AMENDMENTS BY FINANCE ACT, 2016
CA IPC May 2017

INCOME TAX RATE OF DOMESTIC COMPANY DECREASED FROM 30% TO 29% SUBJECT TO CERTAIN CRITERIA

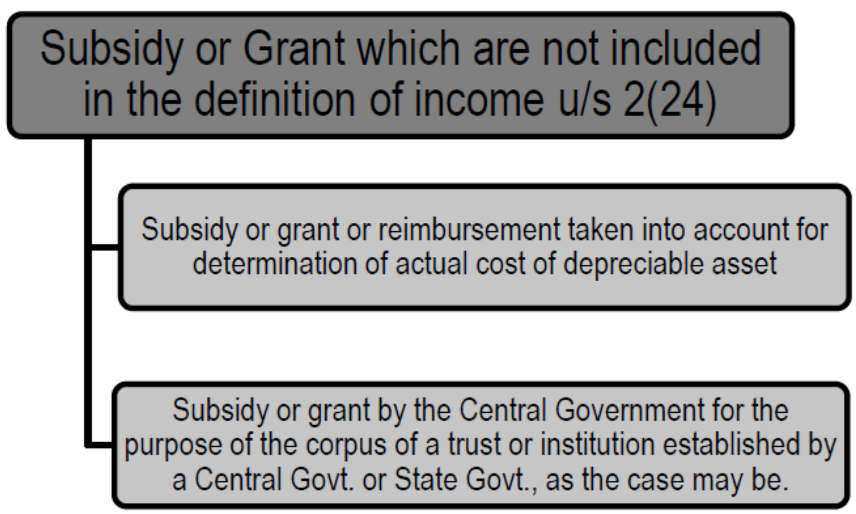
DOMESTIC COMPANY:

	Rate of Tax
(i) Where the total turnover or Gross receipts in the P.Y. 2014-2015 does not exceeds Rs 5 Crore	29% of total Income for A.Y 2017-18
(ii) in case of other Domestic Companies	30% of Total Income

SURCHARGE INCREASED FROM 12% TO 15% FOR INDIVIDUAL/AOP/BOI/ AJP

Assessee	Rate of Tax	Applicable Surcharge			Rate of EC+SHEC
		TI< 1 Crore	TI>₹1 Crore, but TI ≤ ₹10 Crore	TI >₹10 Crore	
1. Domestic Companies	30%	-	7%	12%	3%
2. Foreign Companies	40%	-	2%	5%	3%
3. Firms and LLP	30%	-	12%	12%	3%
4. Local Authorities	30%	-	12%	12%	3%
5. Co-operative Societies	Slabs	-	12%	12%	3%
6. Individuals/HUF/AOP/ BOI/ AJP	Slabs	-	**15%**	**15%**	3%

CAPITAL GRANT EXCLUDED FOM DEFINITION OF INCOME

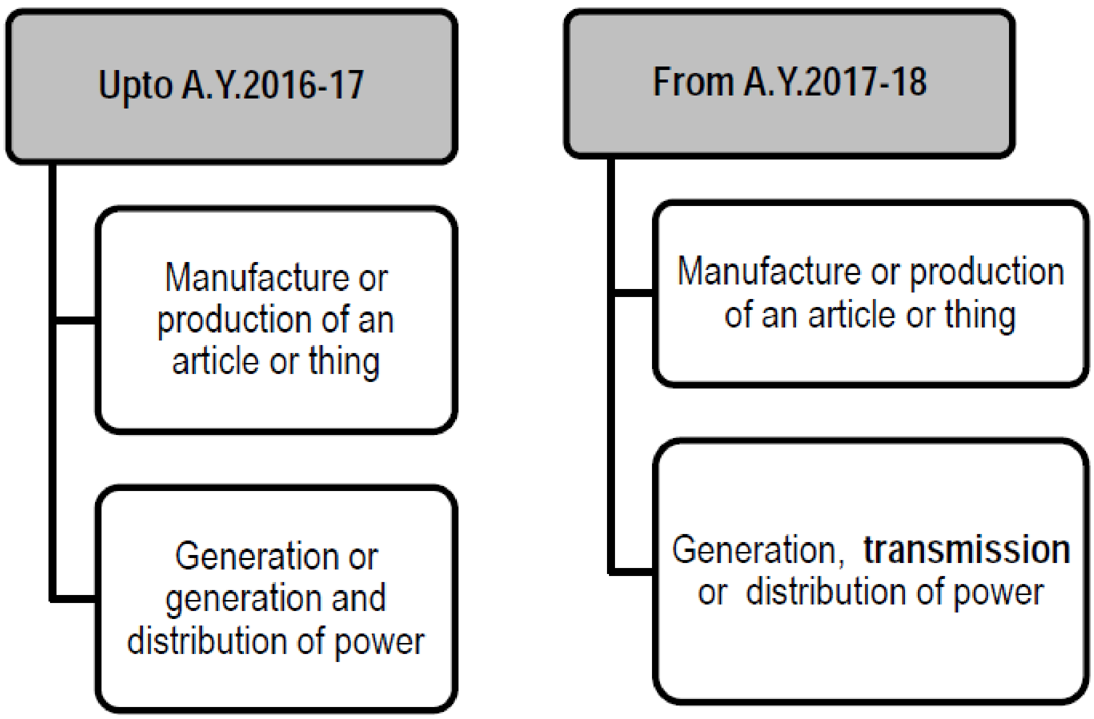


SET OFF OF LOSSES NOT PERMISSIBLE AGAINST UNEXPLAINED MONEY/ INVESTMENTS U/S 68/69A/69B/69C/ 69C

(i) In order to control laundering of unaccounted money by availing the benefit of basic exemption limit, the unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D would be taxed at the rate of **30%**.

(ii) No basic exemption or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act, 1961 in computing such deemed income.

	(iii) Further, no set off of any loss shall be allowable against income brought to tax under sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.
INCREASE IN REBATE U/S 87A FROM 2,000 TO 5,000	In case of Resident Individual, whose total income does not exceed Rs 5,00,000, there shall be allowed rebate of- (a) 100% of Income tax (b) **Rs 5,000**, Whichever is **less** from the amount of Income Tax.
DIVIDEND IN EXCESS OF ` 10 Lakhs CHARGEABLE TO TAX (NEW SECTION 115BBDA)	❖ Dividend is exempt in the hands of receiver u/s 10(34) and hence, Company paying dividend has to pay DDT u/s 115O @ 15%. ❖ This results in vertical inequality for those investors who are subject to higher tax slab. So they are getting taxed at 15% (i.e DDT) otherwise if they are taxed directly, they may have been taxed at a higher rate i.e 20% & 30%. ❖ In order to remove such vertical inequality, Section 115BBDA has been inserted to provide that any income by way of dividend in excess of ` 10 Lakhs. ❖ Further, the taxation of dividend in excess of ` 10 Lakhs shall be on gross basis i.e no deduction shall be allowed of any expenditure or set off of Loss shall be allowed to assessee in computation of income by way of dividends. ❖ Hence, Section 115BBDA is added as a proviso to Section 10(34) i.e Dividends normally shall be exempt except as provided in Section 115BBDA.
EXTENTION OF TIME ALLOWED FOR CONSTRUCTION FROM 3 YEARS TO 5 YEARS	❖ A deduction of an amount of Upto ` 2 Lakhs is allowed u/s 24(b) in respect of interest on capital borrowed on or after 1.04.1999 for acquisition or construction of House Property for purpose of Self Occupation, where such acquisition or construction is completed within 3 years from the end of FY in which capital was borrowed. ❖ Since, Housing projects takes a longer time for completion, Deduction of ` 2 Lakhs shall be available if such acquisition or construction is completed within 5 years from the end of FY in which capital is borrowed.
SPECIAL PROVISION FOR ARREARS OF REND & UNREALISED RENT RECEIVED SUBSEQUENTLY (NEW SECTION 25A)	❖ Currently, Unrealized Rent is governed by Section 25AA and Arrears of Rent received is governed by Section 25B. ❖ Now, These two sections have been merged into new Section 25A, in order to ensure uniformity in tax treatment of arrears of rent & unrealized rent. ❖ As per New Section 25A, The amount of rent received in arrears from a tenant or the amount of unrealized rent realized subsequently from a tenant shall be deemed to be income from House Property in the FY in which such rent is received or realized, and shall be included in total income of assessee under the head Income from House Property, whether the assessee is the owner of property or not in that FY. ❖ Standard Deduction u/s 24(a) @ 30% shall be allowable from such Arrears of Rent or Unrealized rent received.
NON COMPETE FEE RECEIVED FOR NOT CARRYING ON A	❖ Currently, any sum received in cash or in kind, for not carrying out any activity in relation to any business or not sharing any know how, patent, copyright, trade mark, licence or franchise or any other business or

PROFESSION, NOW CHARGEABLE TO TAX	commercial right of similar nature or technique likely to assist in manufacturing or processing of goods or provision of services is taxable as business income. ❖ So Far, non-compete fee received for not carrying on a profession was not covered under these provisions. ❖ Clause (va) of Section 28 has been amended to bring non-compete fee received or receivable in relation to not carrying on any profession, within the scope of profits and gains of business or profession. ❖ Further, it has been clarified by way of proviso that any receipts for transfer of right to carry on any profession, which was chargeable to tax under the head Capital Gains, would not be taxed u/s PGBP, it shall continue to be taxed as Capital Gain.
ASSESSEES ENGAGED IN BUSINESS OF TRANSMISSION OF POWER ELIGIBLE FOR ADDITIONAL DEDUCTION	❖ Section 32(1)(iia) allows additional depreciation@ 20% in respect of cost of new plant or machinery acquired and installed by certain assessees engaged in, inter alia, the business of generation and distribution of power. So, this additional depreciation was not allowable to assessee engaged in business of transmission of power. ❖ So, Now the benefit of additional depreciation @ 20% of actual cost has been extended to assessee engaged in the business of transmission of power also. 
DEDUCTION U/S 32AC ALLOWABLE IF NEW PLANT & MACHINERY ACQUIRED BUT NOT INSTALLED IN YEAR OF ACUQISTION BUT INSTALLED ON OR BEFORE 31.03.2017. (EFFECTIVE FROM	❖ Section 32AC provides for deduction @ 15% of actual cost of new plant & machinery acquired and installed in a PY by a company engaged in manufacturing or production of any article or thing, if actual cost exceeds Rs. 25 Crores. However, for claiming deduction, the acquisition and installation had to be in the same year. ❖ The requirement of acquisition & installation in the same year caused genuine hardship in cases in which assets having being acquired could not be installed in the same PY. ❖ Therefore, Section 32AC has been amended to provide that acquisition of P & M, actual cost of which exceeds Rs. 25 Crores has to be made in the relevant PY but installation may be made by 31.03.2017 in order to avail

AY 2016-17)	the benefit of deduction of 15%.
TAX TREATMENT OF SPECTRUM FEES (SECTION 35ABA)	❖ The government has newly introduced spectrum fee for auction of airwaves. ❖ In order to resolve the uncertainty in tax treatment of payments in respect of spectrum i.e whether spectrum is an intangible asset and spectrum fees paid is eligible for depreciation u/s 32 or whether it is in nature of a "Licence to operate telecommunication business" and eligible for deduction u/s 35ABB, new Section 35ABA has been inserted to provide for tax treatment of spectrum fee.

<table>
<tr><th></th><th>Transaction</th><th colspan="2">Manner of deduction</th></tr>
<tr><td>(1)</td><td colspan="3">Acquisition of right to use spectrum</td></tr>
<tr><td rowspan="5"></td><td rowspan="5">Any capital expenditure incurred for acquisition of any right to use spectrum for telecommunication services either before the commencement of the business or thereafter at any time during any previous year and for which payment has actually been made (actual payment of expenditure or payable in the prescribed manner) to obtain a right to use spectrum.</td><td colspan="2">Appropriate fraction of the amount of such expenditure [1/total number of relevant previous years]</td></tr>
<tr><td colspan="2">Meaning of relevant previous years:</td></tr>
<tr><td>Case</td><td>Meaning</td></tr>
<tr><td>Where the spectrum fee is actually paid before the commencement of business to operate telecommunication services</td><td>The previous years beginning with the P.Y. in which such business commenced and the subsequent P.Y. or P.Y.s during which the spectrum, for which the fee is paid, shall be in force.</td></tr>
<tr><td>In any other case</td><td>The previous years beginning with the P.Y. in which the spectrum fee is actually paid and the subsequent P.Y. or years during which the spectrum, for which the fee is paid, shall be in force.</td></tr>
<tr><td>(2)</td><td colspan="3">Transfer of the spectrum</td></tr>
<tr><td></td><td>Case 1: Where the proceeds of the transfer are less than the expenditure incurred remaining unallowed</td><td colspan="2">The expenditure remaining unallowed as reduced by the proceeds of transfer shall be allowed in the previous year in which the spectrum has been transferred.</td></tr>
<tr><td></td><td>Case 2: Where the proceeds of the transfer exceed the amount of expenditure remaining unallowed</td><td colspan="2">The excess amount shall be chargeable to tax as profits and gains of business in the previous year in which the spectrum has been transferred. However, the excess should not exceed the difference between the expenditure incurred to obtain the spectrum and the amount of expenditure remaining unallowed.

If the spectrum is transferred in a previous year in which the business is no longer in existence, the taxability would arise in the above manner as though the business is in existence in that previous year.</td></tr>
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	Case 3: Where the proceeds of the transfer are not less than the amount of expenditure incurred remaining unallowed.	No deduction for such expenditure shall be allowed in the previous year in which spectrum is transferred or in respect of any subsequent previous year or years.
	Case 4: Where a part of the spectrum is transferred (and the case is not covered under Case 2 above)	Unallowed expenses would be amortised in the following manner – (i) subtracting the proceeds of transfer from the expenditure remaining unallowed; and (ii) dividing the remainder by the number of relevant previous years which have not expired at the beginning of the previous year during which the licence is transferred.
(3)	Transfer of spectrum in a scheme of amalgamation	
	If the amalgamating company sells or transfers the spectrum to the amalgamated company, being an Indian company under the scheme of amalgamation	The provisions of section 35ABA will apply to amalgamated company as they would have applied to amalgamating company as if the latter has not transferred the spectrum. The tax treatment in cases 1,2 & 3 given in (2) above will not apply to the amalgamating company.
(4)	Transfer of spectrum in a scheme of demerger	
	If the demerged company sells or transfers the spectrum to the resulting company, being an Indian company under the scheme of demerger	The provisions of section 35ABA will apply to resulting company as they would have applied to demerged company as if the latter has not transferred the spectrum. The tax treatment in cases 1,2 & 3 given in (2) above will not apply to the demerged company.

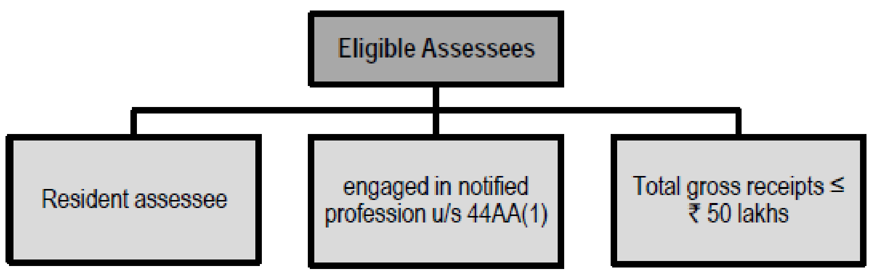
Consequences of failure to comply with the conditions after grant of deduction:

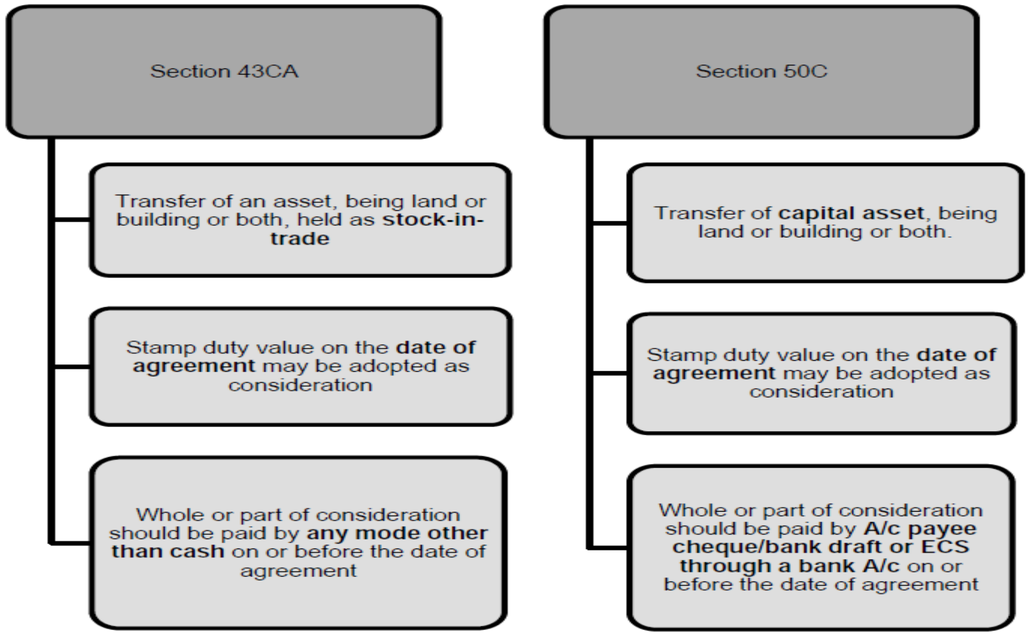
(i) Deduction shall be deemed to have been wrongly allowed;

(ii) AO may re-compute the total income of the assessee for the said PY and make necessary rectification. This is notwithstanding anything contained in the income tax act, 1961;

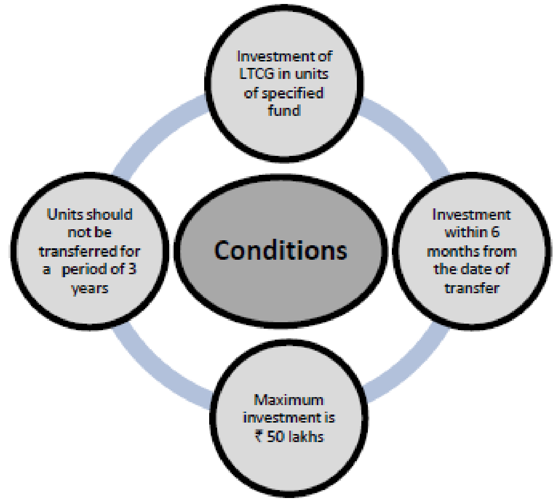
(iii) The provisions of Section 154 for rectification of mistake apparent from record would apply. The period of 4 years would be reckoned from end of PY in which failure to comply with provisions of Section 154 takes place.

SECTION 43B	In order to encourage timely payment of dues of Railways for use of the Railway assets, Clause (g) has been inserted in Section 43B to expand its scope to include ***any sum payable by the assessee to the Indian Railways for use of Railways Assets*** with its ambit.

INCREASE IN THRESHOLD LIMIT OF GROSS RECEIPT/ TURNOVER U/S 44AD	❖ For the purpose of reducing the compliance burden of the small tax payers and facilitating the ease of doing business, the threshold limit specified in the definition of "eligible business" has been increased from Rs. 1 Crore to Rs. 2 Crore. ❖ Further, expenditure in nature of Salary, Remuneration, Interest, etc paid to partner as per Section 40 (b) shall not be deductible while computing the income u/s 44AD. ❖ The eligible assessee is now required to pay advance tax by 15th March of the FY. ❖ If eligible assessee declares profit for any PY in accordance with provisions of this section **and** he declares profit for **any** of five consecutive AY relevant to PY succeeding such PY **not in accordance** with provision of Sub Section (1), he shall not be eligible to claim the benefit of this section for five AY subsequent to the AY relevant to PY in which profit has not been declared in accordance with Sub Section (1).
PRESUMPTIVE TAXATION SCHEME FOR ASSESSEE ENGAGED IN ELIGIBLE PROFESSION (NEW SECTION 44ADA)	❖ New Provision for presumptive taxation scheme for eligible persons engaged in eligible profession in order to reduce compliance burden of small tax payers. ❖ For an Assessee who is engaged in any profession referred to in Section 44AA(1) such as Legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by CBDT, whose total gross receipts does not exceed 50 Lakhs in a PY at a sum equal to 50% of Total gross receipts. ❖ Meaning of Eligible Assessee:  Remaining provisions are same as 44AD.
SECTION 50C AMENDED TO BRING IN LINE WITH SECTION 43CA	Section 50C of the Act has been amended in line with section 43CA to provide that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the **date of agreement** may be taken for the purposes of computing **full value of consideration** for such transfer. **Condition for adoption of stamp duty value on the date of agreement:** However, the stamp duty value on the date of agreement can be adopted only in a case where the amount of consideration, or a part thereof, has been paid by way of an **account payee cheque** or account payee bank draft or use of electronic clearing system through a bank account, **on or before the date of the agreement** for the transfer of such immovable property.



Exemption of Long Term Capital Gains on Investment in Notified Units of Specified fund (NEW Section 54EE)(Effective AY2017-18)	**OBJECTIVE**	For incentivizing the startup ecosystem in India, the “Startup India Action Plan” envisages establishment of a Fund of Funds which intends to raise Rs. 2,500 Crores Annually for Four years to finance the startups.
	EXEMPTION	In order to achieve this objective, New Section 54EE has been inserted to provide exemption from CG if LTCG proceeds are invested by an Assessee in units issued before 1st April 2019 of such fund, as may be notified by CG.
	QUANTUM OF EXEMPTION	The lower of the Capital Gains or the amount so invested would be exempted under this Section.
	TIME LIMIT FOR INVESTMENT	6 Months after the date of transfer
	CEILING LIMIT FOR INVESTMENT	The Maximum investment in units of the specified fund in any FY is Rs. 50 Lakhs. Further, the investment made by an Assessee in the units of specified fund out of CG arising from the transfer of one or more Capital Assets, cannot exceed Rs. 50 Lakhs, whether the investment is made in the same FY or Subsequent FY or partly in the same FY and partly in the subsequent FY.
	CONSEQUENCE OF TRANSFER BEFORE 3 YEARS	Where the units are transferred at any time within a period of 3 years from its acquisition, the capital gains, to the extent exempt earlier, would be chargeable as CG in the year of acquisition.
	DEEMED TRANSFER	Further, if the assessee takes any loan or advance on the security of such units, he shall be deemed to have transferred such units on the date on which such loan or advance is taken.
	CONDITIONS	

	
EXEMPTION U/S 54GB EXTENDED	In order to encourage individuals/HUF to setup a start-up company by selling a residential property and investing in the shares of such company, section 54GB has been amended to provide that long term capital gains arising on account of transfer of a residential property shall not be charged to tax, if: (1) the net consideration is invested in subscription of equity shares of a company which qualifies to be an eligible start-up on or before the due date of filing return of income under section 139(1); (2) the individual or HUF holds more than 50% shares of the company or 50% voting rights after the subscription in shares by such individual or HUF; and (3) such company utilises the amount invested in shares to purchase new plant and machinery within one year from the date of subscription in equity shares. **Purchase of computers or computer software out of amount invested in shares of an technology driven start-up permitted** In case of an eligible start-up, being a technology driven start-up so certified by the notified Inter-Ministerial Board of Certification (IMBC), the company can also utilize the amount invested in shares to purchase computers or computer software. This is because computers or computer software form the core asset base of such technology driven start-ups. **Meaning of Eligible Start Up Company:**

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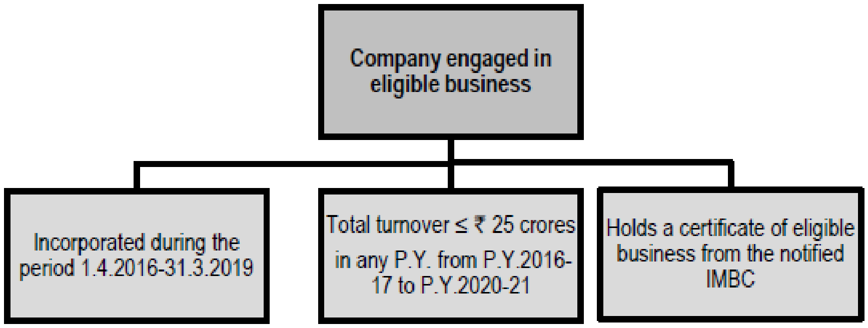

<u>Meaning of Eligible Business:</u>

A business which involves -

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<tr>
<td>EMPLOYER’S CONTRIBUTION TO WELFARE FUNDS (Section 43B)</td>
<td>Under Section 43B, certain deductions are admissible only on payment basis. The CBDT has observed that some field officers disallow employer’s contribution to PF or SF or GF or any other fund by invoking provisions of Section 43B, if it has been paid after the due date as per the relevant Acts.

CBDT has examined the matter in light of judicial decisions. In the case of <u>Commission vs. Alom Extrusions Ltd</u> the Apex court held that deduction is allowable to employer assessee if he deposits the contributions to welfare funds on or before the due date of filing return of income and not the due date under relevant acts.</td>
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<tr>
<td>ADDITIONAL DEDUCTION FOR INTEREST ON LOAN BORROWED FOR ACQUISITION OF SELF-OCCUPIED HP BY AN INDIVIDUAL (SECTION 80EE)</td>
<td><u>Quantum of Deduction:</u> The Maximum Deduction allowable is Rs. 50,000/-.

<u>Tenure of Deduction:</u> Benefit of deduction under this section would be available till the repayment of loan continues.

<u>Condition:</u>
1. Loan should be sanctioned during PY 2016-17.
2. Loan Sanctioned ≤ Rs. 35 Lakhs
3. Value of House ≤ Rs. 50 Lakhs
4. Assessee should not own any RHP on date of sanction of loan
5. Loan taken by Financial Institution or Housing Finance Company</td>
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<tr>
<td>DEDUCTION OF RENT PAID (SECTOIN 80GG)</td>
<td>Amount of Deduction:
• Rent paid less 10% Of Adjusted TI, OR
• Rs 5,000 p.m., or
• 25% of Adjusted TI.</td>
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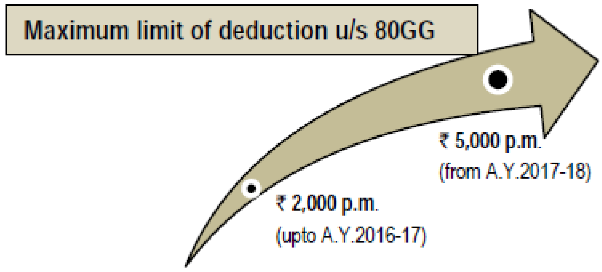

REVISION IN THRESHOLD LIMITS FOR TDS

Revision in threshold limits for deduction of tax at source from certain payments:

	Section	Nature of payment	Threshold limit (₹)	
			Upto 31.5.2016	From 1.6.2016
(1)	192A	Payment of accumulated balance due to an employee participating in recognized provident fund	30,000	50,000
(2)	194BB	Winnings from horse race	5,000	10,000
(3)	194C	Payment to contractors (revision of threshold of aggregate payment in a year)	75,000	1,00,000
(4)	194D	Insurance commission	20,000	15,000[3]
(5)	194G	Commission on sale of lottery tickets	1,000	15,000
(6)	194H	Commission or brokerage	5,000	15,000
(7)	194LA	Payment of compensation or enhanced compensation on compulsory acquisition of immovable property	2,00,000	2,50,000

REDUCTION IN RATE OF TDS

Reduction in rate of tax to be deducted at source in respect of certain payments:

	Section	Nature of payment	Rate of TDS	
			Upto 31.5.2016	From 1.6.2016
(1)	194DA	Payment in respect of life insurance policy	2%	1%
(2)	194EE	Payments in respect of deposits under National Savings Scheme	20%	10%
(3)	194G	Commission on sale of lottery tickets	10%	5%
(4)	194H	Commission or brokerage	10%	5%

In addition, the rate of TDS under section 194D in respect of insurance commission has been reduced from 10% to 5%[4].

COMMON ADVANCE TAX PAYMENT FOR CORPORATES AS WELL AS NON CORPORATES

Common advance tax payment schedule for both corporates and non-corporates (other than an eligible assessee in respect of eligible business referred to in section 44AD) from 1st June 2016:

Due date of installment	Amount payable
On or before 15th June	Not less than 15% of advance tax liability
On or before 15th September	Not less than 45% of advance tax liability, as reduced by the amount, if any, paid in the earlier installment.
On or before 15th December	Not less than 75% of advance tax liability, as reduced by the amount or amounts, if any, paid in the earlier installment or installments.
On or before 15th March	The whole amount of advance tax liability as reduced by the amount or amounts, if any, paid in the earlier installment or installments.

***Note** - Any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year on or before 15th March.*

ASSESSEE ELIGIBLE FOR PRESUMPTIVE TAXATION U/S 44AD LIABLE TO PAY ADVANCE TAX

Eligible assessee computing profits on presumptive basis under section 44AD to pay advance tax by 15th March

An eligible assessee, opting for computation of profits or gains of business on presumptive basis in respect of eligible business referred to in section 44AD, shall be required to pay advance tax of the whole amount in one instalment on or before the 15th March of the financial year.

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year on or before 15th March.

FURNISHING OF EVIDENCE BY EMPLOYEES FOR COMPUTING TDS U/S 192

Furnishing of evidence of claims by employee for deduction of tax under section 192 *[Notification No.30/2016 dated 29.4.2016]*

New Rule 26C has been inserted in the Income-tax Rules, 1962, with effect from 1st June, 2016, to require furnishing of evidence of the following claims by an employee to the person responsible for making payment under section 192(1) in Form No.12BB for the purpose of estimating his income or computing the tax deduction of tax at source:

S.No.	Nature of Claim	Evidence or particulars
1.	House Rent Allowance	Name, address and PAN of the landlord(s) where the aggregate rent paid during the previous year exceeds ₹ 1 lakh.
2.	Leave Travel Concession or Assistance	Evidence of expenditure
3.	Deduction of interest under the head "Income from house property"	Name, address and PAN of the lender
4.	Deduction under Chapter VI-A	Evidence of investment or expenditure.

MANDATORY FILING OF RETURN OF INCOME

Every person, being an individual or HUF or an AOP or a BOI, whether incorporated or not or any artificial juridical person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year, without giving effect to provisions of Chapter VI-A **& Long term capital gain u/s 10(38)**, exceeds the basic exemption limit shall be liable to furnish return on or before the due date.

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<tr><td>TIME LIMIT FOR FILING BELATED RETURN U/S 139(4)</td><td>A person who has not furnished a return within the time allowed to him under
section 139(1), or within the time allowed under a notice issued under section 142(1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.</td></tr>
<tr><td>BELATED RETURN CAN BE REVISED U/S 139(5)</td><td>If any person, having furnished a return under section 139(1) or belated return under section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.</td></tr>
<tr><td>RETURN NOT DEEMED TO BE DEFECTIVE IF SELF-ASSESSMENT TAX IS NOT PAID BEFORE FURNISHING THE RETURN</td><td>A return which is otherwise valid would not be treated defective merely because
self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing of the return.</td></tr>
<tr><td>MONETARY LIMITS FOR FURNISHING PAN (W.E.F 01.01.2016)</td><td>
<table>
<tr><th>Nature of Transaction</th><th>Value of Transaction</th></tr>
<tr><td>Sale or Purchase of a motor vehicle which requires registration by a registration authority other than 2 wheelers.</td><td>All Such Transactions</td></tr>
<tr><td>Opening of an Account (other than Fixed Deposit and a Basic Saving Bank Deposit Account) with a Banking Company or a Co-operative Bank</td><td>All Such Transactions</td></tr>
<tr><td>Making an Application to any banking company or a Co-operative Bank or to any other company or institution, for issue of a credit or debit card</td><td>All such transactions</td></tr>
<tr><td>Opening of a Demat Account with a Depository, participant, Custodian of securities or any other person registered u/s 12(1A) of SEBI Act, 1992</td><td>All Such Transactions</td></tr>
<tr><td>Payment to a Hotel or restaurant against a bill or bills at any one time</td><td>Payment in cash exceeding Rs. 50,000</td></tr>
<tr><td>Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time</td><td>Payment in cash exceeding Rs. 50,000</td></tr>
<tr><td>Payment to a Mutual Fund for purchase of its units</td><td>Amount Exceeding Rs. 50,000</td></tr>
<tr><td>Payment to a company or an institution for acquiring debenture or bonds issued by it</td><td>Amount exceeding Rs. 50,000</td></tr>
<tr><td>Payment to RBI for acquiring bonds issued by it</td><td>Amount exceeding Rs. 50,000</td></tr>
<tr><td>Deposit with a banking company or a Co-operative Bank</td><td>Deposits in cash exceeding Rs. 50,000 during one day</td></tr>
<tr><td>Purchase of bank drafts or pay order or bankers cheque from banking company or co-operative bank</td><td>Payment in cash exceeding Rs. 50,000 during one day</td></tr>
<tr><td>A Time Deposit with:
a) Banking Company or a Co-operative Bank</td><td>Amount exceeding Rs. 50,000 or</td></tr>
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<tr><td>b) Post office
c) Nidhi Company
d) NBFC(Deposit NBFC)</td><td>aggregating to more than Rs. 5 Lakhs during a financial year.</td></tr>
<tr><td>Payment of Life Insurance Payment</td><td>Amount aggregating to more than Rs. 50,000 in a financial year</td></tr>
<tr><td>A contract for sale or purchase of Securities other than Shares</td><td>Amount exceeding Rs. 1 Lakhs per transaction</td></tr>
<tr><td>Sale or purchase by any person of Shares of a company not listed in RSE</td><td>Amount Exceeding Rs. 1 Lakh per transaction</td></tr>
<tr><td>Sale or purchase of any immovable property</td><td>Amount exceeding Rs. 10 Lakhs or valued by Stamp Valuation authority at an amount exceeding Rs. 10 Lakhs</td></tr>
<tr><td>Sale or Purchase by any person, of Goods or services other than above (including Jewellary)</td><td>Amount exceeding Rs. 2 Lakh per transaction</td></tr>
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<td>TDS ON PAYMENT BY TELEVISION CHANNELS AND PUBLISHING HOUSES TO ADVERTISEMENT COMPANIES FOR PROCURING OR CANVASSING FOR ADVERTISEMENT</td>
<td>There are two types of payments involved in the advertisement business:
(i) Payment by client to the advertising agency: TDS Deductible u/s 194C
(ii) Payment by advertising agency to television channel or newspaper company: No TDS

Another issue raised is whether fees/charges taken or retained by advertising companies from media companies for canvassing/ booking advertisements (typically 15% of billing) is commission or discount.

Issue examined in: <u>Jagran Prakashan Ltd; Living Media Limited</u>;
It held in both the cases that the relationship between the media company and the advertising agency is that of Principal to Principal basis and therefore not liable to TDS u/s 194H.</td>
</tr>
<tr>
<td>TDS PROVISION ON PAYMENT BY BROADCASTERS OR TELEVISION CHANNELS TO PRODUCTION HOUSES FOR CONTENT</td>
<td>The issue under consideration is whether payments made by Broadcaster/ Telecaster to production houses for production of content/ programme are payment under a Work Contract liable for TDS u/s 194C or a contract for professional or technical services liable for TDS u/s 194J.
Two Situations:
(i) <u>A payment for production of content/ programme as per specification of broadcaster/ telecaster</u>: Content is produced as per specifications and copyright is also transferred, such contract is covered under the definition of the term “Work” and subject to TDS u/s 194C.

(ii) <u>A payment for acquisition of broadcasting/ telecasting rights of the contents already produced by the production house</u>: Where the telecaster/ broadcaster acquires only the telecasting/</td>
</tr>
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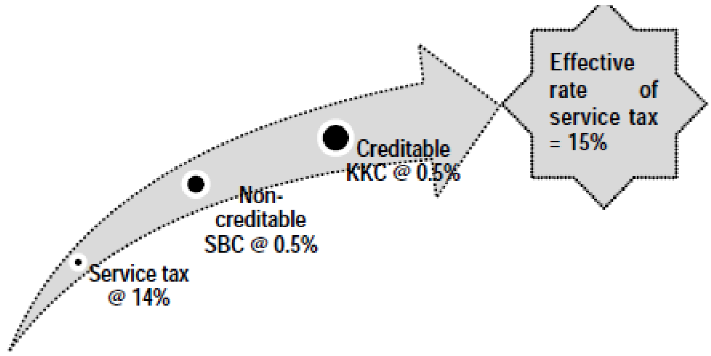
	broadcasting rights of the content already produced by production house, there is no contract for carrying out any work as required u/s 194C. Therefore, 194C is not applicable.
DEDUCTION IN RESPECT OF EMPLOYMENT OF NEW EMOPLOYEES (NEW SECTION 80JJAA)	1. **Increase in Scope**: In old section, benefit was allowed only to Assessee whose GTI includes any profit and gains derived from manufacture of goods in a factory. Now, it has been substituted to increase the scope and cover all sectors. 2. **Quantum of Deduction**: Assessee to whom Section 44AB applies, whose GTI includes any profits and gains derived from business, a deduction of an amount equal to 30% of additional employee cost incurred in course of business in PY, would be allowed for 3 AY including the AY relevant to PY in which such employment is provided. 3. **Conditions**: a. Business should not be formed by splitting up, or the reconstruction, of an existing business; b. Business is not acquired by assessee by way of transfer from any other person or as a result of any business reorganization c. Report of Accountant, giving prescribed particulars, has to be furnished along with ROI 4. **Additional Employee**: Employee who has been employed during the PY and whose employment has the effect of increasing the total number of employees employed by employer as on the last day of preceding year. **Exclusions from Definition**: **(a)** An employee whose total emoluments are more than 25,000 p.m. or **(b)** Employee for whom entire contribution is paid by Government under Employee Pension scheme; **(c)** Employee employed for a period of less than 240 days during PY; **(d)** An Employee who does not participate in the recognized Provident Fund 5. **Emoluments**: Any sum paid or payable to an employee in lieu of his employment by whatever name called **Except**: (a) Any contribution paid or payable by employer to any pension fund or provident fund or any other fund; (b) Any lump sum payment paid or payable to an employee at the time of termination or superannuation or voluntary retirement such as gratuity, leave encashment, commutation of pension, etc.
SURPLUS ON SALE OF SHARES OR SECURITIES – WHETHER TAXABLE AS CAPITAL GAIN OR BUSINESS INCOME?	Determination of the character of a particular investment in shares or other securities, whether the same is in the nature of capital asset or stock in trade, is essentially a fact specific determination and has led to a lot of uncertainty and litigation in the past. **Parameters laid down by CBDT and courts:** 1. **Where Assessee opts to treat such shares and securities as Stock in Trade**: Where the assessee itself, irrespective of period of holding the listed shares and securities opts to treat them as stock in trade, the income arising from transfer of such shares would be treated as its business income; 2. **Listed Shares and Securities held for a period of more than 12 Months:** In Respect of listed shares and securities held for period of more than 12 months immediately preceding the date of transfer, if the assessee desires to the treat the income as Capital Gain, the same shall not be put to dispute by AO. However, this stand, once taken by assessee in a particular AY, shall remain applicable in subsequent AY also and

	taxpayer shall not be allowed to adopt a different or contrary stand in this regard in subsequent years; 3. **<u>Other Cases:</u>** In all other case, nature of transaction shall continue to be decided keeping in view the aforesaid circulars issued by CBDT.
MISC TOPICS	1. Transfer of units by unit holders on consolidation of plans within a mutual fund scheme not be regarded as Transfer. 2. Period of holding of unlisted shares to qualify as a long term capital asset to be reduced from More than 36 months to More than 24 months. 3. Redemption of an individual of Sovereign gold bonds issued by RBI not to constitute transfer for the purpose of levy of Capital gains Tax. 4. Long term capital gains on shares of private companies to be subject to concessional rate of tax @ 10% in the hands of non-corporate non-residents and foreign companies.

SERVICE TAX

<table>
<tr><td>KKC APPLICABLE W.E.F 01.06.2016</td><td>
A Krishi Kalyan Cess (KKC) will be levied as service tax @ 0.5% on the value of all or any of the taxable services. This cess will be in addition to any cess or service tax leviable on such taxable services.



Therefore, w.e.f., 01.06.2016, the effective rate of service tax would be 15% [14% + 0.5% SBC + 0.5% KKC]. A point to note here is that though CENVAT credit of KKC would be available, SBC will not be eligible for credit.
</td></tr>
<tr><td>DEFINITION OF “TRANSACTION IN MONEY OR ACTIONABLE CLAIM” AMENDED</td><td>
Transaction in money or actionable claim does not include, inter alia, “any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out by a lottery distributor or selling agent on behalf of the State Government, in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner, in accordance with the provisions of the Lotteries (Regulation) Act, 1998.”
</td></tr>
<tr><td>EDUCATIONAL SERVICES REMOVED FROM NEGATIVE LIST BUT COVERED UNDER MEGA EXEMPTION LIST</td><td>
Services by way of-
(i) pre-school education and education up to higher secondary school or equivalent;
(ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
(iii) education as a part of an approved vocational education course
were covered in negative list of services under clause (l) of section 66D of the Finance Act, 1994.
</td></tr>
<tr><td>PASSENGER TRANSPORT BY AIR CONDITOINED STAGE CARRIAGE REMOVED FROM NEGATIVE LIST</td><td>
The Finance Act, 2016 has omitted sub-clause (i) of clause (o) of section 66D with effect from 01.06.2016. Therefore, service of transportation of passengers, with or without accompanied belongings, by a stage carriage would become taxable with effect from 01.06.2016

However, service tax will not be payable on such services by a non air-conditioned contract carriage as the same have been exempted under Mega Exemption Notification No. 25/2012 ST dated 20.06.2012.

The service of transportation of passengers by air-conditioned stage carriage would be taxed at the same level (40%) as applicable to the transportation of passengers by a contract carriage, with same conditions of non-availment of CENVAT credit.
</td></tr>
<tr><td>TRANSPORTATION BY A VESSEL FROM</td><td>
Services by way of transportation of goods by an aircraft or a vessel from a place outside India up to the customs station of clearance in India were covered
</td></tr>
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<tr><td>A PLACE OUTSIDE INDIA UP TO CUSTOM STATION REMOVED FROM NEGATIVE LIST</td><td>in negative list of services under section 66D(p)(ii) of the Finance Act, 1994.

The Finance Act, 2016 has omitted sub-clause (ii) of clause (p) of section 66D with effect from 01.06.2016. However, service tax will not be payable on such services by an aircraft as the same have been exempted under Mega Exemption Notification No. 25/2012 ST dated 20.06.2012.</td></tr>
<tr><td>CONSIDERATION IN TERMS OF MONEY</td><td>“Gross Amount charged” by the Service Provided or agreed to be provided.

“Gross Amount Charged” includes the payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment, and any amount debited or credited, as the case may be, to any account, whether called “Suspense Account” or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.

Consideration includes:
(i) any amount that is payable for the taxable services provided or to be provided;

(ii) any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed;

(iii) any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or as case may be, the discount received, that is to say, the difference in the face value of lottery ticket and price at which the distributor or selling agent gets such ticket.</td></tr>
<tr><td>NEGATIVE LIST</td><td><table>
<tr><td>Services provided by Government or a LA to another Government or a LA</td><td>Exempt but services specified in sub clauses (i), (ii) and (iii) above are taxable.</td></tr>
<tr><td>Services provided by Government or a LA to an individual who may be carrying out a profession or business</td><td>1. Services by way of grant of passport, visa, driving license, birth or death certificates have been exempted vide notification no. 25/2012 ST Dated 20.06.2012 as amended by Notification No. 22/2016 ST Dated 13.04.2016.

2. Further services provided upto a taxable value of Rs. 5,000 are exempt.</td></tr>
<tr><td>Service Tax on taxes, cesses or duties</td><td>Taxes, cesses or duties levied are not consideration for any particular service as such and hence not leviable to service tax.</td></tr>
<tr><td>Service tax on Fines and Penalties</td><td>1. it is clarified that fines and penalties chargeable by Government or LA imposed for violation of a statute, bye laws, rules or regulations are not leviable to service tax.

2. Fines and Liquidated damages payable to Government or LA for non-performance of contract entered into with Government or LA have been exempted under Mega Exemption Notification vide notification no. 22/2015 dated</td></tr>
</table></td></tr>
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		13.04.2016.
	Service provided in lieu of fee charged by Government or a Local authority	1. it is clarified that any activity undertaken by Government or a LA against a consideration constitutes a service and the amount charged for performing such activities is liable to service tax. It is immaterial whether such activities are undertaken as a statutory or mandatory requirement under the law and irrespective of whether the amount charged for such service is laid down in a statute or not. As long as the payment is made for getting a service in return (i.e. as a quid pro quo for the service received) it has to be charged as a consideration for that service and taxable irrespective of by what name such payment is called. It is also clarified that service tax is leviable on any payment, in lieu of any permission or license granted by the Government or a LA. 2. However, services provided by the Government or a LA by way of: (i) Registration required under Law; (ii) Testing, Calibration, Safety Check or Certification relating to protection or safety of workers, consumer or public at large, required under the law. Have been exempted under Notification No. 22/2016 dated 13.04.2016. 3. Further, Services provided by Government or LA where the Gross amount charged for such services does not exceed Rs. 5,000 have been exempted vide Notification No. 22/2016 dated 13.04.2016. However the Said exemption does not cover Sub Clauses (i), (ii) & (iii) above. Further, in case of continuous service, where the gross amount charged for such service does not exceed Rs. 5,000 in a FY.
	Services in the nature of allocation of natural resources by Government or a LA to Individual Farmers	Services by way of allocation of natural resources to an Individual Farmer for the purpose of agriculture have been exempted. Such allocations/ Auctions to categories of persons other than Individual Farmers would be leviable to service tax.
	Services in the nature of change of land use, commercial building approval, utility services provided by Government or LA	Regulation of Land Use, Construction of Buildings and other services listed in the XII Schedule to Constitution which have been entrusted to Municipalities under Article 243W of Constitution, when provided by Government authority are already exempted are already

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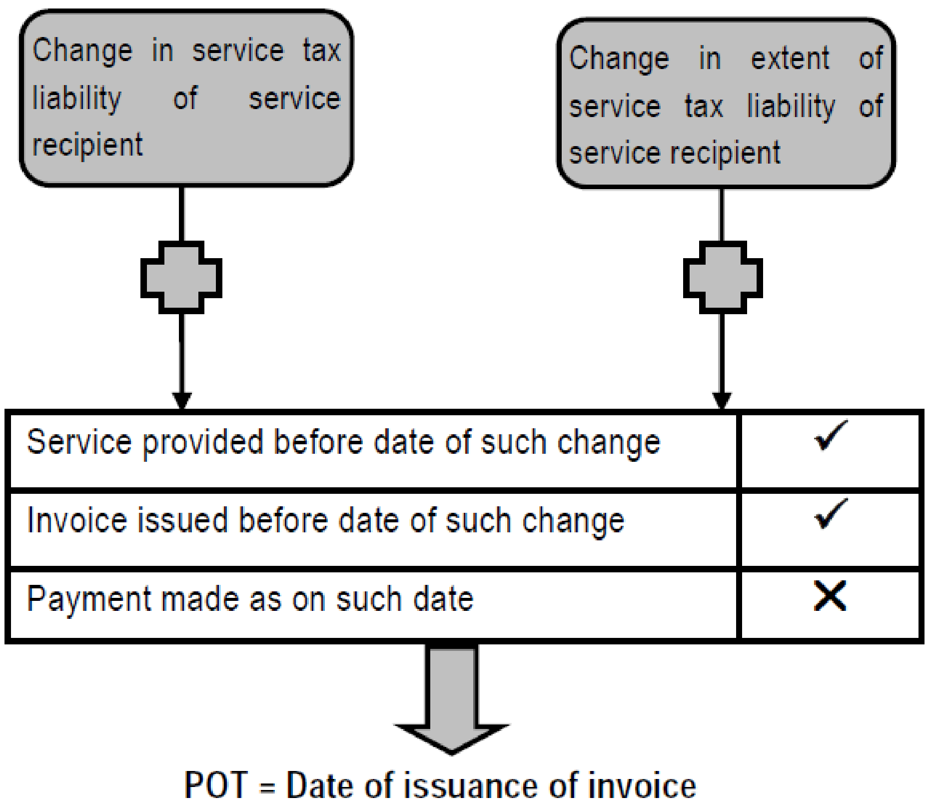
<tr><td></td><td><table><tr><td></td><td>exempted under Mega Exemption. The said services when provided by Government or a LA have also been exempted vide Notification No. 22/2016 dated 13.04.2016.</td></tr><tr><td>Services provided by Government or LA or Governmental Authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of Constitution</td><td>Exempted vide Notification No. 22/2016 dated 13.04.2016.</td></tr></table></td></tr>
<tr><td>POINT OF TAXATION RULES 2011</td><td>3rd PROVISO:
Where there is change in the liability or extent of liability of a person required to pay tax as recipient of service notified under sub section 2 of section 68 of Act, in case service has been provided and invoice issued before the date of such change, but payment has not been made as on such date, the point of taxation shall be the date of issuance of invoice.


4th PROVISO:
In case of services provided by the Government or LA to any business entity, the point of taxation shall be earlier of dates on which:
(a) Any payment, part or full, in respect of such service becomes due, as specified in the invoice, bill, Challan or any other document issued by Government or LA demanding such payment; or
(b) Payment of such services is made.</td></tr>
<tr><td>MEGA EXEMPTIONS</td><td>1. Ministry of HRD vested with the power to recognize educational courses for the purpose of recruitment to post of GOI, has clarified that the post graduation</td></tr>
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	programme in Management and Fellowship Programme conducted by IIM are equivalent to MBA and PHD degree. A new entry 9B has been inserted to the Mega Exemption Notification exempting the services provided by IIM as per the guidelines of CG, to their students, by way of the following educational programmes, except Executive Development Programme; (a) Two Year full time residential Post Graduate Programme in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of CAT, conducted by IIM; (b) Fellow Programme in Management; (c) Five year integrated programme in Management. 2. A new Entry 9C has been inserted to exempt services of **assessing bodies** empanelled centrally by Directorate General of Training (DGT), Ministry of Skills Development and Entrepreneurship (DSDE) by way of assessment under Skills development initiative scheme. DGT, MSDE empanels assessing bodies to assess the competencies of the persons trained under SDI scheme. Such assessment is done by assessors of high competence, repute and integrity (Sector wise and Area Wise) 3. A new entry 9D has been inserted to exempt the services provided by **training providers** under Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDU-GKY) under the Ministry of Rural Development by way of **offering skills or vocational training courses** certified by National Council for Vocational Training. 4. Services provided BY a performing artist in folk or classical art forms of: i) Music; ii) Dance or iii) Theatre, where the amount charged is upto Rs. 1,50,000. (EARLIER THE LIMIT WAS Rs. 1,00,000) Excluding services provided by any artist as a brand ambassador; are exempt from service tax. 5. Services of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority of India (PFRDA) under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013); 6. **Specified services by EPFO/ IRDA/ NCCCD/ SEBI** (a) Services provided by EPFO to persons governed under EPFMP Act, 1952 (b) Services provided by IRDA to insurers under IRDA Act, 1999 (c) Services provided by SEBI set up under SEBI Act, 1992 by way of protecting the interest of investors in securities and to promote the development of and to regulate the securities market; (d) Services provided by National Centre for Cold Chain Development (NCCCD) under Ministry of Agriculture, Cooperation and Farmer's welfare by way of cold chain knowledge dissemination. 7. **SERVICES PROVIDED BY GOVERNMENT:** ⇨ Services provided by Government or a local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate; ⇨ Services provided by Government or a local authority where the gross

	amount charged for such services does not exceed Rs. 5000/- : Provided that nothing contained in this entry shall apply to services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994: Provided further that in case where continuous supply of service, as defined in clause (c) of rule 2 of the Point of Taxation Rules, 2011, is provided by the Government or a local authority, the exemption shall apply only where the gross amount charged for such service does not exceed Rs. 5000/- in a financial year; ⇨ Services provided by Government or a local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Government or the local authority under such contract; ⇨ Services provided by Government or a local authority by way of- (a) registration required under any law for the time being in force; (b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, required under any law for the time being in force; ⇨ Services provided by Government or a local authority by way of assignment of right to use natural resources to an individual farmer for the purposes of agriculture; ⇨ Services provided by Government or a local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Government or the local authority before the 1st April, 2016: Provided that the exemption shall apply only to service tax payable on one time charge payable, in full upfront or in installments, for assignment of right to use such natural resource; ⇨ *Services provided by Government or a local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to 1st April, 2016 on payment of licence fee or spectrum user charges, as the case may be;* Services provided by Government by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges (MOT). 8. Exemption to transportation of passengers by ropeway, cable car or aerial tramway withdrawn. 9. Educational services omitted from Negative list but covered under mega exemption hence not liable to service tax. 10. Services of transportation of passenger by stage carriage removed from negative list but covered under mega exemption (non AC stage carriage)

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<tr><td></td><td>11. Transportation of goods by an aircraft from a place outside India upto the custom station of clearance removed from negative list but covered under mega exemption and hence not liable to service tax.</td></tr>
<tr><td>ANNUAL RETURNS</td><td>A new sub rule 3A has been inserted in Rule 7 to provide that notwithstanding anything contained in sub rule 1, every Assessee will submit an Annual Return for the FY to which the return relates by 30th day of November of the Succeeding FY.

A new sub rule 2 has been inserted in Rule 7B to provide that an Assessee who has filed the Annual return may submit a revised return within a period of 1 month from the date of submission of the said annual return.

CBEC may extend the date of filing Annual return under circumstances of special nature and may exempt an assessee or class of assessees from filing such annual return.

A new sub rule 2 has been inserted in Rule 7C to provide where the Annual Return is filed by Assessee after the due date, the assessee will have to pay to the credit of CG, an amount calculated at the rate of Rs. 100 per day for the period of delay in filing such return, subject to maximum of Rs. 20,000.</td></tr>
<tr><td>INTEREST PAYABLE ON LATE PAYMENT OF SERVICE TAX (SECTION 75)</td><td><table>
<tr><th>S. No.</th><th>Situation</th><th>Rate of simple interest payable p.a.</th></tr>
<tr><td>1.</td><td>Collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due</td><td>24%</td></tr>
<tr><td>2.</td><td>Other than in situations covered under serial number 1 above</td><td>15%</td></tr>
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