or **a firm**; or
 - (b) being **a person other than** a company or a firm, if his or any other person's Gross total income without giving effect to provisions of Chapter VI-A, exceeds the maximum amount which is not chargeable to income-tax.
- Shall furnish a return
 - on or before the due date
 - in the prescribed form
 - verified in the prescribed manner
 - giving particulars as may be prescribed.

Due date of furnishing return of income

(a)	where the assessee is	DUE DATE
	a company	30 th September of the assessment year
	a person (other than a company) whose accounts are required to be audited <i>under this Act</i> or under <i>any other law</i> for the time being in force	
	a working partner of a firm whose accounts are required to be audited under this Act or under <i>any other law</i> for the time being in force	
(b)	In case where an assessee who is required to furnish a report of an chartered accountant under section 92E relating to International transaction or specified domestic transaction	30 th November of the assessment year
(c)	in case of any other assessee	31st July of the A. Y.

Mandatory to file return of income in case of resident Assessee:

Fourth proviso

~~A person, being a resident, who is not required to furnish a return under section 139(1) and who during the previous year has:~~

- ~~(a) any asset (including any financial interest in any entity) located outside India or~~
- ~~(b) signing authority in any account located outside India, shall furnish, on or before the due date, a return in respect of his income or loss for the previous year.~~

A person, being a resident (other than resident but not ordinarily resident), who is not required to furnish a return under section 139(1) and who at anytime during the previous year:

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(a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or
(b) has signing authority in any account located outside India, or
(c) is a beneficiary of any asset (including any financial interest in any entity) located outside India.
shall furnish, on or before the due date, a return in respect of his income or loss for the previous year.

Fifth proviso

- *However, an individual being a beneficiary of any asset (including any financial interest in any entity)*
- *located outside India*
- *would not be required to file return of income under the fourth proviso to section 139(1),*
- *where, income, if any, arising from such asset*
- *is includible in the income of the person referred to in clause (a) of the fourth proviso.*

Beneficial owner- *An individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.*

Beneficiary- *An individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person, other than such beneficiary.*

(Amended by Finance Act, 2015)

Penalty for non-filing of return by stipulated time (Section 271F)

A person who is required to furnish a return of his income and he fails to furnish such return before the end of the relevant Assessment year, The Assessing officer shall direct that such person shall pay, by way of penalty, a sum of Rs.5,000.

No penalty shall be imposable if assessee proves that there was reasonable cause for the said failure.

Notes:

1. Every company/firm has to file a return in all cases. In this following cases (Illustrative list) company/firm is under obligation to file its return of income:
 - (i) A newly incorporated company/firm which has not commenced business.
 - (ii) A company/ firm which has closed all its business activities and in the nature of defunct company/firm.
 - (iii) A company /firm whose entire income is exempt from tax or has incurred a loss.
 - (iv) A foreign company/firm operating in India whether such company/firm is having income or not.
2. In case of non-working partner due date shall be 31st July of the assessment year.
3. In case of firm whose accounts are not required to be audited, the due date for firm as well as partner (working or non-working) shall be 31st July.

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TAX DEDUCTED AT SOURCE

TDS on withdrawal of EPF Section 192A

Who is responsible to deduct Tax (i.e. deductor)	All person being an employer
From whom tax is being deducted (i.e. deductee)	Individual being an employee (resident or Non- resident)
Time of deduction	At the time of payment
Rate of Tax	10%
Cases where TDS is not deductible	• Withdrawal is less than ₹30,000 • If the person gives declaration that he does not have any taxable income by filing form 15G or 15H • Withdrawal after continuous service of 5 years or more. • If he has not rendered such continuous service, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business or other cause beyond the control of the employee

Notes:

1. In case of no PAN, TDS shall be deducted at maximum marginal rate. (not 20%)
2. If the employee obtains employment with any other employer and the provident fund has been transferred to such employer, then the total service with the former employer and the current employer shall be included for counting continuous service of 5 years or more.

Reason behind the amendment:

Discouraging pre-mature withdrawal and promoting long term savings.

(Effective from 01.06.2015)

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**TDS on Interest other than Interest on Securities
Section 194A**

Who is responsible to deduct Tax (i.e. deductor)	All person [Other than individual or HUF (not liable for tax audit in preceding financial year)]
From whom tax is being deducted (i.e. deductee)	Resident person
Time of deduction	At the time of credit or payment, whichever is earlier.
Rate of Tax	10%
Cases where TDS is not deductible	- Interest paid by bank/co-operative bank or post office for the entire year is upto ₹10,000. ₹5,000 in any other case.

Notes:

- The provisions of section **194A will not apply** in the following cases where the :-
 - Interest credited/paid by a firm to a partner of the firm;
 - Interest credited/paid to any Banking Company or any Financial Corporation or Life Insurance Corporation of India or Unit Trust of India or any Associations or Bodies notified by the Central Government;
 - Interest credited/paid by primary agricultural credit society or primary credit society or co-operative land mortgage bank or a co-operative land development bank.
 - Interest credited/paid by a co-operative society (**other than co-operative bank**) to their member or to such income credited/paid by a co-operative society to any other co-operative society;
(effective 1st June 2015)
 - Interest credited/paid in respect of deposits under any scheme framed by the Central Government and notified by it;
 - Interest income credited/paid by the Central Government under any provision of the Income-tax Act, the Wealth-tax Act etc.;
 - Interest in relation to a Zero Coupon Bond.
 - Interest on ~~recurring deposit~~ and saving account with bank or co-operative society.
(effective 1st June 2015)
 - Interest on compensation awarded by the motor accident claims tribunal where the amount of such interest ~~credit~~/paid during the financial year does not exceed ₹ 50,000.
(Amended by finance Act, 2015, effective from 1st June 2015)
- "Co-operative bank" means a co-operative society carrying on business of banking.
- Threshold limit (10,000 or 5,000 as the case may be) will be reckoned with reference to the total interest credited or paid by all branches of a banking company/co-operative bank/public company which has adopted core banking solutions (CBS).**
(effective 1st June 2015)

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Analysis:**(i) Analysis of Interest paid by Co-operative society**

S.No.	Interest paid by	Requirement of TDS deduction
1.	Co-operative society being:- (a) primary agricultural credit society or (b) primary credit society or (c) co-operative land mortgage bank or (d) co-operative land development bank	No deduction of TDS on any payment.
2.	Co-operative society being a Bank (other than covered in S.No.1)	Paid to member- deduct TDS Paid to another co-operative society- NO deduction of TDS Paid to Others- Deduct TDS (No deduction of TDS in case of Interest on saving account. However, in case of FDR & Recurring deposit, no deduction of TDS if interest doesn't exceed ₹10,000)
3.	Co-operative society (not covered by S.No.1 & 2 above)	Paid to member- No Deduction of TDS Paid to another co-operative society- NO deduction of TDS Paid to Others- Deduct TDS if interest exceeds ₹5,000.

(ii) Analysis of Compensation awarded by Motor accidents claim tribunal

- **194A- As per old provision**-deduct TDS if interest exceeds ₹50,000 (payment or credit whichever is earlier)
- **Section 145A** -provides that interest received on compensation or enhanced compensation shall be deemed to be the income of the year in which it is received.
- **Section 56(2)(viii)** –Interest received shall be chargeable to tax under the head "Income from other sources", after allowing a deduction of 50% of such income under section 57.

To remove the genuine hardship, section 194A has been amended to provide that deduction of tax thereunder from interest on the compensation amount awarded by the Motor Accidents Claims Tribunal shall be made **only at the time of payment**, and that too only if the amount of interest payment or the aggregate amount of such interest payments during the financial year exceeds ₹50,000.

Example

Examine the TDS implications under section 194A in the cases mentioned hereunder :-

- On 1.10.2015, Mr. Harish made a six-month fixed deposit of ₹10 lakh@9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2016.
- On 1.6.2015, Mr. Ganesh made three nine month fixed deposits of ₹1 lakh each carrying interest@9% with Dwarka Branch, Janakpuri Branch and Rohini Branches of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2016.

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- (iii) On 1.4.2015, Mr. Rajesh started a 1 year recurring deposit of ₹20,000 per month@8% p.a. with PQR Bank. The recurring deposit matures on 31.3.2016.

Answer

- (i) ABC Co-operative Bank has to deduct tax at source@10% on the interest of ₹45,000 ($9\% \times ₹10 \text{ lakh} \times \frac{1}{2}$) under section 194A. The tax deductible at source under section 194A from such interest is, therefore, ₹4,500.
- (ii) XYZ Bank has to deduct tax at source@10% under section 194A, since the aggregate interest on fixed deposit with the three branches of the bank is ₹20,250 [$1,00,000 \times 3 \times 9\% \times 9/12$], which exceeds the threshold limit of ₹10,000. Since XYZ Bank has adopted CBS, the aggregate interest credited/paid by all branches has to be considered. Since the aggregate interest of ₹20,250 exceeds the threshold limit of ₹10,000, tax has to be deducted@10% under section 194A.
- (iii) Tax has to be deducted under section 194A by PQR Bank on the interest of ₹10,400 falling due on recurring deposit on 31.3.2015 to Mr. Rajesh, since –
- "recurring deposit" has been included in the definition of "time deposit"; and
 - such interest exceeds the threshold limit of ₹10,000.

TDS on payment to contractors Section 194C

Who is responsible to deduct Tax (i.e. deductor)	Any person [Other than individual or HUF (not liable for tax audit in preceding financial year)]
From whom tax is being deducted (i.e. deductee)	Resident person
Time of deduction	At the time of credit or payment, whichever is earlier.
Rate of Tax	1%- If contractor is individual or HUF 2%- others
Cases where TDS is not deductible	- Where amount payable does not exceed: ₹30,000 in case of single contract ₹75,000 in case of aggregate contracts during the financial year - No TDS shall be deducted on payment made to the transporter if he furnishes his PAN. <i>But w.e.f. 01.06.2015, the transporter who is not owning more than 10 goods carriage at any time during the previous year and he gives declaration for the same to the payer and furnishes his PAN. (Amended by Finance Act, 2015)</i> - Payment is made by individual or HUF for their personal purpose.

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Note:

Contract for this purpose shall include every type of contract for example:

- (a) Advertising contract
- (b) Broadcasting and telecasting including production of programmes for such broadcasting or telecasting
- (c) Carriage of goods and passengers by any mode of transport other than by railways
- (d) Catering
- (e) Contract for construction
- (f) Manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer, but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.
- (g) Contract for courier services
- (h) Contract of maintenance of plant and machinery etc.
- (i) Any other contract.

Example:

Mr.X (resident) had 7 goods carriages till 01.08.2015. he purchased 4 goods carriages on 01.09.2015 and sold 5 goods carriages on 25.03.2015. He received the following payments during the FY 2015-16.

05.04.2015- ₹40,000

05.07.2015- ₹50,000

05.09.2015- ₹25,000

31.03.2015- ₹35,000

Determined TDS liability of payer.

Answer:

05.04.2015- ₹40,000- No deduction of TDS if Mr.X furnishes his PAN

05.07.2015- ₹50,000- No deduction of TDS if Mr.X furnishes his PAN and declaration that he doesn't own more than 10 goods carriages.

05.09.2015- ₹25,000- No deduction of TDS since single payment less than 30,000 and total payment doesn't exceed ₹75,000 after the 01.06.2015 (i.e. effective date of amendment) to 05.09.2015.

31.03.2015- ₹35,000- TDS shall be deducted even though Mr. X did not own more 10 goods carriage on 31.03.2015 because he owned more than 10 goods carriages during the financial year 2015-16 and also payment exceeded the threshold limit for single payment and total payment (i.e. 30,000 & 75,000)

**TDS on any interest or any other sum payable to non-resident
Section 195**

Who is responsible to deduct Tax (i.e. deductor)	Any person
From whom tax is being deducted (i.e. deductee)	Non-resident or a foreign company
Time of deduction	At the time of payment or credit, whichever is earlier.
Rate of Tax	Deduct Income tax on income chargeable under the Income tax act (except salary and dividend) at the rate in force. Rate of tax shall be- Whichever is most beneficial (a) Finance Act of the relevant previous year (b) As per DTAA u/s 90 (c) Agreement notified by CG u/s 90A
Cases where TDS is not deductible	No TDS is to be deducted where amount does not exceed ₹1,00,000 during the financial year.

Notes:

1. The person responsible to deduct tax (**for paying any sum, whether or not chargeable to tax**) should furnish the particulars of payments in prescribed form (form 15CA/15CB)
2. The assessee can make an application to Assessing officer for non-deduction of TDS where the sum payable to non-resident or foreign company, is not taxable in India.

**Self-declaration for non-deduction of TDS
Section 197A**

If any individual or HUF has dividend income under section 2(22)(e) (i.e. Section 194), Interest Income (i.e. Section 193 & 194A), **Income from payment of accumulated balance due to an employee from recognised provident fund (i.e. Section 192A) and payment in respect of life insurance business (i.e. Section 194DA)** and not exceeding the taxable limit and also his tax liability is nil, Such individual can furnish a declaration in Form 15G to the person making payment of Interest and in that case no tax shall be deducted at source.

(Amended by Finance Act, 2015)

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Notes:

1. This declaration cannot be given by a company or firm.
2. Person which such income shall forward declaration to Assessing officer within 7 days of next month.
3. Senior citizen has to furnish declaration in form 15H if his tax liability is NIL. (even if income exceeds taxable limit)

**Tax Deduction Account Number (TAN)
Section 203A**

- Every person, deducting tax or collecting tax,
- who has not been allotted a tax deduction account number shall,
- within such time as may be prescribed,
- apply to the Assessing Officer for the allotment of a "tax deduction and collection account number".

Application should be given in Form No.49B within one month from the end of the month in which tax was deducted for the first time.

However in case of 194-IA, deductor is not required to obtain TAN. In such case deductor can file his return by quoting his PAN.

(Amended by Finance Act, 2015)

Other Amendments:

1. Person responsible for paying income chargeable under the head "Salaries" to obtain proof or evidence or particulars of prescribed deductions/ exemptions/setoff of losses claimed by the assessee (Section 192).
2. Interest under section 234A not chargeable on self-assessment tax paid before the due date of filing of return of income **(Circular No. 2/2015, dated 10-2-2015)**. Earlier as per Prannoy roy (SC) case self-assessment tax was deductible for charging interest u/s 234A. Now circular has been issued by the CBDT in this regard.

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Income of charitable or religious trust

Meaning of charitable purpose Section 2(15)

Charitable purpose includes:

- (a) relief of the poor,
- (b) education,
- (c) *Yoga*,** **(Amended by Finance Act 2015)**
- (d) medical relief,
- (e) preservation of environment (including watersheds, forests and wildlife)
- (f) preservation of monuments or places or objects of artistic or historic interest,
- (g) advancement of any other object of general public utility.

~~"advancement of any other object of general public utility" should not be in the nature of business however if the gross receipt is upto ₹25,00,000, it will be considered to be charitable purpose but if gross receipt is exceeding ₹25,00,000, it will not be considered as charitable purpose.~~

Provided that,

"advancement of any other object of general public utility" should not be in the nature of business/commercial activity. However, if:

- (i) Such commercial activity/business is undertaken in the course of carrying out of main object of the trust and***
- (ii) the gross receipt from commercial activity/business doesn't exceed 20% of the total receipts of the trust.***

it will be considered to be charitable purpose. Otherwise it will not be considered as charitable purpose.

(Amended by Finance Act, 2015)

Analysis:

- (1) Amendment shall not apply on first six limbs (i.e. (a) to (f)) of section 2(15). Consequently, where the purpose of the institution is relief to the poor, education, yoga, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, it will be considered as charitable purpose even if it is incidentally involves the carrying on of commercial activity.

Example:

An institution having its main object as "advancement of general public utility" received ₹30 lakhs in aggregate during the P.Y. 2015-16 from an activity in the nature of trade. The total receipts of the institution, including donations, was ₹140 lakhs. It applied 85% of its total receipts from such activity during the same year for its main object i.e. advancement of general public utility.

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- (i) What would be the tax consequence of such receipt and application thereof by the institution?
- (ii) Would your answer be different if the institution's total receipts had been ₹150 lakhs (instead of ₹140 lakhs) in aggregate during the P.Y.2015-16?
- (iii) What would be your answer if the main object of the institution is "relief of the poor" and the institution receives ₹30 lakhs from a trading activity, when its total receipts are ₹140 lakhs and applies 85% of the said receipts for its main object?

Answer

- (i) As the main object of the institution is —advancement of object of general public utility, the institution will lose its charitable status for the P.Y.2015-16, since it has received ₹30 lakhs from an activity in the nature of trade, which exceeds ₹28 lakhs, being 20% of the total receipts of the institution undertaking that activity for the previous year . The application of 85% of such receipt for its main object during the year would not help in retaining its —charitable status for that year. The institution will lose its charitable status and consequently, the benefit of exemption of income for the P.Y.2015-16, irrespective of the fact that its approval is not withdrawn or its registration is not cancelled.
- (ii) If the total receipts of the institution is ₹150 lakhs, and the institution receives ₹30 lakhs in aggregate from an activity in the nature of trade during the P.Y.2015-16, then it will not lose its charitable status since receipt of upto 20% of the total receipts of the institution undertaking in a year from such activity is permissible. The institution can claim exemption subject to fulfillment of other conditions under sections 11 to 13. Further, such activity should also be undertaken in the course of actual carrying out of such advancement of any other object of general public utility.
- (iii) The restriction regarding carrying on of a trading activity for a cess, fee or other consideration will not apply if the main object of the institution is relief of the poor. Therefore, receipt of ₹30 lakhs from a trading activity by such an institution will not affect its charitable status, even if it exceeds 20% of the total receipts of the institution. The institution can claim exemption subject to fulfillment of other conditions under sections 11 to 13.

**Exemption if accumulated for specific purpose
Section 11(2)**

Where any amount out of 85% of the income referred above is set aside or accumulated for any specific purpose then it shall be deemed to be the income applied for the charitable or religious purpose provided the following conditions are complied with ,namely:

- (1) Specify the purpose and period for which such amount has been accumulated or set aside by statement in writing to the Assessing officer in prescribed manner in form 10. However, total period cannot exceed 5 years
- (2) Income such accumulated should be invested or deposited in the forms or modes specified in section 11(5)

(3) Form 10 shall be filed on or before the due date of filing return of income u/s 139(1)
(Amended by Finance Act,2015)

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Denial of Exemption if ROI is not furnished within due date Section 13(9)

Exemption u/s 11(2) shall not be available if:

- (i) In case the statement in Form 10 is not submitted on or before this date, or***
- (ii) Return of income is not furnished on or before the due date of filing return of income specified in section 139(1).***

In the above cases, the benefit of accumulation would not be available and such income would be taxable at the applicable rate.

(Inserted by Finance Act,2015)



Income which do not form part of Total Income

**Specified Income of Core Settlement Guarantee Fund
Section 10(23EE)**

any specified income of such Core SGF set up by a recognized clearing corporation in accordance with the regulations, notified by the Central Government.

Specified Income

(a) the income by way of contribution received from:

- recognised clearing corporation or
- any recognised stock exchange being shareholder in such recognised clearing corporation or a contributor to Core Settlement Guarantee Fund;
- any clearing member contributing to the Core Settlement Guarantee Fund

(b) the income by way of penalties imposed by the recognised clearing corporation and credited to the Core Settlement Guarantee Fund; or

(c) the income from investment made by the Fund.

Note: The Clearing Corporations are required, under the provisions of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 notified by SEBI, to establish a fund, called Core Settlement Guarantee Fund (Core SGF) for each segment of each recognized stock exchange to guarantee the settlement of trades executed in respective segments of the exchange.

**Special Allowance to meet *personal expenses*.
[Section 10(14)(ii)]**

These allowances are exempt to the extent of *amount received or the limit specified whichever is less*:

Allowance	Exemption
Children Education Allowance (Note-1)	₹ 100 pm per child for max 2 children (Step/adopted child)
Hostel Expenditure Allowance (Note-1)	₹300 pm per child for max 2 children (Step/adopted child)
Transport Allowance	₹800 ₹1600 pm but for handicapped employee- ₹1600 ₹3200 (Amended by Finance Act,2015)
Tribal Area Allowance	₹200 pm

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Notification No. 79/2014, dated 12-12-2014

Percentage of Government grant for determining whether a university or other educational institution, hospital or other institution referred under section 10(23C)(iiiab)/(iiiac) is substantially financed by the Government prescribed

Income of certain educational institutions, universities and hospitals which exist solely for educational purposes or solely for philanthropic purposes, and not for purposes of profit and **which are wholly or substantially financed by the Government** are exempt under section 10(23C).

Educational institutions, universities, hospitals and other institutions referred u/s 10(23C) shall be considered as being substantially financed by the Government for any previous year, if the Government grant to such university or other educational institution, hospital or other institution **exceeds 50% of the total receipts including any voluntary contributions**, of such university or other educational institution, hospital or other institution, as the case may be, during the relevant previous year.

