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HAND WRITTEN NOTES

CA FINAL DIRECT TAX

For May'18 & Nov'18

By

CA Siddharth Narendra Surana

ABOUT THE FACULTY

CA. SIDDHARTH N. SURANA (Mumbai) is an educationist who has specialized in the field of Taxation. He is an internationally renowned DIRECT TAX faculty and the video CDs of his Tax Lectures are being sold in all states of India and all countries where ICAI conducts exams. He is a Visiting Faculty at the Western India Regional Council (WIRC) of ICAI. He is an ex-faculty of Sukh Sagor Institute (SSI), Mumbai. He is an excellent orator and has substantial experience of teaching taxation to CA students. He is known for his humorous examples which make a treacherous subject like taxation very easy to understand. He is popularly known as "TAX GURU" among the CA student fraternity. He has produced meritorious students and numerous exemptions attempt after attempt. ***On 6th Oct'17, he became the 1st faculty in India to revise full portion of DT for CA Final Nov'17 attempt on Facebook Live with students across the globe.***

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ÒNLY FACULTY who revises IPCC portion (i.e, Five heads of Income + Clubbing of Income + Set Off and Carry Forward of Losses + Deductions under Chapter VI-A , *which carried 41 marks in May'15, 38 marks in Nov'15, 40 marks in May'16 attempt, 40 marks in Nov'16 and 43 marks in May'17).*

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HANDWRITTEN NOTES FOR A.Y. 18-19

1. These notes are compiled according to the Finance Act, 2017.

2. Notes have been summarized in the order of chapters in the main book drafted for AY 18-19. **These notes also cover the answers to sums solved in class which is why they only appear to be big in size.**

3. These notes are relevant for students appearing in May 2018 and Nov 2018 attempts. Our sincere thanks to our student Ms. Anushree Kainya who volunteered to work on these notes.

4. Kindly give a feedback about your reading on gyaanvijay@gmail.com or +91 9773300126.

5. For latest tax updates SUBSCRIBE TO:
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7. Face-to-Face lectures are held at the following locations:
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ALL THE BEST. MAY GOD BLESS YOU

CA Final Direct Tax Handwritten Notes

Faculty: CA. Siddharth N. Surana

Special Thanks: Miss Anushree Kainya

WORLDSTAR

Sr. No.	Date	Title	Page No.

TOTAL CHAPTERS

40 chaps

Volume I

Chp 1 + 15 = 16 chaps (Intro)

[Chaps are not related to each other]

Volume II

16 chaps

[Chps are related to each other]

Volume III *

8 chaps [IPCC]

Avg around 40 marks

(i) Salary
(ii) HP
(iii) PGPB
(iv) CG
(v) IFOS
(vi) Clubbing of Inc
(vii) Set off / carry forward
(viii) Ded. u/c VI A.

WORLD STAR™ Date : Page : 1

12th Aug '17

PAPER PATTERN

Q1 → 20 marks [compulsory]

Q1 (a) - 10m
(b) - 10 m } Mostly 1 ques on CG

Q2 to Q7 → Any 5 × 16m = 80 marks.

From this one ques is case laws - attempt this ques, as ans is small & saves time.

✱ SECTIONS TO BE LEARNT:

→ Volume I - only imp ones

→ Volume II - imp. (learn all).

also write sec. no.s only if you are sure - if you write incorrect sec. no. - ZERO marks.

✱ No Author Books is required. 1st - 3 volumes.

2nd - solve PM

3rd - Last 3 RTP's (i.e your attempt & last 2 attempts)
(Ans will not match due to amendments)

4th - Mock Test Papers.

TAX RATES FOR AY 2018-19 (∴ PY 17-18)

* Budget - 2017 is applicable

Tax rates are there for 7 categories:

I] INDIVIDUAL [SLAB RATES]

(A) Normal Individual	(B) Senior Citizen	(C) Very Senior Citizen
(< 60 yrs) (i.e. 0yrs - 59yrs)	(≥ 60yrs - < 80yrs)	(≥ 80 yrs)
(Includes NR - any age)	(Includes only Resident)	(Includes only Resi)

TAX RATES		Income	Income	Income
0%	-	0 - 2.5L [Basic Exemp]	0 - 3L	0 - 5L
5%	-	2.5L - 5L	3L - 5L	—
20%	-	5L - 10L	5L - 10L	5L - 10L
30%	-	10L - Above.	10L - Above	10L - Above

ref AY 18-19

* Remember: Income over Rs10L — Basic Tax = 30% of Income > 10L + 1,12,500 | If Income > 10L — Basic Tax: 30% of Inc > 10L + 1,10,000 | If Income > 10L — Basic Tax: 30% of Inc > 10L + 1,00,000

Eg: NTTI = 13L

Basic Tax = 2,02,500	Basic Tax = 2,00,000	B. Tax = Rs 1,90,000
[3,00,000 × 30% = 90,000 + 1,12,500]	[3,00,000 × 30% = 90,000 + 1,10,000]	[3,00,000 × 30% = 90,000 + 1,00,000]

Eg: A NR of age 65 yrs - will fall in the category of Normal Indi. and not senior citizen, cause he is a NR.*

* Whenever words like Rebate, Reduction, Relief are used, it reduces your TAX LIABILITY & not Income. ↳ Beggar word.

* Exemption / Deduction reduces your Income.

3 Things that will be reduced from your TAX are :

(a) Rebate U/S 87A [Decrease in Tax Liab]
(↓ in TAX and not Income)

(i) CONDITIONS : Resident
AND Individual
AND NTTI ≤ 3,50,000 (Amendment wef AY 18-19)
↳ Note : exact 3,50,000 allowed i.e. Rebate applicable.

All 3 conditions need to be satisfied.

(ii) QUANTUM : $\boxed{\text{Lower of}}$:
Actual Tax
or
₹ 2,500 (wef AY 18-19)

(b) Surcharge [Increase in Tax Liab]
(↑ in TAX LIABILITY for a person who is super rich)
Super rich is a person whose NTTI > 1 Cr.

Surcharge is to be paid @ 15% of Basic Tax*

* NOTE : Surcharge is to be paid by NR's also

wef AY 18-19 → NTTI > 50 Lakhs @ 10% of Basic Tax*

* NOTE : Exact amt of ₹ 1 Cr and 50 lakhs – Surcharge Not Appli.

Eg : NTTI = Rs 1·5 Crs

Basic Tax =	43,12,500
+ Surcharge @15% of 43,12,500 (Basic Tax)	+ 6,46,875

(C) Education Cess (EC) @ 3%

↓

To be paid ALWAYS [i.e. includes Resi, NR's, irrespective of your income].

@ 3% × [Basic Tax − Rebate + SC]
IF IF

II] HINDU UNDIVIDED FAMILY [HUF], AOP-BOI and AJP [Artificial Juridical Person]

↳ Hindus, Jains, Sikhs & Buddhists follow the Hindu Succession Act

Applicable upto 4 generations.

Same as I(A) − Individual

Rebate	−	✗
SC	−	✓
EC	−	✓

NOTE: whatever may be the age / Resi status of HUF, the slab rates of Individual will be applicable

Eg: HUF of 65 yrs / 80 yrs of age

Slab Rates will be : 0% − 0 - 2.5L

5% − 5L - 10L

⋮ ⋮

Eg of AJP: U own a pet dog - it wins cash price in race - cash price is taxable.

III] FIRM [including LLP] / LOCAL AUTHORITY

↳ will be covered in Vol I - Chap - Assessment of Firms

IV] COMPANY

↳ will be covered in Vol I - Chap - M.A.T * very imp chap.

DOUBLE TAXATION AVOIDANCE AGREEMENTS [DTAA]

Eg: Tata steel $\xrightarrow{\text{salary}}$ Dad $\xrightarrow{\text{fees}}$ SS classes

Tata steel ↓ Tax.

Dad ↓ Tax paid on sal

SS classes ↓ Tax paid on fees → Theatre

Theatre ↓ Tax.

Theatre → Tata steel: Required steel for renovation

The above story is not Double Taxation.

DOUBLE TAXATION means : SAME PERSON

(+)

SAME INCOME

↓

TAXED TWICE

Eg: Mr M : Resident of India

Goes to Italy for a picnic

During the last 5 days of his trip – no money, cards are not working.

So does a part-time job and Earns ₹100

TAXABLE: In India ? | In Italy ?

In India ? ↓ Since he is a Resi– taxable on world income

eg: Tax = 30% of 100

= ₹30

(HOME)

In Italy ? ↓ Since source of Income

eg: Tax = 40% of 100

= ₹40

(HOST)

It is an eg. of Double Taxation because: Same person (Mr M) has been taxed on same income (₹100) – twiced (i.e. In India – ₹30 and In Italy – ₹40). So total ₹70 has been paid as ~~taxed~~ tax.

So, in this chap we will try to reduce this amt of ₹70.

How can this ₹70 be reduced ?

DOUBLE TAXATION RELIEF

i) Bilateral Relief
u/s 90 / 90A

(a) Both Governments
(b) Co-operate
(c) Agreement (this ag. will be made by both the Govt.s)
(i.e. DTAA)

This is done to allow free flow of trade.

[In the case of Bilateral Relief, both the govt.s mutually agree to reduce the amt of 70.
i.e. either 30 will be 0 or 40 will be 0 or 30 & 40 will reduce accordingly.]
It depends from agreement to agreement.

ii) Unilateral Relief
u/s 91

(a) Only one Govt i.e. GOI.
(b) Non co-operation
(c) NO DTAA.

In this case since the other govt (i.e. Italy) is not ready to enter into an agreement so you will have to pay ₹40, thus India will provide relief on amt of ₹30.

* Hence, in Bilateral Relief - aim to reduce ₹70
Unilateral Relief - aim to reduce ₹30.

(10 points)

(i) BILATERAL RELIEF

(a) Both Govts

(b) Co-op

(c) ∴ DTAA

Still now India has entered into DTAA with 118 countries.

(d) Approx 120 - Different agreements (There are around 196/7 countries in the world).

(e) Every DTAA is different. (eg: cal^n in every DTAA is diff.)

↓

NOT IN SYLLABUS (cause studying all the DTAA not possible)

Hence we'll be learning common points in all the DTAA's.

To be studied → (f) $\boxed{\text{Every}}$ DTAA :

(i) Relief from Double Taxation (i.e. by how much ₹70 will be reduced by?)

AND

(ii) Exchange of Information. ϕ (Refer pg-10)

(g) Two Methods

Which method to follow - ques will provide u info.

(i) Tax Credit Method	(ii) Tax Exemption Method
↓	↓
Both govt.s take tax, one will give credit of tax paid in other country.	One will take, other will exempt.
Eg: ① Italy (Host) gives credit	Eg: ① Italy exempts
India ₹30	India - ₹30
Italy (₹40-₹30) ₹10	
	② India exempts
② India (Home) gives credit	Italy - ₹40.
Italy ₹40	
India ₹30 - Max 30 Nil	

NOTE: Which country will give credit / exemption will be known from the DTAA (i.e. differs from agreement to agreement).

(h) DTAA is OPTIONAL. - Section 90(2).

→ whenever there is a conflict between ~~be~~ DTAA and normal income tax provisions — ~~oneever~~ whichever is beneficial will prevail.

Section 90A

(i) GOI ←Tax Information Exchange Agreement (TIEA)→ Non-Sovereign Territory.

[* Till now GOI has entered into TIEA with 15 countries]

(territory where Kingdom rule prevails).

*It is not connected to Income Tax, but since its there, we need to study

Association in India ←→ Association outside India

Eg: ICAI enters into agreement CA Institute of UK. Now if u are an Indian CA and wont to give UK CA exam, then u are exempted from 17 papers & will have to give only 2 papers.

(j) If DTAA credit is claimed due to being resident of another country, assessee will have to furnish TRC (i.e. Tax Residency Certificate) from that country.

Eg: If an Indian person goes to USA for some days, and when GOI asks him to pay tax he proves that he is not a Resident of India. Similarly, to the US Govt also he proves that he is not a Resident of USA. Thus, this resulted in him not paying tax anywhere.

Now, if he tells the GOI that he is a Resi of USA & has paid tax in USA and claims DTAA credit — Then he has to show proof of payment of Tax in USA by obtaining TRC from USA Govt. If for some reason USA Govt refuses to give TRC, then the assessee will have to pay tax in India.

Exchange of Information (EOI) :

After the assessment of your income, the tax department issues a Demand notice (U/S 156) – stating the tax to be paid. It is to be paid within 30 days.
If you fail to pay within 30 days, you'll be called "ASSESSEE IN DEFAULT" and the tax dept. will send the Tax Recovery Officer (TRO) to your house. (TRO are like bouncers).
The TRO will take your movable, immovable property and also has the powers to arrest you. He will auction your property to recover the tax.
In case you have property in London (USA), the TRO does not have the power to takeover the property in London. (i.e. powers of TRO restricted to India only)
But with the help of DTAA between India and USA there will be exchange of information. So what to do by the country will be decided in EOI.
How much information to be given to the other country is mentioned in DTAA.

\# The Modi Govt. is working on REAL TIME EOI. It means suppose an Indian spends $10 in USA, Big Daddy (Mr Modi) will get to know abt it. How?
This is done by complusory linking of Aadhar with Passport, PAN, etc.
Hence, Big Daddy is always watching you.

NOTE: If a ques on bilateral relief is asked in exams, the relevant clause of DTAA will be given. [like comprehension ques]

13th Aug'17

Mostly asked in exams.

(ii) UNILATERAL RELIEF u/s 91 [Q of 6-8 marks can be asked → u can score full marks].

(a) Non co-operation
(b) Only GOI
(c) NO DTAA

CONDITIONS [only if these conditions are satisfied, then you'll get unilateral Relief]

(i) Resident

(ii) Income outside India

(iii) Tax paid outside India

(iv) NO DTAA.

These conditions are obvious.

NOTE: There is Effectively only 1 condition i.e. (i) Resident of India.

NOTE: calculation of DTAA-unilateral relief is given in sec 91

Eg(i) Mr. X – Resident – 35 yrs
Indian Income – ₹8,00,000
Country X – ₹5,00,000 (20%)
NO DTAA

Sol: First check if there is Double Taxation – If yes, then check whether Bilateral / Unilateral.

Step 1: In order to calculate tax, you need to first calculate NTTI

∴ NTTI = 8,00,000 + 5,00,000
= ₹13,00,000

Step 2: Final Tax (Before Relief)

$= ₹\ 202500 + 3\%\ (EC)$

$= ₹\ 2,08,575$

Step 3: Average Rate Tax (ART) $= \frac{(2)}{(1)} \times 100$

$= \frac{208575}{1300000} \times 100$

$= 16.04\%$

Step 4: Foreign Rate of Tax $= 20\%$
↳ (will be always given in ques)

Step 5: Lower of 20% or 16.04%. [It will be lower of Step (3) and Step (4)]
= 16.04%

Step 6: Relief u/s 91

(Doubly taxed income INCLUDED* in NTTI) X Lower Rate

$= 5,00,000 \times 16.04\%$

= Rs 80,200

Step 7: To be done only if asked.

Final Tax Payable ?

= Step 2 − Step 6

= ₹ 208575 − 80200

= ₹ 1,28,375

\# ∴ Unilateral Relief will be Lower of :
Idhar ka Tax or
Udhar ka Tax

Eg (ii) Mr X. – Resident – 35 yrs

Income earned in India = ₹8,00,000

" " in Country X = ₹4,00,000 (20%)

(Income earned is Royalty)

~~Contr~~ Country X – NO DTAA

* Royalty is the rent earned on usage of Intangibles.

Royalty – Deduction U/s 80QQB – ₹3,00,000

Sol: (1) NTTI = GTI – Ded U/C VI A

= ₹12L – 3L

= ₹9L

(2) Final Tax (b/f relief) = Rs 95,275

(3) ART = $\frac{95,275}{9,00,000} \times 100$ = 10.59%

(4) Foreign Tax rate = 20%

(5) Lower = 10.59%

(6) Relief U/s 91

Doubly taxed income INCLUDED in NTTI × Lower Rate

** Rs 1,00,000 × 10.59%

= Rs 10,590

** Outside Inc = 4L

₹3L — Ded availed in India

₹1L — Hence only ₹1L is included in NTTI.

NOTE: When ques is silent about whether a person is Resident / Non-Resi → It is always Resident (NO assumption need to be made) Pg 8

Q1. Mr Rohit – Resident – eligible for unilateral relief U/s 91

Step 1: NTTI = Rs 4,82,000

Step 2: Final Tax = 11,600 + 3% (EC)
= ₹ 11,948

Step 3: ART = $\frac{11948}{482000} \times 100 = 2.48\%$

Step 4: Foreign Tax Rate
Country X = 20% → $\left[\frac{8000}{40,000} \times 100\right]$
Country Y = 2%

Step 5: Lower of: Pg
Between India and X = 2.48% (i.e. lower of 2.48% or 20%)
" " and Y = 2% (i.e. lower of 2.48% or 2%)

Step 6: Unilateral Relief U/s 91
Country X = 40,000 × 2.48% = 992
Y = 30,000 × 2% = 600
1592

Step 7: Tax Payable = 11948 – 1592
= Rs 10,356

NOTE: ① As per section 10(1) - Agricultural Income earned only in INDIA is exempt.
② Agricultural Income from outside India - is TAXABLE under the head "Income from other sources". (IFOS)

pg 4 of TB **Q2.** Mr Kapil - Resident - 38 yrs -

① NTTI = 32,50,000 (25,00,000 + 7,50,000)

② Final Tax = Rs ~~6,75,000 +3% (EC)~~
= Rs 7,87,500 +3% (EC) = RS 8,11,125

③ ART = 24.96%

④ Foreign Tax = 20%

⑤ Lower = 20% (i.e. Lower of 24.96% or 20%)

⑥ Relief u/s 91 = 25L × 20%
= RS 5L

⑦ Tax Payable = ₹8,11,125 − 5,00,000 = $\boxed{₹\ 3,11,125}$

pg-6 of TB **Q6** Computation of Net Taxable Total Income (NTTI).

(a)	IFHP (B - 23%)		
	GAV	3,30,000	
	(-) M.T. PAID	(10,000)	
	NAV	3,20,000	
	(-) Std ded @30%	(96,000)	2,24,000
(b)	PGBP (India)		9,20,000
(c)	IFOS		
	(i) Mum - Savings A/c Int	24,000	
	(ii) Agri Inc (A - 12%)	72,000	
	(iii) Royalty (A - 12%) (8,00,000 − 70,000)	7,30,000	
	(iv) Dividend Inc (B - 23%)	2,25,000	10,51,000

* U need to be clear abt the process i.e. all 5 heads, do each one by one.
Wherever asked to compute NTTI, 1st find GTI, i.e.
All 5 heads
+ clubbing of Income
+/- set off / carry forw
GTI
(-) Ded u/c VI A
NTTI

NOTE: No Dividend Dist. Tax (DDT) is applicable on Foreign Dividend Income

GTI	~~21,95,000~~	21,95,000
(-) Deduction u/c VI A		
(i) 80 QQB (Royalty Ded)	3,00,000	
(ii) 80TTA** (savings A/c int)	10,000	(3,10,000)
NTTI		18,85,000

Computation of Tax

Basic Tax	3,75,500	* (Age - 60yrs).
+ Education Cess @3%	11,265	
Final Tax (Before Relief)	3,86,765	

Unilateral Relief applicable (As Resident - NO DTAA)

ART = $\frac{3,86,765}{1885000} \times 100 = 20.52\%$

Foreign Rate
- Country A = 12%
- Country B = 23%

Lower of
Between India & Country A = 12%
B = 20.52%

Relief u/s 91

Country A: 5,02,000** x 12% = 60,240
(72,000 Agri + 730000 Royalty - 300000 Ded.**)

Country B: 4,49,000** x 20.52% = 92,135
(2,25,000 DIV + 224000 HP)

152,375

∴ Tax Liability = ₹3,86,765 − ₹1,52,375
= $\boxed{₹2,34,390}$

$\boxed{Q9.}$ NTTI = 2 59,60,000 ~~No surcharge case~~

Pg-8 of TB

Tax = 59,60,000 × 30% → since it is a company
= 17,88,000
+ 3% EC)
₹ 18,41,640

Tax ~~paid~~ credit = 21,60,000 × 11.85% = 2,55,960

Bal Tax Payable = 1841640
(255960)
₹ 15,85,680

MODE OF ACCEPTANCE / REPAYMENT OF LOANS

[CASH LOANS] → Short name of chapter

STORY BEHIND INTRODUCTION OF THIS CHAPTER :

A super rich man of Mumbai – does marriage of his child in Parsi Gymkhana @ Marine Drive. Amt spend as follows:

Ground Rent	– 15L
Decoration cost	– 25L
Food cost	– 60L (3000 p. plate × 2000 guests)
	1 cr
Band, etc, etc.	2 cr
	3 cr

TE: IT Dept ks info from ese various rounds, hotels details of ppl who held their functions.

Roughly the man spends ₹3cr, but in his return of income shows income below Basic Exemption.

1 day I.T. Officer ne raid (i.e. search & seizure) karne keliye went to his house and found cash of ₹3crs.

So, the 1st ques asked by I.T.O., from where did u get this 3crs?

Man replies "Abhi 5 min phele loan liya friend se?"

2nd ques asked by I.T.O. – A/c's mein kahan dikhaya?

Man says "Amey abhi toh loan liya, entry kaise pass karunga. kal subah aana, I'll show you the entry."

After I.T.O leaves, man calls up his friend to pass J.E. of loan given and also asks him to reverse the entry next morning – loan recovered.

Similarly, he himself passed entry of loan taken and loan repaid – kaam khatam

This being Illegal income – ITO can't do anything – Hence this chap was introduced, to stop ppl from giving such stupid reasons.

That man was escaping Income Tax, Penalty, Interest.

TE: Nowhere n the Act it s said, u have o pass J.E of oan as the ransaction is done. can be done daily, weekly, etc.

SECTION 269SS

No person shall TAKE / ACCEPT. (i.e BORROWER / SELLER)
[There is no prohibition on LENDER].

↓

included in last yrs amendment

Loan / Deposit / Advance for sale of Property. (i.e. MONEY) **
↳ also known as Token money/ Earnest money

Other than A/C Payee cheque / A/C Payee Draft (like demand draft) / Electronic Mode Eg: RTGS, NEFT, ECS.

i.e. If u want loan/dep/adv u can take it in the above modes only. ~~to~~ If monetary loan/dep/adv taken in other mode – NOT ACCEPTABLE.

↓

If: (i) Amt of loan
(+)
(ii) Existing loan from same party (incl. Interest) [ANY MODE]
↓
Eg(v) next pg
≥ 20,000

[It means if loan/dep/adv is taken in cash, it can be taken upto 19,999 in cash.]

(** Only monetary transactions are included in this section. Eg: U borrow jewellery from your sister – Sec 269SS X.) In case you need car loan, IT prohibit me from taking it, but can be taken in the form of A/c payee chq / draft or elec. mode.

eg: u forgot wallet & want to pay taxi ₹150 U call up sis, but he says u'll have to repay ₹200. (This is cash trans – & like loan) But if they charge penalty for such small amts, you'll go mad. Hence limit of ₹20,000.

Eg: (i) Loan taken from friend by cheque - ₹40,000
NO PENALTY ✓ (As mode is cheque).

(ii) Loan taken from friend in cash - ₹15,000
NO PENALTY ✓ (as amt is less than ₹20,000 in cash).

(iii) Loan taken from friend in cash - ₹ 41,000
(as amt > 20,000 in cash) ← YES PENALTY ✗ AMT? (i) As per Rajasthan HC (Ajanta) - Penalty will be the excess of 20,000 i.e. 21,000 ✗
(ii) As per ICAI - ₹41,000 ✓

(iv) Loan taken from friend
Cash - ₹15000 - NO PENALTY ✓
Chq - ₹40,000 - NO PENALTY ✓

(v) Chq - ₹40,000 - NO PENALTY ✓
Cash - ₹1,000 - YES PENALTY ✗. ∴ Penalty = ₹1000. ✓ (As per ICAI)
The sec says if the existing loan frm same party is ≥ 20,000 [it can be ANY MODE], ∴ penalty.

QUANTUM OF PENALTY : Section 271 D : If contravention of Sec 269SS

100% × Amt of Loan / Advance / Deposit taken in contravention of 269SS

Shortcut * (That amt due to which you say → YES PENALTY, it is the amt of Penalty)

(vi) Cash 29000 Logic of ICAI being correct & Raj HC incorrect :
As per ~~Rg~~ Raj HC - Penalty will be Nil ✗
As per ICAI - Penalty is ₹20,000 ✓
Raj HC says penalty will be excess over ₹20,000
But how can penalty be Nil - ILLOGICAL.

EXCEPTIONS :

No penalty if Loan/Advance/Deposit TAKEN/GIVEN By :
(i.e both Lender & Borrower).

(i) C.G.

(ii) S.G.

(iii) Statutory Corporation (Eg: ICAI, ICSI, ICWA, LIC)
It means any corp. established under the Act of Parliament

(iv) Bank
↳ obviously not appli. eg. during demonitazation, u deposited ₹50,000 (cash) → bank will not penalise itself.

(v) Any other Notified Person
↳ The Act gives power to the Govt., to issue notification during the year to notify any person. The govt. need not wait for the budget for this. Eg: If govt wants to include Mukesh Ambani in the exception – It will release a notification stating the sec & this clause and include Mr Ambani in the exception list.

(vi) If the lender & borrower, $\boxed{\text{both}}$* are agriculturist farmers.

$L \xleftrightarrow{\text{BOTH farmers}} B$

* We pay tax to the Govt because the constitution of India" empowers the Govt. to collect tax from the people.

Aug'17

CASE LAWS:

1) Supreme Court Judgement – Kumari AB Shanti (Assessee)

↓

Taken → L/A/D → Contravention of Sec 269SS

"Reasonable Cause"
(genuine reason)

Eg: There is someone seriously ill in your family. (Obviously you will not carry past reports of this person) You will rush the person to the nearest hospital, also there might be a possibility you are not carrying money. Now in hospital you have to pay advance. You see ur neighbour and borrow ₹1lac from him. Thus cash ≥ 20,000 taken in form of L/A/D by you.
But it was for a Genuine Reason.

Argument 1: Sec 269SS – Unconstitutional ✗ This argument not accepted.
Please Remove.

Argument 2: Without prejudice to above,
My Case – Genuine case
∴ No penalty
↓
In the Penalty Chap: Sec 273B says "No Penalty if REASONABLE CAUSE"

The SC says no need to come till SC – Sec 273B can be explained to the officer and penalty won't be levied.

2) A recent Mumbai ITAT case:
A lady took a loan from her husband to start a new business.
The officer levied penalty saying you have taken a loan in cash → ∴ contravened sec 269SS & levie.
The arguments taken by the housewife were:
1. I was a housewife, who would give me loan (as in which bank) would give? without any Books of Accounts (as no bus. earlier)
2. Now took this loan only once at the start, after which my business is self funding.
3. Money from husband is mine only.
Since she has a 'REASONABLE CAUSE' no contravention of Sec 269SS.

3) Madras High Court
Share Application ≠ L/A/D
∴ No penalty

4) For Cash Discount on Purchases → ∴ No Penalty.
Eg: U are a owner of ready made garment shop. → A zara person comes with a bag full of clothes worth ₹10L.
He says if you take this & give me hard cash of ₹6L, I will give it you now.
You don't have money, so borrow from your neighbour ₹6L and pay to the zara person.
In such a case even the Inc Tax Officers won't have a problem cause you are showing lower purchases — thus higher profits — means more tax.

5) Firm ⟷ Partners
No Penalty
(when partners give money ~~loan~~ to firm, it is not loan but CAPITAL)

6) Bank Transfer Vouchers — NO Penalty.
You have an A/C in HDFC & even Mr B has an A/C in HDFC.
You owe Mr B ₹ 50,000, so I can fill a ~~ban~~ voucher in Bank i.e.
Bank Trf. Voucher through which bank will ↑ Mr B's A/C bal
by ₹ 50000 & reduce mine. L/A/D → cash → not by any acc. modes
≥20,000 - cont But no cause actually its bank who is doing this

7) Short term transaction between sister concerns – NO Penalty.
You work for all the Co.s of the group but receive salary
from one company only. eg. you work for all Reliance co.s but
receive chq from Rel. Industries Ltd. If suppose RIL doesn't
have money, it borrows money from sister concern for short period
of time — NO PENALTY

8) Either 269SS (i.e. 271D)
or
Concealment u/S 68 [unexplained cash credit]
⇓
NEVER BOTH

SECTION 269T:

(Restriction on "REPAYMENT" of loan).

No Person shall "REPAY" (i.e. Borrower or Seller) [again it is abt borrower & not lender]. any L/A/D [i.e. Money**]

other than: A/c Payee cheque | A/c Payee Draft | Electronic Mode

If: Balance Before* Repayment $\geq$ ₹20,000

(Note: exact 20,000 b/w ha toh these modes only).

[For Advance of property sale → Total of all Joint sellers]

eg: There are 6 ppl from EY who want to buy a property. They borrow advance of ₹60,000 from sir to buy the property. sir gives them cheque of ₹60,000 in the name of "M.S." ∴ Immediately they divide ₹60,000 among them i.e. ₹10,000 each.

Now when sir asks for repayment, they say go to each persons house and take from them individually. when he goes to:

	Amt to be collected	Bal Before Repayment
1st person's house	10,000 (paid in cash)	60,000
2nd " "	10,000 (" " ")	50,000
3rd — " —	10,000 (— " —)	40,000
4th — " —	10,000 (— " —)	30,000
5th — " —	10,000 (— " —)	20,000

* Penalty will be levied as contravened Sec 269T. Even the 5th person cont. provision cause Bal O/s exactly 20,000.

6th — " —	10,000 (— " —)	10,000

↳ No penalty as Bal o/s before repayment 10,000 i.e. le[ss] than [20,000]

SECTION 271 E

100% X L/A/D → Repaid in contravention

(That amt due to which you say 'YES')

(No cumulative Penalty) (Refer Eg (ii) and Eg (iii))

Eg : (i) Loan in chq ₹1 Lac & Repaid in Cash

X Cash	1,00,000	Chq	1,00,000

(Yes Penalty)

Sec 271 E

Amt of Penalty : ₹1,00,000

(ii)

Cash	1,00,000	Cash	1,00,000 X (Yes Penalty)
X (Yes Penalty)			

1st Sec 271 D

Amt of Penalty : ₹1,00,000

2nd Sec 271 E

Amt : 1,00,000

(–) Already : (1,00,000)

Nil

(iii)

X cash	58,000	cash	15,000 ✓
(Yes Penalty)		Chq	40,000 ✓
		Cash	3000 X (Yes Penalty)

} No Penalty

Similar to Eg (v) on pg 20 i.e. same concept

Sec 271 E

Amt : 58,000

(–) Already : (3000)

55,000

Sec 271 D

Amt of Penalty : ₹3,000

EXCEPTIONS OF Section 271E — Same as 271D.

NRI TAXATION

(No Fixed weightage of this chap) [Chapter XII - A]

We'll be doing first "CAPITAL GAINS" before starting this chap.

Reference: Capital Gains [STCG / LTCG]

Q1. When LTCG? [If LTCG – 2 Tax Benefits]
Q2 Q3

If Asset = LTCA (Long term cap asset)

Note: Type of CG depends on the type of your asset.

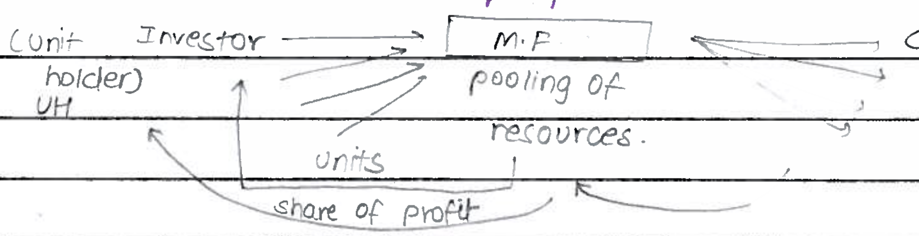
If Holding Period (HP) > 36 months [≤ 36 months = STCA]
i.e. exact 36m then STCA

Exception: Sometimes: LTCA if HP > 12 months [≤ 12 m = STCA]

(a) Listed securities (excl. units) (Shares, deb, govt sec, etc)

These sec are traded on stock exch i.e. frequent fluctuation in prices. Thus u are given the early benefit of taking the risk.

(b) Units of Equity oriented M.F (listed / unlisted)



If u invest directly in co. u become → SH

But if u invest through MF u become → UH.

If MF invests in equity shares of the co. u become → Eq. oriented unit holder

But investment in eq shares shud be ≥ 65% of equity shares

How is 65% cal: [Avg of Monthly Op & Cl. Average]

The share prices of co. goes up & down so the price of ur units also go up & down → taking risk → so benefits also early.

[Debt oriented units are not included cause there in no fluctuation in prices].

(C) Zero Coupon Bond
↓

It means bonds issued @ disc & redeemed at par / premium. In India all co's can't issue zero coupon bond → only Infrastructure co's can issue these bonds cause their gestation period is high.
Eg: Hindustan Const Co. - made Bandra-Worli sea link - took 16 yrs - during this time no single rupee of revenue - But there will be expenses like sal to staff, telephone exp. - so now if the interest burden also comes on the co. - then nobody will be interested to invest in these co's
So in the 16^{th} yr you can pay ur investors.
The logic here is not risk, the logic is we want to promote funding for Infrastructure Co's.

This came Last year i.e. AY 17-18 ← LTCA: If HP > 24 months [≤ 24m - STCA]

(a) Unlisted Shares [Equity, Preference, Public, Pvt]
(Share & debentures carry different risk. In case of listed shares & deb they may carry same risk, but for unlisted it is diff hence unlisted shares are put in this category).

(b) Wef CAY 18-19)
Immovable Property → Land, Building & Both
This was done to encourage ppl to invest in immovable property.

Immovable property means that property which has to be destroyed when it has to be moved from one place to another.

Eg: Desktop Comp. → Not immovable property.

Eg: ① Mr. X is a non-resident and has immovable property — LTCA after 24 months *

② Mr. X is a senior citizen, non-resident & has immovable property — LTCA after 24 months.

Q2. If L.T.C.G. → Benefit of Indexation
(COA adjusted for inflation)
↓
cost of acquisition

Eg: Purchased in 2001-02 — ₹1,00,000
Sold in 2017-18 — ₹1,00,00,000

∴ Profit = SC − COA = ₹ 99,00,000 ✗
↳ This can not be done because purch is 01-02 & sold in 17-18
i.e. timing difference.

Thus you will have to bring your Purch cost i.e COA to present yr by using Indexation.

∴ By using Indexation: COA → ICOA
↓
If COA ↑ ∴ CG ↓ ∴ Tax ↓

$$\frac{ICOA}{COA} = \frac{\text{CII of Year of Transfer}}{\text{CII of year of Acquisition}}$$

Every year the GOI releases 'Cost Inflation Index'

Base Year (wef AY 2018-19)

	CII	
2001-02	100	
2002-03	105	i.e. something which was worth ₹ 100 in 01-02, will cost ₹ 105 in 02-03.
:	:	
2017-18	272	

These 2 CII u have to learn.

$$ICOA = COA \times \frac{\text{CII of Transfer Yr}}{\text{CII of Acq Yr}}$$

CASES : NO INDEXATION
(even if LTCA /LTCG)

a) Section 50B : Slump Sale (C.G) - chap
B for Bhangar

b) Depreciable Asset (P.G.B.P) - chap.

c) NRI Taxation

d) Special Rates of Tax

e) If NR is acquiring /holding any securities (including units also) in India
i.e. shares / debentures.

NR will come with foreign currency — ① they will earn gain when they trf asset ② they will also gain cause of foreign currency.

NOTE : if NR acquired immovable property — YES INDEXATION.

b) Bonds and Debentures. (why? cause you earned fixed income)

Exceptions:

YES INDEXATION
(i) Capital Indexed Bonds (~~Low~~ Govt Bonds - lower int - Taxable - hence Yes Indexation).
(ii) Sovereign Gold Bond issued by RBI.

Q3. Section 112 : If L.T.C.G. - Tax @20%.

Any Assessee who has earned between 5L-10L - Basic Tax 20%. or LTCG 20% - Indifferent.

Similarly for ppl earning ≥ 10L

But ppl earning less than 5L are at a disadvantage cause they may fall in Basic Exemp, but have to pay 20% tax on LTCG.

Sometimes: OPTION — 10% without Indexation. [It means if u are opting for 10% - u will not get indexation benefit]

i.e (Sale − ICOA) x 20%
OR
(Sale − COA) x 10%
whichever is beneficial

Applicable only for below 2 assets:

(a) Listed securities (excl units)
(b) Zero Coupon Bond

NOTE: Any case which falls in the cases of no indexation (Q2) and has an option of 10% (Q3) Then the option of 10% always ADVANTAGEOUS over 20%.

NR $\xrightarrow[\text{(securities)}]{\text{unlisted shares}}$ In India
(never indexation)
[ALWAYS – 10%]

why ?
Since a NR and has acquired unlisted shares – will not get Indexation Benefit – It falls in the exception of NO INDEXATION and will be taxed @20% – NR says I will never acquire unlisted shares in India as not getting any benefit.
Hence Govt said – OK! NR acquiring unlisted shares – taxed @10%

Resident $\xrightarrow{\text{unlisted shares}}$ In India.
1st Benefit – Indexation ✓
2nd will not get 10% tax benefit i.e. taxed @20% } so, only 1 benefit

Resident $\xrightarrow{\text{listed debentures}}$ In India
1st – No Indexation Benefit as these are 'Debentures' – falls in the exception ✗
2nd – Benefit of 10% Tax/Rate, because say price of deb ₹100
As no Indexation, ∴ option ① – 100 x 20% = RS 20
option ② – 100 x 10% = RS 10 ✓
Hence always 10%

NR $\xrightarrow{\text{listed debentures}}$ In India
1st – No Indexation – cause NR has acquired sec i.e. deb in India – falls in the exception ✗.
2nd – Benefit of 10% Tax Rate
∴ Always 10% ✓

NRI Taxation

↓

Specific Assessee (+) AND Specific Income → Special Rate of Tax. [OPTIONAL]

i.e. if u still want to pay normal rate – u can i.e. whichever is beneficial.

Eg: ① Normal Assessee + Normal Income → Normal Rates

② Specific Assessee + Normal Income → Normal Rates

③ Normal Assessee + Specific Income → Normal Rates

SPECIFIC ASSESSEE :

NON-RESIDENT INDIVIDUAL

All 3 conditi[ons n]eed to be fulfilled.

① Individual (i.e. ~~HUF, Co., Firm, etc.~~) (+) ② Citizen of India (COI) or Person of Indian Origin (PIO) (+) ③ NR. during the P.Y.

↓

i.e. any one of them.

↓

COI

→ By Birth

→ By Parents Birth

→ Green card
(u are a NR & get married to Indian citizen, then u can get Indian citizenship)

→ Honorary
(GOI has the right to grant Honorary citizenship to anyone. Eg: Adnan Sami)
Pakistan citizen got Indian citizenship by NAMO.

PIO

Eg: Mr. X

Father — Grand Father, Grand-mother

Mother — Grand-Father, Grand-mother

Out of the above 7 → ANY ONE Born in Undivided India (It means present India & Pakistan & Bangladesh before 1947)

RESIDENTIAL STATUS [Section 6]

2 Basic Conditions → Satisfy ANY ONE : Resident
(∴ NR → Dissatisfy BOTH)

(1) In India ≥ 182 days during the relevant P.Y.
[i.e. 1/4/17 to 31/3/18]

$\boxed{\text{OR}}$

(2) Stayed in India
(a) ≥ 60 days during the relevant P.Y. [1/4/17 to 31/3/18]

$\boxed{\text{AND}}$

(b) ≥ 365 days during last 4 yrs [4 yrs immediately preceding the relevant P.Y. i.e. 1/4/13 to 31/3/17].

2 cases : where Condition 2 – NA
[∴ Resident → Condition 1 ✓] [∴ NR → Dissatisfy Condⁿ 1]

(a) COI or PIO – Living abroad – Coming to India – VISIT
(Logic is u will earn outside & spend money in India).

(b) COI or PIO – Living in India – Going abroad for EARNING / EMPLOYMENT / CREW MEMBER OF INDIAN SHIP.
(same logic as above).

[Continuous Discharge Certificate (CDC) Period will be excluded from Stay in India]

CDC explained in Merchant Shipping Act – under this Act it is said that shipping co. take undertaking from their members that u will continue to discharge your duty for the extra period.

eg: You are going on a ship from 1st Apr to 10th Apr – but sign a CDC till 20th Apr. In case u return on 15th Apr (i.e. come early), still CDC period of 20 days will be excluded (despite last 5 days u r in India).

If Resident, check whether ROR / RNOR

1. Greater than or equal to 730 days during last 7 years

$\boxed{\text{AND}}$

2. Resident in atleast 2 out of last 10 years

7th Aug'17

SPECIFIC INCOME :

Income arising out of a For Ex. Asset (Foreign Exchange) [if not Exempt]

(a) Shares of an Indian Co. [Eq./Pref/Listed/Unlisted/Public/Pvt]
↳ The 2 incomes are
(i) Dividend – But div income is exempt, so no spl rate
(ii) CG

is jis mein
jo income
possible hai
will talk
that
come, but
shud not
exempt.

(b) Debentures of Indian Public Co.
↳ 2 incomes (i) Interest } Both are taxable
(ii) CG

(c) Deposits of Indian Public Co.
* Public co. is specified cause pvt co. can't accept deposits.

(d) Central Govt. securities

(e) Any other notified asset

All 4 assets acquired in convertible Forex

Investment Income
(Revenue Income)
it means only Interest Income
w/z div is exempt.

L.T.C.G.
(∵ STCG → Normal Rates)

* Any income which is taxed at special Rate — Never Chapter VI-A Deduction. (Chp VI-A deduction only if income taxed at normal rates).

	Inv Income	L.T.C.G.
Section 115 E	20% + SC + EC	10% + SC + EC
Section 115 D If opted for 115 E	→ No Deduction of Expenses (eg below)	→ No Indexation
	→ No Basic Exemption Limit.	→ No Basic Exemp. Limit
	→ No Chap VI-A Deduction	→ No Chp VI-A Ded.

Eg. U are an NRI in India and borrow ₹5 Lac @ 8% int. U invest in deb of indian co. @10%.

∴ Income = ₹ 50,000

Int Exp = ₹ 40,000

∴ Taxable Inc = ₹ 50,000.

* The above 3 restrictions will be applicable even if opted for normal rates.

* The above 3 restrictions are not applicable if opted for normal rates.

Whenever u write chp VI-A Ded, always make a habit of writing Maximum Ded. Max ded will be excluding income taxable at Spl rate. In this ques it will exclude L.T.C.G.

14 Q3.

Tax → Normal Tax (WN1)
Tax → As per NRI Taxation (WN2)

(WN1) NORMAL TAX

NTTI

(a) IFHP			3,00,000
(b) CG: Gross sale consideration		4,00,000	
(–) Transfer expense		(10,000)	
Net sale consideration		3,90,000	
(–) ~~I~~ C.O.A		(2,00,000)	
	L.T.C.G		1,90,000
(c) IFOS			
(i) Dividend from Indian Co.		50,000	
(–) Exempt u/s 10 (34)		(50,000)	Nil
(ii) Interest from Debentures		75,000	
(–) expense		~~25~~ (25,000)	50,000
	G.T.I.		5,40,000
Less: Chap VI-A Ded [Max-3,50,000]#			
(i) Sec 80C		(20,000)	
(ii) Sec 80G		(10,000)	(30,000)
	N.T.T.I.		5,10,000

whenever there is a diff split your taxable income

Calculation of Tax: on 5,10,000

L.T.C.G 1,90,000	Other Inc: 3,20,000
@ 10%	@ slab rate
19,000	3,500

cause unlisted shares ← @ 10%

19,000 + 3,500 = 22,500

+ EC @ 3% 675

23,175

(–) TDS (20,000)

* Two advantages of writing Max Ded :
(a) splitting of income
(b) Other income will tally.

(WN2) TAX AS PER SPECIAL RATE

NTTI

(a) IFHP		3,00,000
(b) C.G. G.S.C.	4,00,000	
(-) Trf exp.	(10,000)	
N.S.C.	3,90,000	
(-) ~~I~~ COA	(2,00,000)	
L.T.C.G.		1,90,000
(c) IFOS		
(i) Dividend Income	Nil	
(ii) Interest from Debentures	75,000	
(-) Expense	Nil	75,000
		5,65,000
Less: Chap VI-A Ded [Max - 3,00,000]		
(i) Sec 80C	(20,000)	
(ii) Sec 80G	(10,000)	(30,000)
N.T.T.I.		5,35,000

Calculation of Tax : On 5,35,000

Int Inc : 75,000	LTCG : 1,90,000	Other : 2,70,000	
@20%	@10%	@slabs	
15,000 +	19,000 +	1,000	= 35,000
		+EC @3%	1,050
			36,050
		(-) TDS	(20,000)
			16,050

∴ The Assessee is advised to opt for normal provisions and pay tax of ₹ 3,175.

Section 115F :

(refer pg 13 of TB)

If L.T.C.G

↓

Invested in another Forex Asset - Exemption

↓

If entire ~~C.G.~~ Net Sale Consi (NSC) is invested, then entire C.G. → Exempt.

↓ within a period of 6 months from date of transfer.

Else → Proportionate.

Eg :

	Investment	Exempt	Taxable
(i)	3,90,000	1,90,000	Nil (190000 − 190000)
(ii)	1,95,000	95,000	95,000 (190000 − 95000)
(iii)	1,30,000	63,333	1,26,667 (190000 − 63,333)

From the Ques solved on prv pg. Your LTCG = 190000

(ii) ↳ in this case only $\left(\frac{195000}{390000}\right)$ 50% invested, ∴ only 50% exempt

(iii) ↳ in this case only $\left(\frac{130000}{390000}\right)$ 33.33% invested, ∴ only 33.33% exempt

* The new asset acquired must not be sold, transferred or converted to money for a period of 3 yrs from the date of acquisition.

Section 115G ***

Condition ① If No other taxable Income

[AND]

Condition ② TDS is fully deducted.

↓

No need to file Return of Income (ROI) [4 situations where no ROI needed. Other 3 in next chapter]

Section 115H and I

(a) Special Rates — OPTIONAL

(b) After becoming Resident

↓

Special Rates - Still applicable ✓ [Till the time asset is held]

[If NR at time of Acquisition]

Q5. Tax on 5,10,000
(pg-15)

Investment		LTCG		Other		
60,000		40,000		4,10,000		
@20%		@10%		@slabs		
12,000	+	4000	+	8,000	=	24,000
				+ EC @ 3%		720
						24,720

Normal Provisions : 5,10,000

LTCG		~~4,70,000~~ other			
40,000		4,70,000			1
@10%		@slabs			
4,000	+	11,000	=	15,000	
		+ EC @ 3%		450	
				15,450	

Alternatively, if you want to stay in the provisions of Chap XII-A and reduce your tax liability, then invest your LTCG of ₹4000 in another Forex Asset.

NOTE- In this ques you have to give the above alternative answer also.

27th Aug'17

SPECIAL RATES OF TAX

Specific Assessee (+) Specific Income → Special Rates of Tax + SC + EC * [COMPULSORY]

↓ Applicable only if combo i.e. Sp A & Sp income is there.

* Difference between NRI Taxation & Special Rates of Tax is that the Special Rates of Tax in NRI Taxation – OPTIONAL
" " " " in this chapter – COMPULSORY

Another difference, in NRI Taxation only 1 NRI and 2 specific income whereas in this chapter there are many combos.

SECTION	SPECIFIC ASSESSEE	SPECIFIC INCOME	SPECIAL RATE OF TAX (All these rates are Basic Tax Rates + SC + EC)
① 115A	Non-Resident or Foreign Company	(i) Dividend	20%
		(ii) Interest [whenever someone else uses ur money u earn int income] [pg-55]	20%
		(iii) Royalty [pg-56]	10%
		(iv) Fees for Technical services [pg-56] (Providing Prof. services without a degree)	10%

* For Special Rates of Tax :

(i) No Deduction of expenses
(ii) No Basic Exemption
(iii) No Chapter VI-A Deduction
(iv) No Indexation

* This Dividend chart to be used in this chapter, DDT, CG and IFOS.

DIVIDEND

[Distribution of Profits to Shareholders]

[Reference: Sec 115O: Every "DOMESTIC" Co → DDT @15%.]

earn: will studied in other chap

It is "not INDIAN Co".

Co. pays tax on its profits earned from its BUS.

SH pays tax on the dividend recd from the co.

But why Co. & SH ~~pa~~ both pay Tax? It is because both are 'Separate Legal' Entity'.

Whereas in the case of Partnership Firm, HUF : the members of the firm and Partnership Firm are the same person i.e. no separate legal entity. Similarly in HUF members & HUF same person. Thus if the Firm & HUF pays tax its members do not pay tax.

Now, a company has thousands of shareholders, so the Tax officer bikhari ki tarah goes to each persons/SHs house to collect tax - which is practically not possible.

So Income Tax says I will not go to each person's house - rather co. will pay tax on the amt of dividend distributed.

Thus on Dividend given by DOMESTIC CO - Co will pay DDT

SH need not pay Tax on dividend.

Now DDT @ what rate?

If SH would have paid tax on dividend - it wud be as per slab rates

So the income Tax is smart - it took an average of the lowest rate & highest rate in the slab rates

i.e. $\frac{0\% + 30\%}{2} = 15\%$ → DDT Rate

* sec 2(22)(a) – it means sec 2 clause 22 sub clause a.

INDIAN CO. → Registered IN India

FOREIGN CO → Registered OUTSIDE India.

* All Indian Co.s are domestic co.s ~~but all domestic~~ co.s are not Indian co-s.

What is a DOMESTIC CO.?

(i) All Indian Co.s

(ii) Foreign Co. made arrangement of Dividend Payment in India.

Eg: You buy 2 shares of Apple Co. and entitled to dividend paid by Apple Incorp. So to pay u dividend (case ①) it will ask your details, i.e. Name, Address, Bank details like IFSC, etc and transfer money to ur Charni Road Branch – This is an arrangement – ∴ Apple is DOMESTIC CO.

Case ② But if the co. says I will not transfer money in your bank A/c in ur country, rather you open a bank A/c in my country → Then company i.e Apple is "NOT a DOMESTIC CO."

But for all practical purposes, a foreign co. never makes an arrangement in India.

** V.V. Imp

DOMESTIC CO. | NON-DOMESTIC CO

Domestic Co.:

- Actual Div (Announced in AGM)
  - Sec 115O ✓
  - ∴ DDT ✓
  - ∴ Sec 10(34) Exemp.
  - SH – Res & NR
  - NO TAX as exempt
  - Sec 115BBDA > 10,00,000 @ 10%
- Deemed U/S 2(22) (a), (b), (c), (d), (e)
  - (a) to (d)
    - Sec 115O ✓
    - ∴ DDT ✓
    - ∴ 10(34) – SH: Res, NR
  - (e)
    - Sec 115O X
    - ∴ no DDT
    - ∴ Taxable for RECEPIENT
      - Resi – IFOS – Normal Rate
      - NR – IFOS – Sec 115A @ 20%

Non-Domestic Co:

- Sec 115O X
- ∴ no DDT
- ∴ Taxable for SH's
  - Resident
    - – Normal Rates
    - – IFOS
  - Non-Resident
    - CANNOT TAX
    - Eg: Obama SH (NR) of Apple – Not Domestic co. as per IT Act ∴ NO Tax in India.

This sec came last year

Section 115BBDA : If a SH has received a total of Rs 10,00,000 in a year as dividend (on which DDT is paid) → Then Excess is taxable @10%.

Eg: You recd ₹12L, then excess ₹2L taxable @10%.

REASON: If there was no DDT in India then the SH would pay tax on the div as per slab rates i.e. ₹12L

0 to 2.5L – Nil
2.5L to 5L – 5%
5L to 10L – 20%
10L to 12L – 30%

As per this the Income tax is getting less tax when compared to DDT.

But whereas if co. had paid DDT, it wud be 15% on 12L

Sec 115BBDA

wef AY 2018-19	DDT paid	Excess @10%
All Assessee's	Dividend	
$\boxed{\text{excluding}}$:	>10,00,000	
(i) Domestic Co.	in a year	
(ii) Charitable Trust / Education / Medical Institution		

exception

Some ppl say taxing excess of ₹10L is double taxation – BUT WRONG. Cause as per slab rate >10L taxed @30% & if co. paid DDT it is @15%. And now if SH has to pay @10% for >10L The total tax collected is 15% + 10% = 25% i.e. Tax dept has given up 5% tax [30% - 25%].

DEEMED DIVIDEND (D.D.)

Section 2(22)(a) : Distribution of Profits by company to SH resulting in release of assets.

X Ltd

Sh Cap	20L	Land (FMV-150L)	10L
R&S	80L		
		Stock	90L
	100L		100L

Is this co. a profitable co.? YES as there is R&S of 80L

Is the profitability & liquidity of this co. same? NO

Since it doesnt have cash & bank bal - thus NO LIQUIDITY.

So the SHs in the co.s AGM says - by looking only at liab side - U idiots give us Dividend as u have R&S of 80L.

Co. says - open ur other eye & see on asset side NO CASH/BANK Bal.

So SH said this Land is idle - sell it and u will get Rs150L & then give us dividend.

But If Land is Sold :

(i) C.G.
(ii) Div disallowed
(iii) DDT
(iv) DDT disallowed.

If co. does this it will be a problem

So chupke se called up the SH and said instead of taking cash take this Land & distribute among all the SHs.

Thus co. ne chupke se DDT, CG avoid kar diya aur Land SHs ko de diya.

But CG will NOT BE APPLICABLE cause they have not sold the Land actually. (i.e. no cash has been recd by the co.)

But D.D.T. u/s 115O (15%) on D.D. u/s 2(22)(a)

∴ The deemed dividend u/s 2(22)(a) is the FMV of the Asset [Max D.D. = Free Reserves # including capitalised Profits /Bonus] ϕ

DDT = 15% of FMV of the Asset.

So in the above eg. FMV of the Asset distributed is Rs 150L.

This is because as per Co. Law Max deemed dividend will be Free Reserves since it is contradicting IT Act, that is why this bracket has been written.

ϕ So now since the Co. Law says Max D.D. will be Free Res. what the cos starting doing were - started passing this entry i.e.

Res & Surplus A/c Dr	80L	
To Eq SC		80L

Thus making R&S - Nil and increasing SC. So now in the AGM the SH couldn't say anything as no R&S only.

The IT Dept caught this and said that it will include the capitalization of profits / Bonus also.

asked for 10 m in Nov'16

Section 2(22)(c): Distribution of assets by a company under liquidation.

X Ltd

Sh Cap	20L	Land	100L
R&S	80L	(FMV - 500L)	
	100L		100L

Last person to receive payment @ time of liquidation - EQUITY SH.

So the last asset left is Land

So if the co. sells the Land, then

(i) C.G.

(ii) Div disallowed

(iii) DDT

(iv) DDT disallowed

So to avoid the above the co. distributes the Land worth 500L to its SHs. i.e. instead of money gives Land.

The Land distributed is not a Taxable Transfer ∴ No CG on company.

But DDT u/s 115O (15%) on deemed dividend u/s 2(22)(c)

↓

FMV of Asset [Max D.D. = Free Reserves incl Bonus sh cap].

* The only diff btw 2(22)(a) & 2(22)(c) is that (c) - Liquidation

* Calculation same as 2(22)(a)

In 2(22)(C)

* Capital Gain (CG) on Shareholder [Transfer of shares]
[Asset in lieu of shares]

* Sale consideration		FMV of Asset - DD u/s 2(22)(C) (Recd) **imp
(-) COA / ICOA	-	(Actual)
		C.G. (i.e 500L - 80L)

* In this case on sale of sh you are receiving asset.

Also note : U don't deduct DDT, U deduct Deemed Dividend.

In Future if Asset sold :
∴ CG on SH [Transfer of Asset Received at time of Liquidation] i.e Land in our eg.

Sale consideration	Actual
(-) COA / ICOA	(FMV of Asset @ Liquidation)
	CG

On liquidation, the SH gave their shares & recd Asset. So they will have to pay CG on the shares transfered. In the sale consi you deduct the D.D. cause Co. has already paid tax on it so you get the benefit of that & pay CG on the bal amt.

Now in future when you will sell the Asset Recd from the Co. the COA will be "FMV of the Asset" and no D.D. will be deducted. This is because D.D. of Rs 80L - DDT paid by co. FMV of ₹ 420L (500-80) - CG paid on transfer of sh.
So since tax has been paid on full amt of ₹ 500L - U will get the full benefit of it.

Section 2 (22) (b)

(1) Bonus shares to Preference shareholders

(2) Bonus debentures to Equity / Preference shareholders.

∴ Bonus shares to Equity SH is NOT DEEMED DIVIDEND.

Eg: You are a 10% Pref SH having FV of ₹1,00,000.
Redmp after 5 yrs.
∴ So total dividend for 5 yrs = 100000 × 10% × 5 yrs
= ₹50,000.

Thus to avoid DDT on Rs 50,000, the co. will give you 70,000 free shares.

Hence at end of 5 yrs instead of getting 150000 the SH has got 1,70,000.

Hence the prf SH has got Bonus sh in lieu of dividend, as Prf SH do not have right on the profits of the co.

These Bonus sh issued to avoid DDT — hence Bonus sh treated as D.D. & taxed here.

Section 2 (22)(d) :

Any distribution by company to shareholder during internal reconstruction.

Co will pay tax as if it is giving dividend from profits either in cash or any other form.

Section 2(22) (ce) :

PART I (1) Mr. X —beneficial shareholder ~~ownership~~→ A PRIVATE LTD. (Closely held co.)

≥ 10% with relatives

Loan/Adv/Deposit

Taxable IFOS

Resi — Normal Rate

NR — 115 A

A Pvt Ltd is a healthy co. i.e. earning huge profits & having high cash & Bank Bal's

Mr X. is a 70% SH and uski buri nazar A Ltd ke profits pe thi.

He wanted the profits – but if dividend announced, will have to be given to remaining 30%. SH's also & DDT also needs to be paid.

So Mr X. took the money from the co. in the form of Loan / Advance / Deposit. and enjoyed it's benefits year after year. However, he didn't repay the money to the co.

Hence, IT Act said – L/A/D taken by beneficial SH from a Pvt. co. will be taxed in the hands of the SH under the head IFOS

NOTE : Sec 2(22)(e) is attracted the moment L/A/D is taken i.e even if repaid within 2 days – Sec 2(22)(e) is still applicable.

* Recent Del HC judgement Ambassador Pvt Ltd – Sec 2(22)(e).

PART II (2) Mr. X —beneficial shareholder ≥ 10% with relatives→ A PRIVATE LTD.

As he wanted money, & can't take in form of L/A/D, so thought of another way by starting a new business & having a substantial int. in it.

Substantial interest ≥ 20% with relatives → new BUSINESS ← Loan/Adv/Deposit

BUSINESS → Hence taxable in the hands of the Business, that is why the word "RECEPIENT" has been used in the chart on pg – 45.

Taxable as IFOS

Resident	N.R.
- Normal Rates	- Sec 115 A

NOTES : (i) Sec 2(22)(e) is compulsory even if loan is repaid or even if interest is paid.

(ii) Maximum Deemed Dividend = Free Reserves excluding * capitalised Profits / Bonus.

* In sec 2(22)(a) & (c) – the Tax is paid by the company, hence bonus is included whereas in this sec i.e. 2(22)(e) tax is paid by the SH / Business, hence bonus is excluded.

(iii) Sec 2(22)(e) is not applicable for a transaction done in the ordinary course of business.

eg: I start a Finance Co. and I'm a beneficial shareholder. I want to buy a house so take loan from my co. only.

The int paid on loan or taken to the Co. – ultimately belongs to me only as the profits are mine, cause I'm a beneficial SH i.e. in the end the interest paid comes back to me only.

But since I have taken a loan from a Pvt co -
Hence Part - I of sec 2(22)(e) gets attracted and I will be liable to pay tax on the loan taken.
This means now I will, have to take loan from my competitor - and now my competitor will earn interest on the loan given - BUT NO, I WILL NOT LET MY COMPETITOR EARN MONEY.
Thus, money taken in ordinary course of business — NO section 2(22)(e).

Eg: ADVANCE GIVEN IN ORDINARY COURSE OF BUSINESS

Mr. M. wants to go to venice and does his bookings through a travel agent (who is a Pvt Ltd co.) so Mr M gives advance to the agent. Now, the travel agent has to do advance bookings with the hotel, food co and activity co. (eg sky diving).

i.e Tours & Travel co.

Agent will have to pay advance to all 3 of them.
If suppose the hotel co, food co & activity co. are beneficial SH of the travel agent company - then sec 2(22)(e) will get attracted and will have to pay tax on the advance.
But since advance was in the ordinary course of the Business hence - NO SEC 2(22)(e).

INTEREST :

Sec 115A — NR or Foreign co. — (ii) Interest — 20%.

→ From Infra Debt Fund

Eg: of Poor Infrastructure in India - There is a manufacturing defect in the Bandra-worli sealink.

→ From Indian Co. doing ~~Infra~~ ANY # Business.
(i) Long Term Finance
(ii) Agreement approved by C.G. (between Lender & Borrower).

→ From Business Trust
sp type of org. (to be done in chap Bus. Trust).

→ TO Qualified Foreign Investor (QFI) i.e NR shud himself be QFI

→ 5%.

QFI is an organisation as per SEBI Regulations. SEBI has a list of countries with whom we are friends (i.e. for economic co-operation purpose) so if a NR comes from these countries with whom we are friends, then NR is a QFI.

\# Why 'ANY' Business?

NR gave money to infra Co. - tax @5%. So now when FMCG co. wanted money - NR refused cause it said I will have to pay tax @ 20%. I will not give u money. FMCG approached the Govt saying NR is not ready to pay money - so govt said theek hai U give money to 'ANY BUSINESS CO' - tax will be @ 5%.

ROYALTY & FTS

EXCEPTION 1. Chapter VI-A Deduction

2. Option : 40% u/s 44DA
- Deduction of Expenses
- Basic exemption limit

↓

ONLY IF
- PE in India
- B.O.A should be maintained.
- Audit

[i.e. Pay tax @ 10% u/s 115A or 40% u/s 44DA whichever is beneficial]

[It is like Sales x10% OR Profit x 40%]

ROYALTY - Usage of intangibles

FTS - Eg: Mr A. a CA decides to start a business of Home Inspection. In this business when u buy a property the Inspection co. will check the property and generate a report - stating the defects if any i.e. leekage, etc, the carpet area, etc, etc.

So he has a tie up with a US co. in which he acts only as an agent i.e clicks pics of the walls, etc of the client's property and sends to the US co. The co. generates a report based on the photos and sends it to Mr A (i.e. Agent) who in turn gives it to the client. The After sales service i.e. if any questions of the customer is also answered by the US co.

Hence, Mr A is providing professional services but without a degree.

2nd sept'17

SECTION	SPECIFIC ASSESSEE	SPECIFIC INCOME	SPECIAL RATE OF TAX
② Sec 115AB	Overseas Financial Organisation (OFO)/ Offshore Funds	(a) Share of Profit from M.F. [If not exempt u/s 10(35)]	10%
	Ref: ① Foreign Investors	(b) L.T.C.G on sale of units [∴ STCG - Normal Rate] → No indexation	10%

2 Types : OFO, FII

common btw them: ② SEBI approval

Difference: After approval take Mutual Fund (MF) route | After approval directly invest in market

Common points btw OFO & FII is ① & ②

③ Sec 115AC	Non-Resident	(a) Income from ADR/GDR	10%

NR acq sec in India - he wants to keep trading in India. But can't stay in India for long - so goes back to his country and surrenders his Indian securities to the overseas D.P. who now becomes the owner of the shares. The NR gets ADR/GDR in exchange and pays charges to the D.P.

NR —owner→ securities in India

ADR/GDR

surrender them to overseas D.P

it will be exchanged & charges will be paid to D.P.

D.P - Depository Participant.

The D.P. being the owner will receive dividend/int on the sec. - will give to the NR as the D.P. has already recd the charges as his income.

∴ Div/Int - Taxable @ 10%.

SECTION	SPECIFIC ASSESSEE	SPECIFIC INCOME	SP RATE OF TAX
		(b) Income from Bonds	10% (4)
		(c) LTCG on (a) & (b)	10%

Notified in Official Gazette

↓ Bonds (Public Sector Co.)

↓ Company (ANY BONDS)

(c) LTCG on (a) & (b) — 10%

→ STCG - Normal Rate

→ NO Indexation

1st check who is Notified ?

↓ If Bonds are notified
↓
Further check if they are Bonds of Public Sector Co.
- ↓ Yes – taxable @10%
- ↓ No ✗

↓ If Indian Co. is notified
↓
Then directly taxable @10%

* Public Co. means a co. owned by individuals.
Public Sector co. means government owned co.

SECTION	SPECIFIC ASSESSEE	SPECIFIC INCOME	SP. RATE OF TAX
④ 115 ACA	Resident Employees of Indian Co. # doing Business of Specified knowledge based Industry /Service :	(a) ADR / GDR → of Employer Co. issued under ESOP/ESOS	10%
		(b) L.T.C.G. on (a)	10%
	(i) I.T. - Software	- STCG - Normal Rate	
	(ii) I.T. - Service	- No indexation	

eg: TCS, Infosys ka emp will be covered & not TCS co.

(iii) Bio - Technology
(kachre se energy generate kar rahe ho)

(iv) Pharmaceutical
eg SunPharma, Glaxo, Ranbaxy

(v) Entertainment [It is a very subjective word]
eg: IFA, Red Chillies, CLC (Canvas laugh Club), circus, etc.

(vi) Notified

Or Subsidiary of such co.
i.e. Emp. of the Co. and emp. of the subs. of the co. will be taxed.

It says Indian Co. - which means CA firms i.e KPMG, PWC, EY, etc not included as they are LLP - Partnership Firm.

SECTION	SPECIFIC ASSESSEE	SPECIFIC INCOME	SP. RATE OF TAX
5) Sec 115AD	F.I.I	Securities in India	
5) Sec 115BB	ALL Assessees	Lottery, Crossword, Card Game, Any other Game of chance (i.e. by betting, gambling, etc) [Casual winnings]	30%

Securities in India:

- Revenue (if not exempt) — 20% [if QFI – u/s 115A @5%.]
- C.G.
  - L.T.C.G. — 10% — No Indexation
  - S.T.C.G.
    - STT Paid — 15%
    - STT not paid — 30%

Reason for including this : 1st KBC winner – Harshvardhan won Rs 1 cr – Tax Authorities (TA) taxed it under this sec (That time T.R was 40% & not 30%) – roughly rate coming to approx 70% (incl SC+EC). – So Harshvardhan fought a case & said it was not lottery, crossword, card game. TA said chance of game.

As arguments: 15 ques Ans – on basis of my knowlege. – No chance of game

Fasted finger 1st – ——— ———

Out of 1 lakh ppl – 10 were selected & u 1 of them – Yes chance of game.

Thus, all quiz games are now taxable under this sec.

SECTION	SPECIFIC ASSESSEE	SPECIFIC INCOME	SP. RATE OF TAX
7 115BBA	(a) Non Resident (+) Foreign National Sportsman	(i) Game/Sport in India (ii) Advertisement (iii) Contribution of News/views to Media Print Media / Electronic media.	20%
means foreign citizen			

Eg: ① Viral kohli – earning income from above – Taxed at NORMAL RATE as he is a resident.

Even if he is not a resident (i.e. doesn't satisfy the Resi test) he will pay at Normal Rate cause he is not a Foreign National sportsman.

② Stuart Binny – Normal Rate as he is a Resident

[asked in exam] ← ③ sachin Tendulkar a NR is a west Indian Player come to India to play a Tournament & earned ₹5 lac.

Taxed at ? 20% – as he is a NR & For Nat. / [illegible]

[There can be many sachin's in the world]

	(b) Non Resident (+) Foreign Sports Association	(i) Guaranteed Amt	20%

Eg: During Apr & May – IPL time the other countries don't keep any tournment.

IPL Guarantees them some amt i.e. can be

- Variable – say 20% of earnings.
- Fixed – say 200 million if u send ur players for IPL

NOTE: Foreign Players come to diff countries only with the permission of the Foreign Sports Association.

SECTION	SPECIFIC ASSESSEE	SPECIFIC INCOME	SP RATE OF TAX
	(c) Non Resident (+) Foreign National Entertainer	Performances in India	20%

Eg ① Cheer leaders in IPL
② Cold Play - Chris Martin } 20%
③ Russell Peters

④ Raju Srivastav, Atul Khatri - Normal Rate as they are Residents.

(Div, Int, Royalty, FTS) Section 115 A (NR + For Co)
(GDR/ADR, Bonds) Section 115 AC (NR)
Section 115 BBA
Section 115 G (in NRI Taxation chap)

⇓

No other taxable income

AND

TDS has been fully deducted

↓

No need to file ROI

BENAMI PROPERTY

Eg: Nitin Gadkari has his property in the name of his servant, driver, pet (Lucy) etc. But actually he stays in the house. So it is nothing but property purchased in the name of other person.

SECTION	SPECIFIC ASSESSEE	SPECIFIC INCOME	SP. RATE OF TAX
⑧ 115BBD	Indian Co $\xrightarrow{\geq 26\%\text{ holding}}$ Foreign Co. (Non-Domestic Co.) — Taxable @15%. — Dividend	Dividend [NO DDT ≠ domestic co.]	15%

Normally it would have been taxed @30%.
But because of your guts (i.e. going and having an holding of 26% in foreign co.) you will be taxed at concessional rate of 15%.

Correlate with 115BBDA

Correlation with Sec 115BBDA.

~~(since it is an indian co. sec 115BBDA – NA)~~

To confirm?

Sec 115BBD Not app. cause ddt not paid on dividend.

SECTION	SPECIFIC ASSESSEE	SPECIFIC INCOME	SP. RATE OF TAX
⑨ 115BBE	ALL Assessees	Unexplained (i) Cash Credits, (ii) Income, (iii) Investment, (iv) Expenditure — will be treated as income	60% (25% SC always, 3% EC always) (Effective rate - 77.25%)

Meaning of Unexplained Cash Credit:

It means your cr side bal > dr side bal i.e. you have a bal fig on dr side.
It is like saying that u have ₹10 in ur pocket & u gave Rs 11 – u wud obviously have got Rs 1 from somewhere but not recorded. Also, during demon ppl were depositing money in banks but they had not recorded in the books from where they got that cash. i.e. Unexplained Cash Credit.

SECTION	SPECIFIC ASSESSEE	SPECIFIC INCOME	SP. RATE OF TAX
115 BBF	Resident (True and First Invertor of Patent)	Royalty on Patent [OPTIONAL] If Taken – Minimum 5 further years. If optout – Not Avail for 5 further years	10%

Reason: NR → Royalty Income – 115A @ 10%.
But if Resi – Royalty Income – then slab rates – not fair, that means we are discouraging them.
Hence this section was bought and taxed Royalty for Resi @ 10%.

In India there is Patents Act – so whenever new patent is made – u have to get it registered in the Patents Act.
If two ppl jointly develop a patent – it will be jointly taxed.

If u take 10% in 16-17, then it needs to be continued for 17-18, 18-19, 19-20, 20-21, 21-22

But if in 17-18 you want to opt-out, then you will not take 10% for 18-19, 19-20, 20-21, 21-22 & 22-23.

SECTION	SPECIFIC ASSESSEE	SPECIFIC INCOME	SP. RATE OF TAX
wef AY 18-19 115 BBG	ALL Assessees	Income from transfer of carbon credits	10%

Eg: There are co.s which release pollutants in the environment — harmful - hence govt levies penalty on these co.s
But some co.s are environment friendly i.e. energy efficient so the govt gives them carbon credits which allows them to release that much harmful pollutants if they want.
But these co.s said we dont want to release harmful pollutants and be envt. friendly - so the govt said u can sell these carbon credits to the co.s needing it.
Thus income recd on sale of C.R → Taxable @ 10%.

2nd Sept'17

Date :
Page : 66

DIVIDEND DISTRIBUTION TAX (DDT)
INCOME DISTRIBUTION TAX (IDT)
BUY BACK TAX (BBT)

D.D.T : 3 sections : 115O, 115P, 115Q
I.D.T : " : 115R, 115S, 115T
B.B.T : " : 115QA, 115QB, 115QC

To be paid within 14 days else 1% p.m. or part interest

If DEFAULT : Then Co./ + Principal (115T) MF Officer

Assessee in Default

115Q, T, QC - If default :

Then co./ + Principal Officer - Assessee in Default
(sec 115T) ← MF

why ? [Refer Pg 10 1st]

The TRO will take movable, immovable property of the co. and for arrest purposes - it can't take the MOA / AOA of the co. so it will take the Principal officer.

But the sec doesn't say that the Princ officer is mentioned only to arrest him. Hence, the TRO can take movable & immovable property of the Princ Off also.

Sec 115O — Every "DOMESTIC" Company

Pays / declares / distributes Dividend

$\underbrace{\hspace{8em}}$

whichever is earlier → DDT @ 15% u/s 115O
(Basic Tax)

* + 12% (SC) + 3% (EC)

"ALWAYS" (Finance Act)

i.e. SC will always be paid irrespective of NTTI
(eg if co. earns profit of Rs 100 & pays div of Rs 10 then also SC of 12%.)

→ Interim / Final Div
→ Actual / sec 2(22) (a) to (d)
→ Equity / Preference div

You can't take Eff. Rate of 17.304 because of Grossing up.

* subject to GROSSING UP.

	OLD	Ratio	NOW	Ratio
Div	1,00,000	100	1,00,000	85
DDT u/s 115O	15000	15	? 17647	15
Total	115000	115	? 117647	100

∴ Div × 15 / 85
+ 12% (SC)
+ 3% (EC)

17647 + 12%
+ 3%
20.358 – DDT.

So basically Arun Jaitley in 2014, didn't chng the rate of 15%, but ↑ the tax liab of co.s by subjecting it to GROSSING UP.

POINTS

(a) D.D.T is compulsory, even if Income Tax is exempt
Eg: A co. earning Agricultural Income – gives dividend to its SH. This income recd by SH is not agricultural inc but dividend income. The agricultural income earned by the co. is NOT TAXABLE in India. But still the co. has to pay DDT on the profits distributed.

(b) Once DDT is paid, SH → sec 10(34) (Also Refer 115BBDA)

(c) DDT is paid also 2(22)(a) to (d) [Not on 2(22)(e)]

(d) If dividend is paid by Special Purpose Vehicle (SPV) to Business Trust (BT) and BT holds 100% SH in SPV, then no DDT

If SPV $\xrightarrow{\text{DIV}}$ BT → NO DDT
holds 100%

(e) No DDT on unit located in International Financial services centre (I.F.S.C)

IFSC is a stock exchange

The income generated by BSE, NSE & are not much so we want Foreign co's to list their shares in India on IFSC (so this is nothing but SEZ of Stock Market) – But the dividend by these co's are not taxable in India. These IFSC are physically located in India but we imagine it is not in India.

i.e. located outside India and hence the trading done through IFSC – NO DDT

The 1st IFSC in India is Guj Int Financial Trade Centre [GIFT centre].

Asked in May 17 RTP, 'List the benefits of IFSC?'

I.F.S.C.

(i) NO DDT
(ii) NO STT
(iii) 111A – STCG – 15% } without STT (i.e. this is the tax benefit given to IFSC)
(iv) 10(38) – LTCG – 0%
(v) MAT – 9%. (Normally the MAT rate is 18.5% but for IFSC it is 9%).

★ (f) Imp **Section 115O (1A) : Before DDT Calculation – 2 deductions**

(i.e. in the eg on pg 67 – these 2 deductions will be from Rs 1,00,000 of div and not from Rs 20,358. It means 15% will be subject to tax at an amt lower than 1,00,000).

eg:

(i) X Ltd (Domestic) —70%→ Y Ltd (Domestic) Div – Rs 20L ↓ DDT – 15/85 + 12% + 3% (4 paid)

(This is a bhikhari co. & doesnt decl div) ← Rs 14 lac (div) 10(34)

↓

Now X Ltd adds Rs 2 lac to 14 lac & gives div to its SH.

Div = Rs 16,00,000
(Rs 14,00,000)
Rs 2,00,000
× 15/85 + 12% + 3%

(1) Dividend Recd from SUBSIDIARY CO. and subsidiary has PAID DDT will be subtracted from your Div

But if suppose:

X Ltd $\xrightarrow{\text{eg: } 7\%}$ Y Ltd Div - Rs 20L

(Domestic) (Domestic) DDT paid - 4 L

Now X Ltd pays div by adding Rs 2L of its own.

Rs 1,40,000 [i.e. 20L × 7%]

Div - Rs 3,40,000

~~(Rs 1,40,000)~~ → It will not get deduction of Rs 1,40,000 because Y Ltd is not a subsidiary (i.e. holding < 51%) of X Ltd.

Hence to avail the benefit of deduction you need to receive dividend from a subsidiary only.

(ii) X Ltd (Domestic) $\xrightarrow{\text{eg. } 70\%}$ Y Inc (Non-Domestic Co.)

Div = Rs 20L
(NO DDT) as non domestic co.

Taxable u/s 115 BBD @ 15% ← Rs 14 lac

Div = Rs 16 Lac
(-) (Rs 14 lac)
Rs 2 lac
× 15/85 + 12% + 3%

② Dividend Received from non-domestic SUBSIDIARY

Logic is : Income Tax ko 15% se matlab hai which it has recd.

i.e. in the first case it recd 15% on 14L from Y Ltd (Domestic Co.) u/s 115O (DDT).
and in this second case it is receiving 15% on 14 lac from X Ltd u/s 115BBD.

Section 115R – I.D.T.

Every Mutual Fund (MF) —pays/distributes/declares profits→ Unit Holder (U.H.)

(MF will pay tax on behalf of UH).

Why MF & not UH ? logic same as DIV i.e. T.O. ko ek-ek ke ghar pe bikhari ki tarah nai jana padega.

I.D.T.

Payee (U.H.)		GROSSING UP Dividend x
(i) Individual / HUF	25%	25/75
(ii) Other	30%	30/70
(iii) Infra Debt Fund (IDF)	5%	5/95

+12% SC, +3% EC "ALWAYS"

Profit ↓

NR (U.H.)

Correlating Rate of 5% for Infra Debt Fund in sec 115A

NR			
5% u/s 115R	Capital	Profit →	Fund pays tax
5% u/s 115A	Debt	Interest →	Receiver pays tax

When Foreign Co. invests in debt of IDF – it earns interest income which is taxable u/s 115A @ 5%.

Whereas if it invests in capital of IDF through MF → IDF distributes profits to its U.H. – on which IDT is paid by the MF. If point(iii) not there, then Fund to pay tax @ 25% / 30% – NOT FAIR cause Foreign Co. paying at 5% & we have to pay at 25% / 30% – Hence IDT @ 5%.

POINTS

1. I.D.T. is compulsory, even if I.T. is exempt

2. Once IDT is paid (✓), U.H. → exempt sec 10(35)

3. No I.D.T. on Eq. Oriented M.F.
[U.H will still get 10(35)]

* No IDT to be paid by Business Trust & Investment Fund.

Section 115QA - B.B.T.

Every "DOMESTIC" Co. → Buy Back of $\boxed{\text{UNLISTED}}$ Shares

$$\left[\left(\underset{\text{(BB Price)}}{\text{Buy Back Price}} - \underset{\text{(IP)}}{\text{Issue Price}}\right) \times \text{No. of shares}\right]$$

↓

20% ['NO Grossing UP']
+ 12% SC } "ALWAYS"
+ 3% EC

BBT is the tax paid by co. on capital gains of the SH.

(1) But in this case Co. ka life Barbat ho gaya hai. why?
Because IP of each SH will be different as some would have purchased during IPO, or later in open market or stock exchange.
Thus co. will have to check each SH's IP (By checking their old registers) and find their C.G.

(2) Why only unlisted sh and not listed shares?
Note: BB Price always greater than IP cause no SH will give the sh as they have an option to sell it on the stock exchange.
In the case of Listed Shares - say IP - Rs10.
BB Price on stock exchange - Rs 12 Now the co. can't keep the BB price lower than 12 else SH will not take BB. Hence co.'s BB Price & Stck Exch. BB Price is same - Thus SH is indifferent.
But for Tax Purposes if SH sells at:
Stock Exchange - he has paid STT
Then LTCG exempt u/s 10 (38).

Company - Then taxed @20% - LTCG.
i.e. no tax benefit.

So as a SH u will always choose to sell at the stock exchange
hence, listed shares excluded from Sec 115QA.

POINTS

1. B.B.T is compulsory, even if I.T. is exempt.

2. Once BBT is paid (✓), SH exempt section 10(34A)

IN A FOREIGN COMPANY

	Sec 115BBD	Sec 115O(1A)
0 - 25%	✗	✗
≥26% - ≤50%	✓	✗
> 50%	✓	✓

GROSSING UP

DDT	✓
IDT	✓
BBT	✗

d sept'17

g-24) Q1. RIL $\xrightarrow{60\%}$ INOX

RIL	INOX
250L	150L
(150L x60%)	x15/85
160L	+12%
x15/85	+3%
+12%	
+3%	

g-24) Q2. (i) DIV . 60L

(40L x70%)

32 L

x 15/85

+ 12%

+3%

6,51,445

(ii) Ans remains same

-25) Q3. The 3 things asked in the ques are:

- Total income
- Tax liability
- DDT u/s 115O

NTTI

(a)	PGBP	53,00,000
(b)	IFOS (WN1)	4,67,000
	NTTI	57,67,000

Calculation of Tax Liability on 57,67,000

U/s 115BBD		Other
(210000 + 192000)		(5300000 + 65000)
402000 @15%		5365,000 @30%
= 60,300	+	= 16,09,500

= 16,69,800 + 3% (EC) = $\boxed{\text{RS } 17,19,894}$

Calculation of DDT U/s 115O

Dividend	3,80,000
(–) Indian Sub	(58000)
(–) Ontario (53%)	(192000)
	130,000
	X 15/85
	+ 12%
	+ 3%
	RS 26,465

(WN1) IFOS : Dividend

(a) Geneva (23%)	72,000	
(–) Exp (as less than 26%)	(7000)	65000
(b) Michigan (28%)	210000	
(–) Exp (as % > 26%)	(Nil)	210000
(c) Ontario (53%)		192000
(d) Indian Subsidiary Exempt U/s ~~10~~(34)		Nil
	IFOS	467000

3rd Sept '17

SPECIAL PROVISION FOR STOCK MARKET DEALINGS

Before 2004 there was sale / purchase of physical share certificate.

↓

cause of this there was less volume & transactions went unreported.

money → STOCK MARKET → money

share ← STOCK MARKET ← share

↓

1/10/2004 – Mr Chidambaram introduced 2 sections

↓

Sale of

LISTED
(i) Equity shares (>12m)
(ii) Units of Equity oriented M.F. (>12m)
(iii) Units of Business Trust (>36m)

NOTE: Do not merge this list with LTCA > 12 m.

↓

On Stock Exchange → S.T.T. **On SALE**

↳ rate is very small i.e. 0.0125....

so after taking very small amt of tax (STT) im giving you these → tax benefits

STCG	LTCG
U/S 111A	U/S 10 (38)
↓	↓
15%	EXEMPT

(This is the 1st time where there is sp rate for STCG).

The tax benefit will be given only on 2 conditions i.e.

(i) Only for 3 assets

(ii) Only if STT paid on Sale Transaction

Even if STT not paid on Purchase – it is fine – cause purchase made prior to 1/10/04 – no provision in Act – hence no STT on purchase.

How this section is being used for tax evasion purposes?

I have Rs 1 cr cash and Rs 1 lakh in my bank A/c.
I do some setting with ~~a~~ the agent in the stock market.
The setting is that I will purchase share of a company (unlisted) for Rs 1 lakh. This company is actually not in existence i.e. only on paper (SHELL COMPANY).
So I pay Rs 1 lakh in cheque to the agent and the next day take back Rs 1 lakh in cash. So in the books we are only showing outflow of Rs 1 lakh.
Now after 1 year on papers u show that this unlisted co. has got merged with a listed company.
The shares price now is 1 cr after merger – Thus u sell ur shares (not actually – only on papers). – Pay STT and show in your Return this 1 cr exempt U/s 10(38) resulting in not paying tax – Tax evasion.

So, the only expenses u have incurred are: STT (around 0.0125%), Brokerage, Commission to agent, etc
But u have saved your tax liability.

Transaction done on a recognised stock exchange located in I.F.S.C.

↓

no STT

Still Benefit of 111 A and 10(38) available.

★★ wef AY 18-19

If purchase on / after 1/10/2004
↓
STT to be paid on Purchases also
↓
(a) only Equity Shares
and
(b) Only u/s 10(38)

(c) only for Purchase on/after 1/10/2004

(d) Some Exceptions :
(i) IPO – genuine transaction, thus excluded
(ii) NR according to FDI Policy

NOTE: exact exceptions are yet to be notified. If CBDT issues any notification till Nov – will be applicable

NOTE: ICAI will check u on point (a) & (b) above.
i.e. it excludes units of eq oriented MF
and units of Business Trust
Also it does not include Section 111A.

RESIDENT INDIVIDUAL / RESIDENT HUF → Income u/s 111A , 112
(STCG) @15% (LTCG @20% or sometimes 10%)

and unexhausted Basic Exemption Limit → allowed to utilise

Eg: (i) Mr X – Resi – 35 yrs

LTCG	4,00,000
(–) B. Exemp	(2,50,000)
	150000
	× 20%
	+ 12%
	+ 3%

(ii) Mr X - Resi – 85 yrs

Salary		1,00,000
Rent recd of HP		1,00,000
PGBP		2,00,000
C.G.		
(a) STCG - non STT	1,00,000	
(b) STCG – STT	1,50,000	
(c) LTCG - non STT	2,00,000	
(d) LTCG – STT	4,00,000	8,50,000
IFOS		
(a) Saving A/c Int		12,000
(b) Lottery		3,00,000

PPF – Rs 1,20,000

Medical Insurance - 32,000

Calculate Total income & tax liability.

Sol: NTTI

(a)	salary		1,00,000*
(b)	IFHP		
	Rent	1,00,000	
	(–) Std ded @30%.	(30,000)	70,000*
(c)	PGBP		2,00,000*
(d)	C.G.		
	(i) STCG - non STT	1,00,000*	
	(ii) STCG - STT	1,50,000	
	(iii) LTCG - non STT	2,00,000	
	(iv) LTCG - STT (exempt u/s 10(38))	Nil	4,50,000
(e)	IFOS		
	(i) Saving A/c Int	12,000*	
	(ii) casual winning	3,00,000	3,12,000
	G.T.I		11,32,000
	(–) Chap VI-A (Max - 4,82,000)*		
	(i) 80C - PPF	1,20,000	
	(ii) 80D - Medi	30,000	
	(iii) 80TTA - Saving Int	10,000	(1,60,000)
	NTTI		9,72,000

higher limit 30,000 only for Resi senior citizen

Calculation of Tax on 9,72,000

STCG - STT	LTCG	Casual winning	Other
1,50,000	2,00,000	3,00,000	3,22,000 bal fig
@15%	(1,78,000)	@30%	
= 22,500	22,000	= 90,000	482000
	@20%		(160000)
	= 4,400		322000 cross check

322000
178000 → unexhausted B. Exmp.
500000 → B. Exmp.

∴ Basic Tax = Rs 116900
+3% (EC) Rs 3507
Rs 1,20,407

If given a choice to deduct 178000 either from 2,00,000 (LTCG) or 150000 (STCG-STT) - we'll obviously deduct from LTCG first because tax rate of LTCG (20%) > STCG-STT (15%)

Q1
(Pg -29)

NTTI

(a) C.G. (WN1)	14,42,016	
(b) IFOS	6,18,000	
G.T.I	20,60,016	
(-) VI - A (Max - Rs 6,24,000)*		* 6,18,000 + 6000 (S+C4)
80C PPF	(50,000)	
NTTI	20,10,016	

Calculation of Tax on 20,10,016

LTCG	Other
14,36,016	5,74,000
@20%	@ slabs
↓	↓
Rs 2,87,203	Rs 27,300

Basic Tax = Rs 3,14,503
+3% (EC) Rs 9435
Tax Rs 323938

(WN1) C.G.

(a) Unlisted Bonds

	Sale consideration (SC)	50,000
(−)	COA (STCA as HP < 36 i.e. 10/4/17 to 31/3/18)	(44000)
	STCG	6,000

(b) Gold

	S.C.	11,15,000
(−)	ICOA (LTCA as HP > 36 i.e. 3/6/98 to 10/4/17)	

Actual cost - 60,000 ↑ whichever

FMV on 1/4/01 - 69,000 | is higher

	$= \frac{69,000 \times 272}{100}$	(187680)
	LTCG	927320

(c) Unlisted shares

	S.C.	5,60,000
(−)	ICOA (LTCA as HP > 24 i.e. 10/4/11 to 17/5/17)	
	$\frac{55,000 \times 272}{184}$	(81,304)
	LTCG	4,78,696

(d) Unlisted Debentures

S.C		70,000
(-) ** COA (LTCA as HP 736m i.e. 10/4/82 to 5/3/18)		
Actual cost - 40,000		(40,000)
FMV on 1/4/01 - 34,000		
~~40,000~~		
	LTCG	30,000

OPTION I @ 20

OPTION II @10% [SC - COA]

∴ STCG = Rs 6000
LTCG = Rs 14,36,016
Rs 14,42,016

Q2 (pg-29) Sub Ques (a)

NTTI

(a) C.G. (WN1)		22,24,011
(b) IFOS		786000
	G.T.I	30,10,011
(-) VI-A (Max 786000)		
80C : PPF		(50,000)
	NTTI	29,60,011

Cal. of Tax Liability on 29,60,011

LTCG			Other
22,24,011			7,36,000
			@slabs
A Ltd	B Ltd	C Ltd	
532648	950505	740858	= Rs 59,700 (4)
@ 20% = 106530	= 190101	148172 (3)	
= 57,400 (1)	= 1,11,500 (2)	~~NA (as unlisted)~~	

A Ltd:
6,00,000
(-) 26,000
5,74,000

B Ltd:
12,25,000
(-) 1,10,000
11,15,000

(1) + (2) + (3) + (4)

Basic Tax = Rs 3,76,772
+ 3% (EC) Rs 11,303
Tax = Rs 3,88,075

(WN1) CG.

(a) Listed shares (A Ltd)

S.C.	6,00,000
(-) ICOA (LTCA as HP > 12m i.e. 10/5/02 to 17-18)	
$26{,}000 \times \frac{272}{105}$	(67,352)
LTCG	5,32,648

(b) Listed shares (B Ltd)

S.C.	12,25,000
(-) ICOA (LTCA as HP > 12m i.e. 6/6/03 to 17-18)	
$1{,}10{,}000 \times \frac{272}{109}$	(2,74,495)
LTCG	950505

(C) Non-listed Eq shares [C Ltd]

S.C.	7,89000
(–) ICOA (LTCA as HP>24m i.e. 6/4/04 to 17-18) $\frac{20,000 \times 272}{113}$	(48,142)
LTCG	740,858

∴ CG (LTCG) = Rs 22,24,011

Sub Ques (C) With effect from AY 18-19, for 10(38) exemption on equity shares, purchase transaction has to suffer STT only if acquired on/after 1/10/2004.
In the given case all 3 shares are purchased prior to that date, consequently the amendment is not applicable and the exemption will be available.
Therefore will be same as part (b).

Sub Ques (b) NTTI

(a) C.G.	
Eq Sh of A Ltd - exempt u/s 10(38)	Nil
Eq sh of B Ltd - exempt u/s 10(38)	Nil
Eq sh of C Ltd - (WN1)	7,40,858
(b) IFOS	786000
GTI	15,26,858
(–) VI A (Max Rs 786000)	
80C: PPF	(50,000)
NTTI	14,76,858

Calⁿ of Tax Liab on Rs 14,76,858

LTCG	Other
740858	786000
@20%	@slabs
= Rs 148172	= Rs 59700

Basic Tax = Rs 207872
+3% (EC) Rs 6236
Rs 214,108

9th sept'17

ASSESSMENT OF BUSINESS TRUST

↳ This chap came in AY (15-16)

ICAI asked ques on this chap in NOV 16 - Q1 (only asked once)

Owners of B.T. → (U.H.)

Investors (Area of Int: Real Estate / Infra). (Idle Money) ← units

Co. (Real Estate / Infrastructure) (They are need of funds desperately)

CA Article students (married)

A - ₹1000 → BUSINESS TRUST $\xrightarrow{\text{shares}}$ B Ltd

B - ₹1000

C - ₹1000

D - ₹1000

E - ₹1000

→ (Pooling of resources).

A Ltd

C Ltd

Debt

Property

* Real Estate - means immovable property

2 types of B.T :

* i) REIT - Real Estate Investment Trust (sh, deb & property)

ii) INVIT - Infrastructure Investment Trust (only sh & deb).

Eg. Raheja, Lodha

* Infrastructure - Eg: L&T

* B.T. is nothing but M.F.

* When B.T. buys property it is nothing but sale of property for the co.

Investors had idle money & wanted to invest in either Real Estate / Infrastructure. A single investor with only Rs1000 will be able to invest in only 1 co. and also he doesnot know which co. to invest in.

So a mediator (i.e. BT) collects money from all the investors (say 10L CAs × ₹1000) and invests in Real Estate / Infra, who are in need of funds.

So the B.T. will invest either in shares or debt or property (only REIT).

The B.T. will inturn give units to the Investors who will be called unit holders or owners of Bus. Trust.

* NO IDT for Distribution of Funds by Business Trust and Investment Fund.

2 types of Business Trusts are:
(i) REIT (will invest in shares, deb & buy property)
(ii) INVIT (will invest in shares & deb).

The income earned by B.T. are:
(i) Dividend
(ii) Interest
(iii) Rent (only for REIT)
(iv) CG on all the above 3

* If controlling interest > 50%
∴ co = Special Purpose Vehicle (SPV)

∴ SPV is a company in which the Business Trust has controlling interest (i.e. > 50% holding)

Before studying this chap. we already know 3 things about BT:

1. Sec 115A NR Interest
   – from B.T. 5%

2. If Divi is paid by SPV to BT, and BT has 100% SH'ing in SPV, then no DDT on dividend.

3. Sale of
   Listed i) Units of BT (>36m)
   on stock exchnge → STT paid on sale
   STCG — U/s 111A - 15%
   LTCG — U/s 10(38) - Exempt.

E – Exempt
T – Taxable

ndv		Eg:		₹ (in lakhs)	
2000	1·5	E	(i) Div from SPV	3	Co pays DDT u/s 115O
2000	0·5	E	(ii) Div from non-SPV	1	
2000	2·5	E	(iii) Int from SPV	5	Int from SPV & Rental Income → Exempt
2000	2	T	(iv) Int from non-SPV	4	
2000	7·5	E	(v) Rent	15	
000	1	T	(vi) STCG – non STT	2	All other income taxable
000	3·5	T	(vii) STCG – STT paid	7	
000	1·5	T	(viii) LTCG – non STT	3	
			(ix) LTCG – STT paid – not written cause it is exempt u/s 10(38)		↳ refer stock chap
4	20		Total income earned by B.T.	40	(All ā's are exempt, ∴ BT also included).

TAX TREATMENT

Total Income Earned = 40

Div = 4L
↓
Co pay DDT
∴ Exempt
↓
EXCEPTION

If BT —100%→ SPV
Div
↓
NO DDT
↓
→ 100% Excluding Govt./Statutory Holding
→ Benefit only if distribution out of profits earned after meeting 100% criteria.

Int - SPV = ₹5L
Rent = ₹15L
Exempt ← 20L
⇓
Has co / B.T paid tax on these income? Ans is NO.
∴ Taxable for U.H's.
NOTE (1)

Other Income = ₹16L
↓
Taxable for B.T.
↓
Subject to Sec 111A, 112
STCG @15% LTCG @ 20%.

Other Income: M.M.R #
(Max. Marginal Rate)
(Mukesh Bhai Marginal Rate)

30%	30%
+ SC 15%	12%
+ EC 3%	3%
35·535%	34·608%

\# M·M·R. – It is the highest rate of an Individual. i.e. 30%.

$\boxed{\text{NOTE}}$: As per definition of MMR – the rate is 35.535%.
But the institute takes it as 34.608% if SC is 12%.
So in exams write both (provided if circular is released by ICAI before exams).

∴ Other Income = ₹16L

111A @15%	112 @20%	Other @M·M·R.
STCG – STT	LTCG	
₹7L	₹3L	₹6L

NOTE (1) Continuing with eg. on pg 90.

A	1000
B	1000
C	1000
D	1000
E	1000

$\boxed{\text{Business Trust}}$ → REIT, INVIT

Dist^{n} = ₹20L → ∴ 4L per U.H.
(20L ÷ 5 investors)

So now ques arises this 4L recd by UH is which income?
AO will say 4L recd by you is from rental income of ₹15L or Int from SPV of ₹5L, whereas you will say it is from Dividend.
But actually the main ques is that 20L distributed is which income.
So you divide 20L distributed in the ratio of the income earned.
and further divide 4L recd by UH in the ratio of 20L.
(i.e. 1.5 : 0.5 : 2.5 ... 3.5 : 1.5).
Now from this only the Interest from SPV and Rent

will be taxed in the hands of the U.H.

i.e. Int from SPV = ₹ 50,000

Rent = ₹1,50,000

₹2,00,000

Individual UH:

Recd = ₹4L

Tax = ₹2L

	Interest from SPV ₹50,000		Rental Income ₹1,50,000	
	Resident	Non-Resident	Resident	Non-Resident
Tax Rate :	Normal Rate	Sec 115A @ 5%	Normal Rate	Normal Rate
TDS :	10%	5% + SC + EC	10%	As per Applicable Rate. *(Basically BVS. Trust will have to calculate his Tax Liab.)

NOTE ON TDS :

In case of Resident → There are different rates in Chap. TDS cause even if tax deducted is less or more, the Resident can take credit or pay any excess tax liability.

In case of Non-Resident → You can't go running behind him in case TDS deducted is less nor can we give him credit in case we have charged more.

∴ In case of NR we deduct EXACT TAX LIABILITY. Thus person deducting TDS on behalf of NR will have to do extra work of computing complete tax liability of NR.

(In reality we ask the AO only, that you tell us how much TDS to deduct and take it in writing from him. This will mitigate chances of assessment for TDS & he can't levy interest and penalty also).

SUMMARY:

(i) DDT will be paid by the company on the Dividend (SPV/Non-SPV)

(ii) Interest from SPV and Rent will be taxed in the hands of the unitholder.

(iii) All other income will be taxed in the hands of the Business Trust.

* Units of BT - Long Term if > 36m.

CAPITAL GAIN ON UNIT HOLDER (UH)

Sale consideration — Actual (STT ✓) → Always STT paid because SEBI has said that the units have to be LISTED.

(–) COA / ICOA

(i) From Market — Actual

OR

(ii) In exchange of shares of the company — Cost of shares

[NO C.G. @ the Exchange] as exchange is not transfer.

C.G.

- STCG - 111 A @15%
- LTCG - 10(38) Exempt

When a Bus Trust has 100% cont interest in the Co. (i.e. SPV) (B.T) it will give units to the SPV in exchange of shares recd from the company. i.e. the SPV has now become the unit holder of B.T (it has come in place of the investor).

So in this case COA of units = cost of shares.

∴ The 2 types are:

(i) Those who buy units in B.T. and when they sell - CG.

(ii) Shareholders of SPV company exchange their shares in units and become unitholders.