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HAND WRITTEN NOTES

CA FINAL DIRECT TAX

For May'18 & Nov'18

By

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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).*

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: https://www.youtube.com/siddharthsuran

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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

9th sept '17

ASSESSMENT OF INVESTMENT FUND

Q1.

Investors ← units

(Idle Money)

A – ₹ 1000
B – 1000
C – 1000
D – 1000
E – 1000

INVESTMENT FUND → shares → debt → own business

Co. (same business)
(needs funds)

Dist. NO IDT*

↓

Again problem
don't know where to invest.

READ :–
INCOMES:
i) Dividend
ii) Interest
iii) CG on (i) & (ii)
iv) PGBP.

So I want to invest / I'm interested in particular area other than Real Estate / infrastructure. eg School, Hospital, etc.
And co-incidence is, these co. are in needs of funds.
So the problem again is ki mere akele ke paise se I'll be able to buy one co's shares.
To solve this problem - pooling of resources i.e. one middle person [Investment fund] will invest the funds in the co.
In this case the I.F. will invest in the business in which investor ka interest hai (i.e. area will be pre-decided).

But SEBI ko keeda hai i.e. separate regulations.
If interested in Real Estate – register as per Real Est Reg.
" " " Infra Estate – " " " Infrastructure Reg.
" " " Investment fund – " " " I.F. Regulation.
Hence I.F will have to comply with SEBI Regulations.

TYPES OF INVESTMENT FUND (4 Types)

INVESTMENT FUND

comply with SEBI Regulations

1996 — those registered under 1996 will be taxed as per '96 Reg.

Here U ignore the existence of I.F.

→ All incomes - Exempt

→ All incomes taxable for U.H. (excl. Dividend)

cause co. has already paid DDT

2012 — those reg under 2012 will be taxed as per '12 reg.

I | II | III

same tax treatment for I & II

III:

→ All income taxable for I.F. (excl. Dividend)

→ Nothing is taxable for U.H.

* If Ques silent, tax treatment as per which category? — You assume tax treatment as per category I and II

- CATEGORY I : (i) Small & Medium Enterprise (SME)
  (ii) Socially desirable business

- CATEGORY II : (i) Not in I & III
  (ii) Not employing debt (i.e. there shud be no int inc) except operational requirement
  (i.e. short Term requirement in the form of temporary loans, Bank OD, cash credit, etc is fine)

- CATEGORY III : (i) Complex finance and investment strategies
  (ii) hedging, futures, etc.

TAX TREATMENT OF CATEGORY I & II

(a) PGBP – Taxable for I.F.
[ONLY]

(b) All other Income – Taxable for U.H. [EVEN IF NOT DISTRIBUTED] **
(excl. Dividend)
"PASS THROUGH"

Eg: (i) Div 4
(ii) CG 6
(iii) Int 3
(iv) PGBP 7
Total 20

∴ Taxable → I.F. → 7; Co. (DDT) → 4; Other (U.H.) → 9 [Per UH = Rs 180000]

9 → CG - 6, Int - 3

Per U.H. : ? = 1.2, ? = 0.6

i.e. Rs 180000 divided in ratio of 6:3

(c) Set off and c/f of losses → Done by I.F.

For eg: For the Yr 16-17 Co. earned CG loss of Rs 6L → This will be c/f by IF and in 17-18 earned CG of Rs 8L

∴ Rs 8L
(Rs 6L)
Rs 2L → only 2L will be taxable for the UH

The loss of Rs 6L will be adjusted to 8L and bal will be taxable. Hence 6L set off will be done by the IF and not by UH.

i.e. 6L NOT PASS THROUGH.

(pg33) Q1. (i)

(a) I.F.

	A	B	C
Business	Nil	3,00,000	Nil *
CG } Taxable	Nil	Nil	Nil
IFOS } for UH	Nil	Nil	Nil
	Nil	3,00,000	Nil

* → whenever there is -ve, in your other column write Nil & u write abt it in your NOTES below.

(b) U.H. (per U.H.)

	A	B	C
Business Income (Taxable for IF)	Nil	Nil	Nil
CG	40,000	60,000	Nil
	(12L ÷ 30)	(18L ÷ 30)	
IFOS	20,000	24,000	25,000
	(6L ÷ 30)	(7.2L ÷ 30)	[(9L − 1.5L) ÷ 30] ***
	60,000	84,000	25,000

*** Set off of Business loss can be taken against any income except (i) ~~IF~~ Salary
(ii) Casual winnings

(ii) Loss to be carried forward:

U.H. → Nil

IF → 4,50,000 − Capital loss

[Cause set off of Rs 150000 - business loss already taken by IF]

* TAX RATE OF IF :

Registered under Co. Act / Firm – Applicable Rate

Otherwise – M.M.R.

th Sept'17

DIVIDEND AND BONUS STRIPPING

Sec 94(7) Sec 94(8)

DIVIDEND STRIPPING : SECTION 94(7)

(This chap came to stop tax evasion of some income)

Target of this chap: Securities which give you exempt income.

Securities – exempt income

- Shares
  - Equity
  - Preference
  - Dividend income – exempt u/s 10(34)
- Units
  - Share of Profit exempt u/s 10(35)
- ~~Bonds / Deb~~
  - ~~Interest Taxable~~ (cause this is taxable)

Purchase

FMV ↑ (-₹100,000) 10/7/17 Record Date FMV ↓ (Sale - Rs 70,000)

1/4/17 3m shares/ Units Div – Exmpt 10(34) shares 3m 9m units 31/3/18

eg: 20,000 muft ko income

NTTI

a) CG SC 70,000

(-) COA (100000)

STCL (30000) → u/s 94(7) Lapse 20,000 · To the extend of exempt inc. ∴ c/f – 10,000

Nil

b) IFOS 20000

(-) 10(34) (20,000) Nil

Nil

LOGIC : How much has gone out of your pocket ? - Rs 1,00,000
How much has come to you ?

Sale : 70000
Div : 20,000
Rs 90,000

∴ Loss = Rs 100000 − Rs 90000
= Rs 10,000.
Hence itna ko he c/f milega.

RECORD DATE : It is the date when the co. does not allow transaction i.e. trading is closed for that date.
The person who is a SH on the record date is eligible for DIVIDEND.

The market value of shares before the Record date ↑
Market value of shares after the Record date ↓

TIME PERIOD

Units / Shares purchased within $\boxed{3m}$ prior to the record date.
Shares are sold within 3m after the record date.
Units are sold within 9m after the record date.

\# In this chap there can be only Short term cap gains (STCG)
Why ? For shares the holding period - 6m } STCA
For units the holding period - 12m } ↓
∴ STCG

Illogical condition (learn it) ← Applicability of 94(7) – ONLY if NO Bonus $\boxed{\text{Units}}$ *

Bonus: By virtue of your existing holding you get free units

If Bonus Units – 94(8)

- Shares
  - Always 94(7)
    - Bonus / No Bonus
- Units
  - Bonus → 94(8)
  - No Bonus → 94(7)

Q1.

Acq of sh	Record Date	Sale (70,000)
10/4/17	15/5/17	15/7/17
(₹1,00,000).	Div of Rs 20,000	

NTTI

i) CG:	SC	70,000	
	(–) COA	(1,00,000)	
	STCL	30,000	Nil
ii)	IFOS	20,000	
	exempt u/s 10(34)	(20,000)	Nil
			Nil

* STCL can be adjusted against LTCG.

Q2.

C.G.

			inner column
(a) LTCG - House			75,000
(b) 30/9/16 : 700 shares			
S.C.	(700 x 35)	24,500	
(-) COA	(700 x 50)	(35,000)	
	STCL	(10,500)	
(-) u/s 94(7) (lapse)		(3,500)	
	(700sh x ₹10 x 50%)		(7,000)*
	not 1000 FV & not Rs 50		
(c) 20/12/17 : 300 shares			
S.C.	(300 x 25)	7,500	
(-) COA	(300 x 50)	(15,000)	
	STCL	7,500	
(-) lapse u/s 94(7)		Nil	
	(after 3 months)		(7,500)*
		Taxable CG. (Long Term)	60,500

Assuming this is the total income, compute Tax Liability.

☆☆☆☆☆ Tax Liab = Nil

Why ?

Imp For Individual Resident and HUF if income u/s 111A and 112 then allowed to utilise unexhausted basic exemption limit

* Sec 94(7) and 94(8) cannot be invoked together i.e. it will either be 94(7) or 94(8).

BONUS STRIPPING - SECTION 94(8)

↓

If assessee is allotted

$\boxed{\text{Bonus units}}$

FMV ↑   FMV ↓

Purch units $\boxed{\text{R.D.}}$ sold original units @ 70 p.u.

1/4/17   1000 units @ 100 each = ₹ 1,00,000   3m   9m   31/3/18

↓

BONUS UNITS

eg: 2 for 5 held

∴ No of Bonus units = $\frac{1,000}{5} \times 2$

= 400 bonus units

for NIL

* words used in provision are you sell original and retain bonus. so loss will lapse.

His Total wealth

∴ 1000 units - original

400 units - Bonus

* original becha toh he loss hoga.

After the Record date:

If follows FIFO method i.e. sells original units then there will be a capital loss

But if follows LIFO Method i.e. sells Bonus units then, always PROFIT cause COA is NIL.

C.G.

S.C	(Rs 70 x 1000 units)	=	70,000
(-) COA	(Rs 100 x 1000 units)	=	(1,00,000)
	STCL		(30000)

→ u/s 94(8) lapse FULLY *

↓

COA of $\boxed{\text{Balance}}$ Bonus units

∴ COA of 400 units - ₹ 30,000

Now, if you sell your Bonus units

Sale of Bonus Units

S.C. (400 units x Rs 80 - eg)	32,000	
(-) COA u/s 94(8)	(30,000)	* under normal circumstances this would have been Nil, cause COA of bonus is Nil But since 94(8) has been invoked you'll get benefit of 30,000
STCG	2,000	

will happen only when everything is sold

MAGIC :

How much money has gone out of your pocket in the whole transaction ?

₹1,00,000 - during the purch before R.D.

How much has been earned by you?

Sale of 1000 units = Rs 70,000
Sale of 400 bonus units = Rs 32,000
Rs 1,02,000

∴ Net CF = 102000 - 100000
= Rs 2000 CI. — ①

Amt of c/f allowed of capital loss ? Nil
Amt of gain earned in the whole transaction ?
Rs 2000 — ②
(STCG)

① = ②

In case only half bonus units were sold / part of original units sold - MAGIC WON'T WORK.

Q3. PART-I

CG

(i) 31/12/17 : O-5000

S.C.		4,50,000	
(-) COA	$\left(\frac{10L \times 5}{10}\right)$	(5,00,000)	
	STCL	50000	NIL

lapse u/s 94(8)

* Remember to check the DATES

COA of 10,000 Bonus units Rs 50,000 → jo otherwise Nil tha

now the bal bonus units is 10,000, that is why COA is for 10,000.

(ii) 31/1/18 : O- 5000

S.C.		4,50,000	
(-) COA		(5,00,000)	
	STCL	50,000	NIL

lapse u/s 94(8)

COA of 10,000 Bonus units Rs 1,00,000**

(50,000 + 50,000)

(matlab yeh 50 aur yeh 50)

(iii) 31/3/18 : B - 10,000

SC		500,000
(-) COA u/s 94(8)		(1,00,000)
	STCG	4,00,000

PART – II

CG.

(i) 31/12/17 : O - 5000

SC		4,50000	
(-) COA		(5,00,000)	
	STCL	50,000	NIL
		Lapse u/s 94(8)	

COA of 10,000 Bonus units Rs 50,000

(ii) 15/1/18 : B - 50,000

S.C.		2,50,000	
(-) COA $\left(\frac{50,000 \times 5000 \text{ units}}{10000 \text{ units}}\right)$		(25,000)	– since sold only 5000 units toh utna hi proportionate cost lage.
	STCG	2,25,000	

(iii) 31/1/18 : O - 5000

S.C.		4,50,000	
(-) COA		(5,00,000)	
	STCL	50,000	NIL
		Lapse u/s 94(8)	

COA of ? 5,000 Bonus units ? Rs 75000
(25000 + 50000)

(iv) 31/3/18 : B - 5000

SC		2,50,000
(-) COA u/s 94(8)		(75000)
	STCG	1,75,000

MAGIC :

PART - I

CO in whole transaction = Rs, 1000,000 CO.

CI in whole transaction = Rs 450000 CI

Rs 450000 CI

Rs 5,00,000 CI

Net CF Rs 4,00,000 CI — (1)

STCG = Rs 4,00,000 — (2)

(1) = (2)

PART - II

CO in whole transaction = Rs 10,00,000 CO

CI in whole transaction = Rs 450000 CI

Rs 250000 CI

Rs 450000 CI

Rs 250000 CI

Net CF Rs 400000 CI — (1)

STCG - Rs 225000

Rs 175000

Rs 400000 — (2)

(1) = (2)

10th Sept'17

ASSESSMENT OF PARTNERSHIP FIRMS (Including LLP)

* In this chap we will be studying everything abt firms & LLP - jahan jahan pe income tax mein iske baare mein diya hai.

IPCC

I) Basic Concepts

(a) Firm (incl LLP) = Assessee [Assessment of Firms will be done separately from its partners]

it is like good things of Firm and Company are combined to form LLP.

other adv of firm taken. took limited liab adv

Formed LLP.

But for tax purposes LLP will be treated as Firm i.e. provisions of Firm will apply and not provisions of Company.

(b) Meaning : Taken from Indian Partnership Act, 1932 and LLP Act 2008.

(c) Section 167A : [same rates applicable for Local Authority]
Tax Rate = Flat 30% (Basic)

LOGIC of Flat Tax :

Indian Const says collect tax from ppl on the basis of their "earning capacity".

For an individual, the tax rate is as per slabs.

TRUE/FALSE :

As your income increases, your tax liability also increases ?

FALSE.

It is not your tax liab that increases but your $\boxed{\text{TAX RATE}}$ which increases.

Even for Mukesh Bhai (owner of India) - Rs 0 - Rs 2,50,000 is exempt.

Now A and B want to start a partnership Firm (say for chemical bus.) A has all the technical knowledge whereas B has the accounting, etc knowledge. Before starting they will have to get a partnership deed made → get it notarized from court → submit to the Tax Authorities → Get a PAN Card → Open a Bank A/C in the name of Firm.

To do all the above activities A & B will have to incur expenses (i.e. 25000 - 200000). This means A & B ke pocket mein dum tha isiliye they cud spend so much before even earning any money from the business — THAT IS WHY FLAT RATE. i.e. TAX IS COLLECTED BASED ON THEIR 'PAYING CAPACITY'.

Tax Rate = Flat 30% (Basic)

+ SC

If NTTI	≤ 1 cr	Nil	
	> 1 cr	12% of Basic Tax	* Don't do ~~30% + 12% = 42%~~
+ EC		3% ALWAYS (Basic + SC)	

Total Tax

Effective Rate: 30.9% (without SC)

34.608% (with SC)

IPCC II) Residential Status

Firm – Resident or Non-Resident (NR)
(No further classification)

Control and Management

Wholly in India	Wholly outside India	Partly in India / Partly outside India
Resident	Non-Resident	RESIDENT *

IPCC III) Exempt Income

Firm $\xrightarrow{\text{share of profit}}$ Partner

Firm → already taxed

Partner → Exempt U/s 10(2A) — Logic cause firm has already paid taxed on it

For HUF it is exempt U/s 10(2)

IPCC IV) Salary

Firm $\xrightarrow{\text{salary}}$ Working Partner

Firm → Deduction of Exp

Sal	XX
Profit	O

Working Partner → Taxable — cause firm has taken a ded^n i.e. not paid tax on it.

U/s 28 (PGBP) **

cause he is not an emp but the owner
i.e. there is no empee – er relation.

V) PGBP (2 points – vvv imp).

(a) Section 44AD : PRESUMPTIVE TAXATION

PGBP = 8% × sales
↓
This 8% ≠ Tax
≠ NTTI
it is only PGBP

PGBP = 6% × sales [non-cash]
↓
again 6%
≠ Tax, ≠ NTTI
it is $\boxed{\text{PGBP}}$ – to this u will add other heads of income to compute NTTI.

i.e. sales done through electronic mode, chq, etc.

Eg: U have a small bus. shop say pharmacy shop. U have to buy medicines worth ₹2500. The scene at the medical store is:
There are 2 persons in the shop and 4 ppl are ahead of me:
1st person buys pulse for ₹1. So shopkeeper gives him pulse & ₹1 goes and passes JE in books: Cash A/c Dr 1
To sales A/c 1
2nd person buys Halls for ₹1. same thing again
Cash A/c Dr 1
To sales A/c 1
U get frustrated → go to another shop & buy your medicines.
Shopkeeper realises cause of BOA he lost on sales of Rs 2500. He goes to the AO & says – I will either maintain BOA or do Business – Dono possible nai hai as small business.
AO says – OK. Do Business – no need to maintain BOA.
Thus the concept of PRESUMPTIVE TAXATION.
↓
Applicable to those Business where
T/O ≤ 2crores. [Monetary Limit]

Presumptive Taxation is applicable for :
(a) Resident Individual
(b) Resident HUF
(c) Resident FIRM [EXCLUDING LLP] ****

This is only place where u can say tax treatment of firm is different from tax treatment of LLP.

** vv imp provision (b) Section 40(b) :

Firm → Partners

i) salary, Bonus Commission (working partner only) — Remuneration (mehnat kiya, kaam kiya aur mehnat ka paisa is remuneration)

(Any partner) ii) Interest on capital / current / loan (yeh mehnat ya kaam karne pe nai milta hai) (ye funds dene pe milta hai)

(All the partners) iii) share of Profit
- Firm – taxable
- Partners – exempt u/s 10(2A)

For (i) and (ii) → Firm takes deduction of expense subject to LIMITS u/s 40(b) *
→ Partner ke liye taxable under the head PGBP
(Taxable to the extent of deduction of Firm)

* REASON FOR 40(b)

Say the Firm earns profit of ₹5,00,000 – on which tax paid @ 30% i.e. ₹1,50,000. (assuming no EC).

Remaining profit distributed to partners ₹3,50,000.

	1st		2nd
2 partners			
Ratio	50	:	50
	₹1,75,000		₹1,75,000

For partners exempt u/s 10(2A).

To avoid paying tax of ₹1,50,000 – Firm said instead of paying you 1.75L, 1.75L in the form of profit, you take the same amt in the form of ↑ salary.

This will lead to firm claiming this as 'Dedⁿ of Exp' and partner will pay tax on it as per slab rate i.e. in the end paying less tax.

Thus to stop tax evasion – IT introduced Sec 40(b) – For putting limit on DEDUCTION OF EXPENSE.

For eg: Firm had taken Rs 5L dedⁿ, but as per 40(b) firm can take dedⁿ of only Rs 4L. Hence Rs 1L (5L - 4L) will be added back to the P&L of the firm.

Now, partners will pay tax not on Rs 5L but only on Rs 4L (i.e. to the extent of dedⁿ of exp by the firm) as on the differential amt of Rs 1L → Firm has already paid tax.

NOTE: Section 40(b) is for Limit on Deduction of Exp. and not Limit on payment of Remuneration.

* CG is always for the TRANSFEROR.

VI) C.G.

(a) Section 111A, 10(38), 112 $\xrightarrow{\text{including}}$ FIRMS

applicable for all assessee's

(b) Section 45(3):

Transfer of a capital asset by a partner to a firm.
The capital asset will usually be his capital contribution

Partner $\xrightarrow{\text{Trf Asset}}$ Firm
(usually capital cont.)

J.E.

FMV = Rs 10L

Asset A/c Dr 9L
To P's Cap A/c 9L

∴ CG for Partner (i.e. Transferor)

S.C. u/s 45(3) — value recorded in BOA ignoring FMV (Actual) *
(-) COA/ ICOA
CG

Bw ghar ka he banda hai isiliye gave it to firm for 9L ~~Bo~~ Lekin market mein bechta toh 10L milta.

* Because your actual sale price is Rs 9L, doesn't matter what you could have sold it for.

(C) Section 45(4)

Transfer of capital asset by Firm to Partner

This will usually happen during dissolution

$$\text{Firm} \xrightarrow[\text{(usually dissolution)}]{\text{Trf Asset}} \text{Partner}$$

↓
J.E.

(FMV. Rs12L)

P's Cap A/c Dr 8L

To Asset A/c 8L

∴ CG on Firm

(i.e. Transferor)

SC u/s 45(4) — FMV ignoring Actual Amt

(−) COA / ICOA — (Actual)

CG

Logic : Jab 1st trans kiya tha tab bus. chalu kiya tha, i.e. starting. Toh tax evasion ka nayi sochega.

↓
i.e. in sec 45(3)

That is why your SC is the actual value of sale.

Whereas now in 2nd trans (sec 45(4)) transfer of asset is taking place at the time of dissolution — you will try to evade tax — How? U will sell to the partner at price ↓ FMV — lead to ↓ CG → ↓ Tax. The partner will go & sell it the market @ FMV → Differential CG → But partner will pay tax as per slab rate, ∴ ↓ Tax to Govt.

Thus in order to avoid this you take the 'FMV'.

TO ~~LEARN~~

(1st Firm is formed - so trf from P - F → sec 3.
2nd the dissolution takes place - so trf from F - P → sec 4)

3 ⟶ P ⟶ F ⟶ Value recorded

4 ⟶ F ⟶ P ⟶ FMV

(F-Four) (F-Firm) (F-FMV)

If Asset sold by partner in future

SC	Actual
(-) COA / ICOA	(Actual) **
	CG

** Why Actual COA / ICOA ?

Since when the asset was trf by firm to partner @ time of dissolution → Even you were involved with the firm for Tax Evasion - so IT said take FMV & not the actual value

But now when you sell this asset in future you will not get the benefit for COA i.e. can't take FMV, you will have to take the Actual COA i.e. ₹8L & not ₹12L.

VII) Set off

Section 78(1) : Loss of an outgoing partner ⟶
NO c/f for FIRM

Eg: Loss of (Rs 10L)

(eg: 2:2:1)

X	Y	Z
4L	4L	2L

Y → decides to leave

∴ cf of only Rs 6L (4+2)

Logic is partner is going toh uska loss is also going
Only those partners who are continuing, uska he loss c/f.
Another logic dr of Rs 4L of Y – he will have to make good the loss before going ∴ But if he becomes insolvent then remaining partners will have to pay the loss –
Therefore NO LOSS FOR FIRM.

Another logic :

Sec 78(2)

Loss c/f – ONLY to assessee who suffered.

EXCEPTION : Inheritance

Sec 78(1) cont..

Exception: Unabsorbed Depreciation (UAD)

(It is that dep jiske liye profits nai hai):

Eg: 6L Business
4L UAD
↓
10L

	X	Y	Z
	4L	4L	2L
Business	240000	~~240000~~	120000
UAD	160000	160000	80000

↓
Mr Y Leaves
But the asset is
with the firm only isliye UAD ka c/f milega.

✱ Can partner claim c/f in own Assessment
↓
NO

Why No?

① Agar loss ke jagah profit hota toh will you pay tax - Ans is NO. That is why loss ka cf bh nai milega in your own assessment.

② Another reason: As per Sec 78(2) - loss c/f only to ā who suffered ie. bus loss suff by firm ∴ Partner not allowed to claim c/f in own assessment.

SECTION 184 : Conditions to be assessed as Firm

If u want to call yourself as firm / want the provisions of firm to be applicable for you, then you shud satisfy the foll. conditions.

(a) Partnership Deed should be in WRITING.
(i.e oral partnership deed not allowed).

(b) In the deed basis / manner of sharing profits has to be specified.

Eg: i) Partners will share profits in the ratio 40%, 60% - deed mein likha hai - Cond. ✓

ii) Profits in ratio 2:2:1 - deed mein likha hai - Cond ✓

iii) The arrangement is : (Deed mein likha)

First 10L - X

Next 10L - X and Y Equally

Balance - X, Y, Z Equally

Rs 50L

X	Y	Z
10L		
5L	5L	
10L	10L	10L
25L	15L	10L

- The AO said Cond 2 ✗ as Profit sharing is not in ratio form / % form

But the words used in Cond 2 is 'Basis / Manner' - Hence Cond 2 ✓.

(c) Copy of Deed $\xrightarrow[\text{ROI}]{\text{with first}}$ Dept

(In practical life this condⁿ is Redundant).

In the beginning we learnt that copy of deed is to be given to I.T. Dept and get a PAN Card — That means the I.T. Dept already has the Part. Deed. Thus u don't need to give copy of deed again while filing your 1st ROI.

But in case there is admission, retirement — i.e. chng in any clause of Partnership Deed, then copy of deed needs to be given.

SECTION 185:

If Sec 184 not satisfied ✗

↓

Still a Firm

↓

But No 40(b) Deduction

↓

∴ Remuneration / Interest to partner → FULLY DISALLOWED

(∴ Nothing will be taxable for Partners)

Reference: Section 40(ba) — Sec of PGBP.

AOP / BOI $\xrightarrow{\text{Remⁿ / Interest}}$ Members

↓

FULLY DISALLOWED.

Reason why: they are saying sec 184 — You are Firm
Sec 185 — still a Firm.

so they are saying if condⁿ of 184 ✗ then firm will be treated as AOP / BOI (i.e. sec 40(ba))

Ques of Law : It means Act is silent abt it & both the parties appear to be correct.
(This goes to HC|SC - once a caselaw is there on it - no more ques of Law).

SECTION 187 : Change in Constitution of a Firm

When will there be chng in constitution? On happening of foll :

(a) Change in Profit sharing Ratio (PSR)

Eg: XYZ ⟶ X YZ
2:2:1 1:1:1

(b) Admission / Retirement [NOTE: They have NOT USED THE WORD DEATH]
At Least one old partner should continue — Case Laws.

Eg: (i) XYZ ⟶ A XYZ ✓
A admitted

(ii) XYZ ⟶ XY (Z - retired i.e not left life, only left firm) ✓

(iii) XYZ ⟶ ABX (Y & Z retired) ✓
one old partner contn

⇓

→ Counted as ONE FIRM
→ ∴ ONE ASSESSMENT ORDER.

[Predecessor (old firm) & Successor (new firm) treated as same]

2 Questions :

Q1) What will the AO do when he wants anything from the Assessee?
A1) Issue a Notice.

Q2) When does the assessment proceedings get over?
A2) On issue of Assessment Order.

Q3) What can the A do if agrieved by the Ass. Order?
A3) File an appeal.

Ques of Fact - For which we have to go to CIT(A) or ITAT - No HC/SC

SECTION 188 : succession of a firm by Another

↓

≠ change in constitution

Eg: ABC ⟶ XYZ

(all the partners are new partners) - succession of firm ✓

⇓

→ TWO DIFFERENT FIRMS

→ TWO DIFFERENT ASSESSMENT ORDERS

(old firm) (new firm)
[Predecessor & Successor are treated as 2 diff firms]

↓

1st order from 1st April 'xx till Date of succession

2nd order from Date of succession till 31st March 'xx.

↓

→ NO c/f of Losses

→ C.G. THRICE

How? Trf of assets from old firm to ABC - CG on old firm

Trf of assets from ABC to XYZ - CG on ABC

Trf of assets from XYZ to new firm - CG on XYZ.

Why ppl prefer chng in constn than chng in succession?

It is because of the above 2 disadvantages i.e. NO c/f of losses and C.G. thrice.

In practical life we give this advice to our clients i.e. Admit X in ur Partnership Firm - treated as chng in constitution and then say abt 1 year A, B & C retire and admit Y and Z - again treated as chng in constn. (as 'X' old partner continues)

SECTION 188 A : Liability in a firm (including LLP)

pays
→ Tax
→ Interest
→ Penalty

↓

By Partners → Joint and Several
(one is responsible for ALL)

Eg: Tax Liab of Firm is 10L
3 partner's ratio 2 : 2 : 1
∴ Tax Liab of the partners are:
A - 4L
B - 4L } These 2 partners are garib & bikhari
C - 2L

So the AO goes to 'A' ka house and asks him to pay full Rs 10L, But A says that my liab is only of Rs 4L, u go to B and C's house and collect their liab from them.
So this means AO ko ek-ek ke ghar pe bikhari ki tarah jakar tax collect karna padega - ANS is $\boxed{NO}$.
He can collect full tax of Rs 10L from A cause as per books his Net worth is more as compared to other partners.
Also, Liab of partners are joint and several i.e. one is responsible for all.

SECTION 167C : Partner of LLP (only $\boxed{\text{LLP}}$ and not normal Firm)

↓

PROVES

Tax liability is not due to own negligence, misconduct, Breach of Duty.

↓

ABSOLVED (i.e. Maaf kiya).

NOTE : This section does not mean that liab of LLP is not Joint & Several.

Eg : X and Y are partners in LLP - construction of road.

X - civil Engineer

Y - CA

But due to Y's fault, X has to pay full tax liab. Since it is an LLP and X can prove to the AO that the tax liab is not due to his own negligence or misconduct or breach of duty, then he need not pay the liab. But in case if fails to prove then AO has the right to recover full amt from X.

1 diff btw Firm & LLP - Presumptive Tax

1 diff btw partners of Firm & partners of LLP - Sec 188A and Sec 167C

SECTION 189 : Liability after DISSOLUTION

PY — overnight decided for dissolution

ef 10/7/17 there was FIRM i.e. income ∴ Tax.

13-14	14-15	15-16	16-17	10/7/17	NO FIRM after 10/7/17
Tax decided (order passed) But tax unpaid.	Liabilities not decided.			At time of dissoln there are tax liab which are fresh & existing.	So now what abt the tax liab which arose before dissoln, how to recover this?

This sentence is used for Recovery ← ✱ Dissolved firm DEEMED (Considered) to be in existence
of taxes which are due.
(Deeming fiction) It cannot be extended for the income earned post dissolution.
i.e. Apply Sec 188A & Sec 167C.

The Assessment has to be completed within 21 months from the end of the AY (wef 17-18 - 18 months). So in the above eg for PY 13-14, last date for AO order is 31/3/18. Assuming the order was passed bf 10/7/17 (bf dissln). So the tax was decided but not paid till the time of dissolution.

Whereas for PY 14-15 - last date 31/3/19
PY 15-16 " " 31/3/20
PY 16-17 " " 31/3/21
} Tax liab NOT decided.

SECTION 176 (3A) : Recovery / Income after Dissolution
(e.g. Bad Debt recovered)

(a) Who will Receive ? PARTNER (Erstwhile partners)

(b) Taxable ? YES

(c) If yes, Taxable in whose hands ? PARTNER #

(d) If yes, under which Head ? IFOS
(As bus. no longer in existence, ∴ IFOS)

Q arises taxable in the hands of Partner or Firm ?

Firm will only be applicable if we use the Deeming Fiction sentence.
This sec is abt income earned after dissⁿ i.e. income will be recognised when received. Whereas sec 189 is abt liab after dissⁿ.
Therefore the Deeming fiction can only be used for liab (or taxes which are due), we cannot be extending this sentence for the income earned post dissⁿ - Thus it can't be taxable in the hands of the Firm.
∴ Taxable for Partners.

* Difference between FMV & NRV
FMV = Market Price
NRV = FMV − Selling Exp (eg brokerage etc)
Where no selling Exp, FMV = NRV

CASE LAW (2 SC judgements)

(Judiciary) SC : Valuation of Stock

↓

Dissolⁿ of Firm — on this date firm will have to prepare Final A/c to compute tax Liab.

① Discontinuance of Business
ALA Firm
↓
@ NRV * (Value stock).
(There is desperation to sell the stock eg: sir's wooden wall).

SC said yeh stock imm. market mein sell karna padega, kynki stock rakh ke karega kya ?

② No Discontinuance of Business
↓
How ?
(i) Succession
(ii) Individual partner converting it into sole proprietor.
Shakti Trading Co.
(There is no desperation to sell the stock)
↓
Continue the Normal Method
(Bus. chalu toh method bhi chalu).

wef 1/4/16 (PY 16-17) :

6 marks in may'17. GOI $\xrightarrow{\text{released}}$ I.C.D.S (income Computation and Disclosure Standards)

It says make ur A/cs as per AS but compute income for tax as per ICDS.

* AS follows principle of CONSERVATISM i.e. leads to lower profits

But ICDS does not follow CONSERVATISM i.e. leads to higher profits → ↑ tax.

Government has released X ICDS's. (10 ICDS)

Parliament ← ICDS II - Valuation of Inventories

↓

Dissolution of Firm / AOP

↓

NRV (Business ON/OFF)

(∴ ICDS will overrule the SC judgement of Shakti Trading Co.)

Hence jabse ICDS aaya hai Shakti Trading Co. ka case law delete ho gaya.

NOTE : Shakti Trading Co. ka case law applicable till 31/3/2016 & ICDS to be applicable from 1st April 2016.

PREFRENCE :

(i) Act

(ii) ICDS

(iii) Case Law.

SECTION 40(b) :

Limits on Deduction of Payment of Remuneration / Interest by Firm to Partners.

A) INTEREST :

(i) To working / sleeping partner
(ii) capital (+) current (+) Loan
(iii) No setting off opposite obligations.

Firm $\xrightarrow{1,00,000}$ partner (int on cap)
$\xleftarrow{96,000}$ (int on drawings)

so we can't set off 96,000 against 1,00,000
∴ int of ₹4000 X

(iv) 40(b) is applicable only if Payee is Partner (Recepient).

eg: X $\xrightarrow{\text{Partner}}$ Firm $\xrightarrow{\text{Int}}$ Mrs X
$\xrightarrow{\text{Int}}$ X - HUF (Karta)
} ~~40(b)~~

why not 40(b) ?
Cause Mrs X not partner
Karta of HUF not partner
But : 40 A(2) ✓ Applicable
(PGBP Chapter)

(v) LIMITS : Least of :
[Here dedn calculated for each partner separately].
(a) Actual Interest paid - GIVEN
(b) According to Deed - GIVEN.
(If not given = Actual)
(c) 12% Simple Interest p.a.
↳ 12% paid nai, 12% deductible.

Eg: Firm has paid Rs 20,000 to partners - Int (20,000 - cal @20%).

∴ LIMIT:

Lower of:

(a) Actual = 20,000

(b) Acc to deed - not given = 20,000

(c) 12% Simple Int - ? 12,000 [20% 20,000 / 12% ?]

∴ Firm will get dedn of Rs 12,000.

But firm has deducted Rs 20,000 in P&L A/c

∴ Amt to be added back = Rs 8,000 (Rs 20000 - Rs 12000)

Now, amt taxable for partner?

Ans - 12,000 → (Amt of dedn which is taken by Firm)

↓

under the Head 'PGBP'.

B) REMUNERATION:

(i) Only if paid to WORKING Partners.

(ii) 40(b) applicable only if payee = Partner.

(iii) TOTAL of ALL Partners.

(The dedn calculated is not ~~to~~ be multiplied by no. of partners nor by no. of months).

(iv) LIMITS: Least of:

(a) Actual Remuneration Paid - GIVEN

(b) Acc. to Deed (if not given = Actual) - GIVEN

(c)

BOOK PROFIT (Note ① on pg 135)	BOOK LOSS
First 3 lakh - 90%	Rs 1,50,000
Balance - 60%	
(Min - Rs 1,50,000)	

Calculation of Book Profit / Loss u/s 40(b) [ONLY PGBP]

(Different from Book profit u/s 115JB for MAT (Co.))
(all 5 heads)

	Net Profit as per P&L A/C		XXX
	ADD:		
(a)	Expenses debited but disallowed (eg: gift to mother, father, wife, etc)	XX	
(b)	Income not credited but taxable u/s 28 (eg: unrecorded sales)	XX	XX
			XXX
	LESS:		
(a)	Expenses not debited but allowed (eg: unrecorded salary)	XX	
(b)	Income credited but not taxable u/s 28 (eg: Exempt income, other heads)	XX	(XX)
			XXX
	ADD:		
	Remuneration / Interest to Partners DEBITED (ek baar ke liye pura add kar do as per books)		XX
	PGBP Before 40(b) Deduction		XXX
(–)	Interest allowed u/s 40(b)		(XX)
	PGBP Before Remuneration dedⁿ u/s 40(b) (Also known as BOOK PROFIT)	Note ②	XXX
(–)	Remuneration		(XX)
	PGBP		XXX

Note ① Calculation of Book Profit / Loss u/s 40(b).

NP as per P/L	XX
Book Profit / Loss	XX / (XX)

Assuming you get a book loss of Re 1 - then limit of Rem. will be 150000 (as it is a loss).
But suppose if there was a profit of Re 1 - then limit Re 1 x 90% i.e. ₹0.90 - Not fair.
Hence they have kept a limit of Rs 1,50,000 in case of Book Profit.

Note ② Excitment mein aakar - after computing Book Profit / Loss, DO NOT DIRECTLY APPLY THE (C) LIMIT i.e. Don't do 90% or 60% of Book Profit or in case of loss do not directly deduct 1,50,000. - Check your actual Remuneration and as per deed also - cause if lower then that will be deducted. (ICAI will check U on this only.)

(pg-43) Q1. NTTI

PGBP:

NP as per P&L A/c		45,000
Add:		
(a) 40A(3) - Disallowance	30,000	
(b) Rem / Int debited	1,60,000	1,90,000
		2,35,000
Less:		
Int		(20,000)
	Book Profit	2,15,000
	(-) Remu.	(193500)
		xx

Firm does not comply with sec 184 provisions

∴ Dedn u/s 40(b) X.

∴ Tax =

Q2. Bus inc bf ded of sal & int — 4,50,000

(-) Int — (73,333)

Act 1,10,000

Acc to Deed 1,10,000

12% 73,333

376667

(-) Sal (272000)

Act 272000

Deed 270000

104667

Book Profit 316000

* LTCL can be set off only against LTCG whereas, STCL can be set off against LTCG and STCG

RECEIPT

CAPITAL	REVENUE
Never Taxable	Always Taxable
Except: C.G.	Except: Exempt Income

17th sept'17

Q4. (Pg-45)

NTTI

(a) PGBP (WN1)	1,02,000	
(-) b/f loss	(40,000)	62000
(b) L.T.C.G.	4,90,000	
(-) b/f L.T.C.L *	(10,000)	4,80,000
(C) IFOS : Deb Int		40,000
G.T.I		5,82,000
(-) Chap VI-A (Max- 1,02,000) (62,000+40,000) 80G		(5,100)
NTTI		5,76,900

Caln of Tax on 5,76,900

LTCG 480000	Other 96900	
@ 20%	@ 30%	
96,000 +	29,070 =	1,25,070
	+3% EC =	3,752
		1,28,822

(WN1) **PGBP**

NP as per P/L A/C		2,56,000
Add:		
(a) Int to partners debited	3,20,000	
(b) Depreciation debited	1,80,000	
(c) Rem. to partners debited	2,34,000	
(d) Disallowed expense	82,000	8,16,000
		10,72,000
Less:		
(a) LTCG taxable under other head (not 480000)	4,90,000	
(b) Deb. interest	40,000	
(c) Dep. as per Income Tax	96,000	(6,26,000)
PGBP before 40(b) Deduction		4,46,000
(-) Interest allowed U/S 40 (b)		
(i) Mr. Vipul : least of:		
Actual/Deed - 30,000 (20%)		
12% - 18,000 (12%)		
(ii) Mr. Raj : least of		
Actual / Deed - 220000 (24%)		
12% - 1,10,000 (12%)		
(iii) Mr. Sakle : least of		
Actual / Deed - 70,000 (20%)		
12% - 42,000 (12%)		(1,70,000)
Book Profit		2,76,000
(-) Rem. dedn U/S 40 (b) : least of:		
(i) 90% (276000 x 90%)	248400	
(ii) Actual / Deed	1,74000*	(1,74000)
* only working Partner dedn (i.e. Vipul & sakle)		
PGBP		1,02,000

17th sept'17

ASSESSMENT OF RELIGIOUS AND CHARITABLE TRUST

→ C.T. ko bikhari jaisa 15% Exemption hi milta hai i.e. 85% is Taxable.

MEANING + CONDITIONS + EXEMPTION.

I] MEANING:

(i) Religious Trust is that trust which operates for religious purpose.

Religious Trust $\xrightarrow{\text{operates}}$ Religious Purpose
↓
NOT DEFINED
(i.e. to be understood in Common Parlance)

eg: Siddhivinayak, Haji Ali Darga, Shirdi sai Baba, Church, etc.

(ii) Charitable Trust is that trust which operates for charitable purpose.

Charitable Trust $\xrightarrow{\text{operates}}$ Charitable Purpose.
↓
DEFINED in INCLUSIVE MANNER

Charitable Purpose u/s 2(15): "INCLUDES"

* Def. can be inclusive or exhaustive. means rigid def., if anything needs to be included, an amendment needs to be brought.

(a) Relief for the poor (only these 4 words are given in the Act)
(food / clothing / shelter to poor) → this is not given in the Act, but by common sense.

Matlab if u satisfy these, then u can call yourself charitable trust.

So whether aap jo relief de rahe ho and whether poor ke liye hai ki nai - will be ultimately decided by the CIT.

(b) Medical Relief
(treatment of illness or treatment during convalescence)
i.e. ~~relif~~ relif spray / bandaid
lagane se - not medical relief.

Before undergoing a surgery (say bypass) you are admitted to hospital 24 hrs before surgery and after the surgery you are kept in 'Intensive Care' or for Recovery - that post surgery care is called convalescence.

(c) Education
(schools and colleges)
Intention was to cover schools & colleges and here its not said that commercial coaching classes are excluded.
But if you reserve say 20% seats for below poverty ppl and provide less fees to them - then you can be called as a charitable trust.
Eg: Sukh Sagor Institute Charitable Trust.

(d) YOGA
eg: Ramdev Baba - Pantanjali
To encourage Make in India - i.e. use of domestic products

(e) Preservation / Protection
① Environment : Wildlife, Watersheds, Forests.
(Save the tiger) (Narmada Bachao Andolan) (Chipko Movement)
② Objects / Monuments of Artistic / Historic Interest.
(Museum, Fort, Mani Bhavan).

(f) Advancement of any other object of general public utility. (E.T.C.)

(Any act. which u are doing jise public ka fayda ho raha hai & not falling in above five - then fall in this category).

Eg: (i) Installation of water fountain.

(ii) Blood Donation

↓

Blood Don. Camp is not medical relief. Later wen hospital is treating the patient - that is medical relief.

(iii) Public Toilet

(iv) Board of Control for Cricket in India (BCCI).

↓

we are providing 'ENTERTAINMENT' to public.

But this (iv) should not be there.

So an amendment is needed which will keep the 1st 3 points and eliminate the (iv)th one i.e. eliminate BCCI.

But if fees / consideration ⟶ from Commercial Activity
(for services)

ONLY IF : [ONLY for (f)]

(i) Commercial Receipts ≤ 20% x Total Receipts.

$\boxed{\text{AND}}$

(ii) Commercial activity related to charitable activity.

Eg (1) Salman Khan's 'Being Human' sells t-shirts, watches, glasses and the money earned is 100% used for poor people - fall in cond^n (a).
It will not fall in cond^n (f) cause the commercial act. is not related to the charitable activity.

(2) Ambani Hospital has subway, starbucks, etc. It also has gift shop - not related for treatment of patients. But if the money earned from this is 100% used for treatment of patients, then it falls in cond^n (b).
But again not cond^n (f) cause comm. activity not related to char. act.

(3) I run a school, by charging no fees to students. But since I need to provide stationery to students, salary to staff, electricity, etc I run a bar in the night in the school and money earned from it is 100% used for the above exp. - Thus falls in cond^n (c).
But again fails cond^n (f) cause comm. act. not related to char. activity.

(4) There is a public toilet - collect money from ppl for its use - money used for maint of toilets - then its fine.
Now suppose I sell soaps, hand sanitizer and use that money for the purpose of toilet - cond^n (f) satisfied as comm. act. related to char. act.
But suppose say I allow a charsi to use the toilet for 1 hr and take money from his - use for toilet - cond^n (f) not satisfied cause comm. act $\neq$ char. act.

III] CONDITIONS :

(i) Registered with CIT u/s 12A of Income Tax Act.

(ii) You will have to maintain B.O.A.

(iii) Get the B.O.A. Audited (if Income before exemption > 2,50,000)

(iv) Unused Funds → Kept/Invested in the modes u/s 11(5) (Refer Pg 50 - 7B).

- **Unapplied Income** (income earned but not spent) Yeh woh paisa hai jo aapke pass hai and u can use it the way u like
- **Corpus Donation** (for specific purpose) ($\neq$ Income). Yeh woh paisa hai jo aapke pass hai but u can't use it the way you like. eg: school recd money for sports day - i.e. specific purpose.
- **Accumulation of Income u/s 11(2)** The funds are used once goals are accomplished eg: school starts with 5th std it wants to start primary school also. i.e. money can be used only when future dream materializes.

(v) Wef AY 18-19
ROI to be filed on time
(ie if not filed on due date - you lose ur exemption).

Doing condⁿ 1 in detail :

REGISTRATION

Ref : Every trust over its lifetime has to take 3 registrations.

(a) With Charity Commissioner – this comm. is approved by the GOI.
[BIRTH] – Gives birth to the trust.

practical life mein ye dono ka regis is done together – as with same person.

(b) With CIT u/s 12A [FOR EXEMPTION]

(c) With CIT u/s 80G [FOR DONORS TAX BENEFIT]

Here we have to learn abt reg. (b) – other 2 for knowledge.

PROCEDURE U/S 12AA :

(i) Trust $\xrightarrow{\text{application}}$ CIT [Application to be made in FORM NO. 10A]

(ii) Inquiries from → (a) Applicant
→ (b) 3rd parties.

(iii) CIT may lay down some conditions.

(iv) One day CIT will pass an ORDER within 6 months → GRANT
→ DENY – P.O.N.J.
(Principles of Natural Justice)
[an opportunity of being heard]

(V) After registration : illegal activity
↳ Cancellation of registration – P.O.N.J.

Appealable @ ITAT

23rd Sept '17

POINTS ABOUT REGISTRATION

governing sec of this chap

(a) Once registered U/S 12A, exemption U/S 11 (15%) Bikhari wala exemp.

NO EXEMPTION U/S 10

Exception

i.e. will get these 2 sec 10 exemption

10(1) - Agriculture Income

10(23C) - : (There are many points in sec 23c but only one point is applicable here)

Medical & Education Institution

⇓

Only if these 2 conditions are satisfied

(a) Not for profit

[AND]

(b) (i) wholly / substantially owned by Govt.

[OR]

(ii) T/O ≤ 1 Cr

[OR]

(iii) Approved by CCIT [Chief Commissioner of Income Tax]

Eg: In Vile Parle - NM College - commerce stream - Mum Uni - so less fees is taken from students - T/O in one yr usually < 1 cr

∴ cond (b)(ii) ✓ and also (a) ✓ ∴ college can take Exemp U/S 10(23C).

But if Science college - fees from students very high - from 1 student fee for 1 yr around 6-7 lakhs ∴ T/O > 1 cr ∴ condn (b)(ii) ✗

So it can take 15% exemp U/S 11.

(2) Wef AY 2018-19

If modification of objects not according to conditions of registration.

⇓

Fresh application for registration within 30 days

Eg: Started a school : i) Primary objective is to provide education to students. (ii) Secondary objective is to provide students with proper facility, stationery, etc.
(iii) Tertiary / Ancillary objective : organise various events, etc.
Now suppose after regis. the school makes any changes in any of its above 3 objectives - then make a fresh application for registration within 30 days.

(3) Eg: Trust created on 1/4/11
Application for registration - 1/4/16

PY	Good work	Registration	Exemption
11-12	✓	×	✓ without registration No scrutiny / Reassessment (other conditions fulfilled)
12-13	✓	×	
13-14	✓	×	
14-15	✓	×	
15-16	✓	×	
16-17	✓	✓	✓

& future years

Now it has come in the eyes of the AO - he says he will do scrutiny of all the past years and reassessment / reopening. The AO asked why did u not register? A says I did good work. - But you will still get exemp - only if funds are not misused. If any other cond. is contravened, you will not get the exemption. Say if during 14-15 u went to the comm for registration - but he denied it and later in 16-17 he agreed for it - You will not get exemp for earlier yrs because for some reason CIT denied registration.

CALCULATION OF INCOME

(a) Donations [Excluding Corpus] *(Refer pg 148) xxx

(b) Income from property (any income generating asset excl. immovable property) xxx

(c) Business Income xxx

(Direct Income - Direct Expenses) So here we take only gross profits. We deduct exp incurred to earn this income.

i.e. take only trading A/c income & exp.

Eg: Being human - produces t-shirts incurs manuf. exp, telephone, rent, etc. So u will get deduction of only manuf. exp.

*Specifically given Dep. ~~of~~ assets ka dedn nai milega.

Net Income	100	xxx	(-) Deficit b/f (unlimited years)
(-) 15% Exempt u/s 11	(15)	(xx)	
Balance 85%	85	xxx	

3rd (-) Application of Income for approved Objects (Here u will get dedn of telephone, rent, etc) (xx)

(i) Capital or Revenue

(ii) During the P.Y. or upto Return filing due date.

(iii) Donation to other Trust

Wef AY 18-19 : Not if Donation to Corpus.

LOGIC The Donor was taking dedn under App. of Income and Receiver was not including in income due to it being corpus donation. Leading to tax evasion, that is why this was bought as an amendment.

2nd (−) Accumulated u/s 11(2) (xx)

Normally we get dedn only if we spend it, but this is the only thing jiska dedn we can get without spending it, but only after AO's approval/permission.

Eg: dispensary – hospital
secondary school – primary school. } 'future dream'

1st (−) $\boxed{\text{Not Received}}$ during the year (xx)
(+) Past income Received

NTTI xxx

* Why CORPUS DONATION excluded from Donations?

Reason: Firstly corpus is not an Income (pg 143), hence you don't add it in your income computation.
Second, Corpus donation is a liability for a specific purpose.
(In 12th – A/C for NPO – Prepared Income & Exp A/C, etc Corpus Donation was always written on the liability side).
Say for Eg: Sir gave Rs 100 to M to give it to Ice Panwala.
This Rs 100 for M is not his income – He has to give it to the Panwala.

* For the Trust to get 100% Exemption it needs to spend the balance 85%.

POINTS

1. Trust gets deduction of capital exp. Thus it does not get Ded of Dep. of assets.
(In exams you don't write 'assume' the trust it not getting Dep on assets. Unless in the ques specifically mentioned that Trust has not taken ded of cap exp & will take dep-ded → then only do it.).

2. Donation made to other trust need not necessarily be for the same charitable purpose. Say U are running a school and have excess funds - give donation to a hospital - Chalega ✓

3. Being human - authorised dealers at many places - sale of t-shirts are made on credit basis i.e. goods sold but income not yet received - uska dedn milega
And suppose in the CY you get PY's income - this income needs to be added to the above dedn made.

Q2. (pg-57)

NTTI

Direct Income	1,25,00,000
(-) Direct Expense	(27,00,000)
(-) Dep of asset	(Nil)
Net Income	98,00,000
(-) 15% Ded u/s 11	(14,70,000)
Bal 85%	83,30,000
(-) Not Received	(10,00,000)
	73,30,000

NOTE: we are not assuming this

(-) Accumulation : 15L ✗

It is not accumulation, but appli- cause it is spent before the due date. Accum. is that which will be used in the future.

(-) Appli (i) Upto ROI due date	(15,00,000)
	58,30,000

58,30,000

Furniture & Equip

	(a) (42,00,000)	(b) (60,00,000)
NTTI	16,30,000	Nil
	Deficit	1,70,000

This deficit ka dedn will get next yr from Net Income.

ACCUMULATION U/S 11(2)

(1) Subtract without spending

(2) Future Major Goal / Dream

eg (i) Primary → Secondary

(ii) Dispensary → Hospital

(3) Trust $\xrightarrow{\text{Request}}$ A.O.

↓

Form 10 (Request is nothing but making an application to the AO).

(4) Submit ROI on/before the Due Date

$\boxed{\text{AND}}$

Submit Form 10 on/before the Due Date

(Both are to be submitted on/bf the due date)

30th Sept.

(5) Delhi HC Judgement : Daulatram Education Society.

Mere reproduction of object clause not allowed.

Tell us how your future is going to be different from the present – Aapko kuch details toh dena padega.

You just can't copy paste ur object clause.

(6) Intimate details of your future objective not required.

from the same above judgement.

Eg: U said dispensary - hospital.

AO called up & asked - for how much will u purchase the land, from where will u get the oxygen cylinders, beds, doctors, how will u advertise, etc etc etc.

If u ans so many ques, then there are competitors in

the market who have money power - AO will give info to them.
Then there will be no secrecy / confidentiality of my business & my competitors will start the business.
Hence to maintain confidentiality - AO can't ask all these details.

(7) Spent within 5yrs → End of Year of Accumulation

Eg: PY 17-18 $\xrightarrow{\text{LAST DATE}}$ 31/3/23
31/3/18

(8) Unspent Amount taxable in 6th year** & not 5th year.
[Yr 23-24]

PY 23-24

Net Income		xxx
(-) 15%		(xx)
Bal 85%		xxx
+ Unspent	xx	
(-) Spent	(x)	

↓

Or Due Date of 6th year
[7th yr]

[So if usee u can actually spent it within 6½ yrs - woh bolne ke liye 5 yrs hai]

(9) ~~(a)~~ Accumulate / Renew Every Year
In practical life - the time limit of 5yrs is only for theory. So the 1st yr accu - renew in 6th yr, 2nd yr accu - renew in 7th yr ... so on & so forth. You just have to convince the AO for Renewal.

(10) ONLY for that purpose.

Accumulation ka concept hai ki aapka Goal clear hai.
In case you spend it for any other purpose - it will be added in that yr only.

EXCEPTIONS:

(i) AO Approval

Say you were accumulating for Multi speciality hospital, But Mukesh Bhai opened a hospital next to it - so now what will u do by opening it. Suppose there is no maternity facility & u convince the AO for maternity - then ur purpose can change.

(ii) Dissolution Year

(You have decided to dissolve the trust).

(11) Bal 85% - xxx

(-) Application (-) Accumulation (-) Not Recd

↓

(Donation to other Trust)

↓

Out of C.Y. income. Not out of Accumulation

Exception

(i) Dissolution Year

* Tax Rates Applicable to the Charitable Trust are SLAB RATES of an INDIVIDUAL. Treated like AOP (Category I of Individual)

Q1 (pg-56)

NTTI AY 18-19

Income (net of expenses) / Net Income		15,00,000
(-) 15% u/s 11		(2,25,000)
Bal 85%		12,75,000
(-) Accumulation u/s 11(2)		(10,00,000)
		2,75,000
(-) Appl^n		(1,00,000)
	NTTI	1,75,000

Unspent Amt till 31/3/23 - 2,50,000
(10L - 7.5L) Taxable in PY 23-24 (6th Year)

PY 23-24

Net Income		XXX
(-) 15%		(XX)
Bal 85%		XXX
+ Unspent Amt	2,50,000	
(-) Spent	(1,00,000)	1,50,000

Q3 (pg-57)

NTTI		₹ in crs
Direct Income		2.6
(-) Direct Exp		(1.4)
Net Income		1.2
(-) 15% u/s 11		(0.18)
Bal 85%		1.02
(-) Accu u/s 11(2)		(0.6)
		0.42
(-) Appl^n	Max	(0.42)
	NTTI	Nil

2 things to check : (i) Return (ii) Request

Deficit c/f = 0.08

SC Judgement :1) Queens Education Society
2) St Peters Education Society
Can other modes ~~to~~ of teaching be qualified in education?
Ā made huge profit - so no exemp.

Q4.
Pg-58

Bus. Income / Net Income	30,00,000
(-) 15% u/s 11	(4,50,000)
Bal 85%	25,50,000
(-) Appl^n	(14,00,000)
NTTI	11,50,000

Q5
Pg-58

Income	62,00,000
(-) Expenses	
(i) Exp Inc	(5,00,000)
(ii) Dep	(3,00,000)
(iii) Exp	(2800000)
	26,00,000

Q10 (Pg-63)

NTTI

		₹ in lakhs
(a) Property Income		26L
(b) Business Income		
(i) Engg. college u/s 10(23C)	Nil	
(ii) Incidental	2L	2L
Net Income		28L
(-) 15% u/s 11		(4.2L)
Bal 85%		23.8L
(-) Not Received		(2L)
		21.8L
(-) Applⁿ		
(i) Scholarship	9L	
(ii) explaination u/s 11(1)	2L	
(iii) Repayment of loan #	3L	(14L)
NTTI.		7.8L

When I take a loan, I don't add it upar.
Now when I spend it, I take uska dedⁿ.
After getting ~~m~~/earning money I repay the loan - again take dedⁿ
Thus we are taking the dedⁿ twice. - NOT CORRECT.
But ICAI follows HC judgement wherein it was said that since it is a TRUST they shud get repayment of loan ka dedⁿ as they get cap dedⁿ, etc.

BUSINESS INCOME
U/S 11(4) / 11(4A)

Already existing 5 conditions
Additional 2 conditions to be satisfied by a Trust doing business.

2 conditions:

(i) Separate BOA for every Business
[AND]
(ii) Business - 'Incidental' to main objects.
not defined in the Act

SC judgement : (a) Dharmodayam
(b) Thanthi Trust

wherein it was held that
Incidental means profits used for charitable purpose.

Now, if Business mein bhi Advancement hai, then 2 more conditions need to be satisfied.
(i) Commercial receipts ≤ 20% of Total Receipts
(ii) Business activity related to charitable activity

Section 11 (1A) - CAPITAL GAINS

(1) C.G = S.C − C.O.A.

(2) NO LT | ST

(3) No indexation

(4) No Special Rate

(5) No Exemption in the 54 series

(6) ONE EXEMPTION.

Acquire another capital asset (incl FD ≥ 3 yrs)

If entire N.S.C is invested, entire C.G will be exempt

Eg.	Gross S.C	50,50,000
	(−) Trf Exp	(50,000)
	N.S.C.	50,00,000
	(−) ~~I~~ COA	(15,00,000)
	C.G.	35,00,000

How much money is with you?

50,00,000 ✓ is the ans. Note: 3500000 ✗ is not the cash with you. It is your C.G.

Now if say you invest full Rs 50,00,000, then your entire CG of Rs 35,00,000 is EXEMPT.

Else : ~~Proportionate~~

ILLOGICAL
Learn it

[Cost of New Asset − Cost of Old Asset]

	Inv	exempt	Taxable (CG − Exempt)
(i)	50L	35L	Nil (35L − 35L)
(ii)	25L	? 10L (25L − 15L)	25L (35L − 10L)
(iii)	40L	? 25L (40L − 15L)	10L (35L − 25L)

ADD TO NET INCOME (i.e. you'll get 15% Benefit)

Now for (ii) In Application − when u take cap. exp. ka deduction it will not be for 25L − out of this 10L is exempt so only Rs 15L ka dedn milega.
(25L − 10L)

Similarly in (iii) You will not get 40L deduction as cap. exp it will be only Rs 15L cause 25L is exempt.
(40L − 25L)

In short the Deduction in Application for Capital Exp will always be VALUE OF OLD ASSET. (In our eg − Rs 15L).

Q7. (pg-58)

Gross S.C.	22,50,000	
(–) Trf Exp	(50,000)	
Net SC	22,00,000	
(–) COA	(7,00,000)	
C.G.	15,00,000	

	(i) 22L	(ii) 18L	
CG	15L	15L	
(–) Exempt	(15L)	(11L)	(18L – 7L)
Taxable	Nil	4L	

Q8 (pg-59)

Net SC	52,00,000	
(–) COA	(7,00,000)	
C.G.	45,00,000	(cost of new – cost of old)
(–) Exempt	(34,00,000)	[41L – 7L]
	11,00,000	

Q6. (pg-58)

NTTI	₹ in crs
Business Income	
Amt collected as schoolfees, etc	3.2
(–) Direct Exp	(1.3)
Net Income	1.9
(–) Ded of 15% U/s 11	(0.285)
Bal 85%	1.615
(–) Accumulation	(0.7)
	0.915
(–) Applⁿ	(0.8)
NTTI.	0.115

Q2 (pg-60)

NTTI

	₹ in lakhs
(a) Voluntary cont. (excl. corpus)	11
(b) Income from property (net)	15
(c) Income from Business	14
Net Income	40
(-) 15% u/s 11	(6)
Bal 85%	34
(-) Application	
(i) Various activities	(18)
(ii) Donation to other Trust - corpus	(Nil)
NTTI	16

Q6 (pg-62)

NTTI

		₹ in lakhs
Income		250
(-) Expense		(55)
Net Income		195
(-) 15% u/s 11		(29.25)
Bal 85%		165.75
(-) Income not received		(20)
		145.75
(-) Application		
(i) Advance for Building	30	
(ii) Cost of ERP Package	85	
(iii) Purchase of comp/laptop	12	(127)
NTTI.		18.75

* Deduction of depreciation on assets will not be given.

24th Sept'17

SECTION 13: Withdrawal of Exemption

(a) Private Religious Purposes
(no benefit to general public)
Eg: Fire Temple: doesn't allow people from other religion -
∴ not a Trust cause public ka fayda nai ho raha hai.
But temple, church, mosque - allow people from other religion - public ka fayda hai - ∴ It is a Religious trust.
This point is to target 'Religious Trust'.

(b) For $\boxed{\text{Benefit}}$ of Particular caste, community, creed, Religion
(no benefit to general public)
This point is to target 'Charitable Trust'.
Eg: Malad 'JAIN' Medical Religious Centre.
Is it a Charitable Trust? $\boxed{\text{YES}}$ - Naam mein sirf Religion hone se it doesn't mean that it is a Religious Trust. The criteria is it should be for benefit of ppl.
The factor is if they deny to provide relief to other religion then they will lose exemption.
On paper they write that they will provide relief to all religions but in reality they provide benefit to only their religion - But they will still not lose exemption cause on paper it is written that sabko fayda denge.

Exceptions:
[Inspite of falling in Sec 13 - they will not loose exemption]
(i) SC, ST, OBC, Women, Children, Senior Citizen
Eg: CRY, Aasha Dan, etc.
Even though trust providing benefit to specific ppl -
still won't lose exemption.

(ii) Medical / Educational Trust # (Refer pg 164)
only the benefit taken will be added back.

(c) Benefit of
Author / Founder
Manager / Trustee
Substantial contributor > ₹50,000
or Relative of all of the above.

Eg: Salman Khan runs Being Human - Charitable Trust
He dances in somebody's wedding & charges ₹10 Cr.
If he takes cash from the person - then 30% tax + 18% GST
Total tax - 48%.
So what salman khan said give me Rs 10cr in the name of Being human as Donation. By doing this Salman Khan will get 15% Exemption and also the Donor can claim exemp u/s 80G.
with this donation - he can purchase car - and claim deduction under application - use car for his personal Use.

Exception:
(i) If Benefit upto ₹1000 in a year (TOTAL).
Eg: M has a Medical Trust. One day he takes his son along and his son gets hurt with sissors in the trust. Now 'M' won't say that I will not use dettol and band aid of the trust - cause if I do, then the trust will lose the exemption. He says rather I will go down & purchase it from my own pocket inorder to save the exemp. of the trust - Bcuz obv. NO.
Hence if the founder / trustee / his relative takes any benefit of less than (≤) Rs 1000 - then the trust won't lose exemption.

This is for Point (b) - exception (ii)

Net Income	xxx
(-) 15%	(xx)
Bal 85%	xxx
(-) Appl^n / Accumulation	(xx)
NTTI	xxx
+ Benefit taken	xx
	xxx

Eg: Mr Ambani has a hospital Dhirubai Ambani. If say one day his mother falls sick and he admits her in say Lilavati or Saifee or Jaslok just because he has alot of money. Also he says if I admit her in my hospital then I'll be taking benefit of my own trust and will fall in point (c) - thus trust will lose exemption. Also the cost will be >1000, hence I won't fall in the exception also, But by admitting her in another hospital - he is creating a bad impression on others by conveying the msg that my own hospital is not good. ∴ he will admit her in his own hospital. If say the hospital does certain tests & all for his mother amounting to Rs 25000 - They will obviously not take this money from Mr Ambani. Thus this benefit taken from the hospital by the founder will be added back to NTTI.

Similarly Mr Ambani has his own school - If he doesn't make his children study in his own school - he's creating an impression for the ppl that his own school is not good. Thus he will make them study here and the benefit taken will be added back to NTTI.

(d) Income from non-specified Investments
[other than 11(5)]

↓

ONLY - added in the Total.

This means even though U are contravening the main condⁿ by investing in non-sp. Inv - U will not lose full exemption U will lose exemption only to the extent of income from non-specified investments.

For crimes (a) to (d) - Even REGISTRATION can be CANCELLED by CIT.

↓

Means PERMANENT withdrawal of EXEMPTION.

If registration is not cancelled then there is only 'Temporary' withdrawal of Exemption, that means if exemption not given in 1 year, it can be taken in another year There is no permanent withdrawal of exemption.

(e) Advancement : Commercial Receipts > 20% of Total Receipts.

If in Y1 : Comm. recp >20% - U will lose exemp.

But if in Y2 : Comm recp <20% - U will get exemp.

CBDT : Bought a notification directing all CIT's of India that if for advancement : comm recp > 20% of Total Recp. - then don't need to cancel their registration.

(f) Advancement : Commercial activity not related to Charitable activity.

(g) No separate BOA

(h) Not incidental

(i) Accumulation u/s 11(2) — Form 10 after Due date.

(j) Anonymous Donations u/s 115BBC

Thus for crimes (e) to (j) - there can be no cancellation of Registration by the CIT. Which means only TEMPORARY WITHDRAWAL OF EXEMPTION.

SECTION 115BBC : Anonymous (AD) Donations (It is like casual winnings).

Sub-Sec (3) **MEANING:**

Identity of Donor - Unknown
↓
- Name
- Address
- PAN

(2) **APPLICABILITY:**

Sec 115BBC : Not Applicable (∴ AD = Normal Donation
(∴ Flat 30% N.A.) ∴ 15% / ACCU / Appl^{n})

(a) Wholly Religious Trust
Eg: Temples - ppl putting money in Daan-petti - not possible to take PAN card of every person. or put CCTV for every Daanpetti

(b) Partly Religious / Partly Charitable.
Anonymous Donation received for other than Medical / Educational Purpose.

∴ 115BBC (Flat 30%) ✓
(a) Wholly Charitable
(b) Partly - Received for Education / Medical

TRUST

- Wholly Religious — 115 ~~BBC~~
- Wholly Charitable — 115 BBC ✓
- Partly
  - Purpose
    - Edu / Medi — 115 BBC ✓
    - Other — 115 ~~BBC~~

NOTE : Here it is assumed that a Partly Religious Trust

(1) FLAT 30%.

	Rs in lakhs
Eg : Business inc	4
Property inc	6
corpus Donation	8
Normal Donation	11
Anonymous Donation	5
Accu / Appl^{n}	7

Calculate Tax liab of charitable Trust (wholly).

Sol : NTTI

(a) Donations

Normal donation	11	
Anonymous	5	
Corpus	Nil	16

(b) Business Inc 4

	(C) Property Income	6
	Total	26
✱	(–) A.D. – Taxed separately	(5)
	Net Income	21
	(–) 15% u/s 11	(31.5)
	Bal 85%	17.85
	(–) Accu / Appl^{n}	(7)
	Total	10.85
✱	(+) Anonymous Donation	5
	NTTI	15.85

Calculation of Tax on 15.85

Anonymous Donation (A.D)	Other
5	10.85

(–) Deduct ₹ 1,00,000
OR
5% of Total Donation
[INCLUDING CORPUS]*
(illogical)

whichever is higher

Why is there a deduction from A.D. before charging it to tax?
There are many genuine ppl who give donation but then don't want to give their name. Cause of such donations trust had to suffer by paying 30% tax. To safeguard the trust this concept of ded^{n} was bought.

* Controversy : Total Donations shud include or exclude corpus?
Our logic says it shud exclude corpus cause you have not shown it in ur income then how can u claim deduction.
But ICAI says INCLUDE.

Page : 170

15.85

A.D. 5 | Other 10.85

(1.2)* → + 1.2

* This was bought as an amendment in 2014.

3.8 | 12.05

@30% | @slabs

= ₹1,14,000 + = ₹1,74,000 = ₹2,88,000

+EC@3% 8,640

₹2,96,640

* The intention of the govt. by giving a deduction was not that "it won't be taxed at all".

It will be taxed @ slab rates.

This is LY's amendment.

SECTION 115TD : EXIT TAX

[Trust $\xrightarrow{\text{becomes}}$ Non. Charitable]

Net worth ⟵ Accreted Income ⟶ Taxed @ M.M.R. – 30% + 12% + 3%
(Assets – Liabilities)

(SC over 12%, EC over 3%)

Effective Rate : ~~34~~ 34.608%

Exemption ke naam pe jo bhi paisa jamaa kiya hai uspe highest tax pay karna padega before existing.
[It is like a penalty to be paid before becoming a papi]

Sutra

① SITUATIONS / TAXABLE EVENTS : (In these 5 situations you will have to pay Exit Tax)

(a) Modification of objects

- (i) Fresh Registration not applied
- (ii) Applied but rejected by CIT

(b) Cancellation of Registration by CIT on grounds of misuse of funds + Sec 13 (a) to (d) (no longer chari. Trust ∴ ET).

② On what Date ?

Kis date ka FMV u have to take? (not the date of payment).

	Modification	Modification#	Cancellation

Pay within 14 days : When ?

From:

Modification	Modification# (i) If not appealed	Modification# (ii) If appealed	Cancellation
End of P.Y.	Expiry of Time Limit to Appeal (End of 60 days)	Receipt of copy of order-losing the appeal	← SAME

\# why date of Modification and not the 30th day ?
cause when rejected - u are a Non CT. from the date of Modification only. 30 days time limit is for applying to the CIT - Doesn't mean that u are a CT for the 30 days.

(c) Merger with a Non Charitable Entity

(d) ϕ Dissolution $\boxed{\text{and}}$ ✶ Assets are not Distributed to other trust.

Sirf dissol^n karna is not a crime, but aft dissl^n if assets are not dist - means using for own purpose - pay exit tax.

within 12 months from end of month of dissolution.

Merger — Dissolution.

Merger — End of Period (i.e. 12m)

ϕ Eg: U dissolve on 24th sept'17. So if transfer till 30th sept'18 → No exit Tax

After 30th sept '18 → Yes Exit Tax

Now what if out of 10 assets, 6 assets transfer till 30th sept '18

4 assets trf on 10th oct '18

Thus accreted income mein 4 assets ko value lenge.

Last date of payment will be

30th Sept'18
+ 14 days
14th Oct'18

POINTS

(1) Accreted Income :

FMV of Assets	xxx
(−) FMV of Liabilities	(xx)
Accreted Income (AI)	xx

For assets following will be excluded :

(a) Acquired out of 10(1) income

i.e. asset acq out of agriculture income – no need to pay exit tax on it.

(b) on which exemption is not taken

I did not take exemp. on some asset, toh isspe tax hi nai aayega

(c) Dissolⁿ: Assets transfered within time.

(2) Section 115TE : If paid beyond 14 days (i.e. late)

Interest : 1% p.m or part thereof.

(3) Section 115TF: Failure: $\underbrace{\text{Trust + Principal Officer}}_{\text{'Assessee in Default'}}$

(4) Exit tax is over and above your income tax payable.

Q9 (pg-59)

Caln of (a) and (b) - Sec 115BBC X

Donations	60,00,000
(-) 15%	(9,00,000)
Bal 85%	51,00,000
(-) Appln - Max	(51,00,000)
NTTI	Nil

∴ Tax = Nil

Deficit = Rs 9,00,000

Caln of (c) and (d)

Donation	60,00,000
(-) A.D.	(12,00,000)
Net Income	48,00,000
(-) 15% u/s 11	(7,20,000)
	40,80,000
(-) Appln (Max)	(40,80,000)
NTTI	Nil
+ Anonymous Donation	12,00,000
NTTI	12,00,000

Caln of Tax on 12,00,000

A.D. 12,00,000 | Other : Nil

Deduct : ₹1,00,000 or 5% of 60L

(3,00,000) → 3,00,000

9,00,000 @30% | @slabs

2,70,000 | 2,500 = 2,72,500

+EC @3%

280675