CS EXECUTIVE DIRECT TAX AMENDMENTS & REVISION FOR JUNE/DEC 18 EXAMS

By

CS UDIT DUA

Amendments Related to Rates of Income Tax

*1. In case of every Individual (**Resident or Non-Resident**) or HUF or Association of Persons or Body of Individuals or any other artificial juridical person*

Taxable income	Tax Rate
Up to Rs. 2,50,000	Nil
Rs. 2,50,000 to Rs. 5,00,000	5%
Rs. 5,00,000 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

*2. **Resident senior citizen**, i.e., every individual, being a resident in India, who is of the age of **60 years or more but less than 80 years** at any time during the previous year*

Taxable income	Tax Rate
Up to Rs. 3,00,000	Nil
Rs. 3,00,000 to Rs. 5,00,000	5%
Rs. 5,00,000 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

*3. In case of every individual , being a **Resident in India**, who is of the **age of 80 years or more** at any time during the previous year*

Taxable income	Tax Rate
Up to Rs. 5,00,000	Nil
Rs. 5,00,000 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

Surcharge on Income Tax

The Income Tax so calculated, in case of every individual or HUF, be increased by a surcharge of:

a) **10%** of such income tax where the total income exceeds Rs. 50,00,000 but does not exceed Rs. 1 Crore.

b) **15%** of such income tax, if the total income exceeds Rs. 1 Crore

Education Cess & Secondary & Higher Education Cess :- 3%

FIRM:- 30% of Total Income + surcharge @ 12% if total income exceeds 1 crore.

DOMESTIC CO.:- 30% of total income + surcharge @ 7% if TI > 1cr & < 10crs,
or 12% if TI>10crs

FOREIGN CO:- 40% of total income + surcharge @ 2% if TI> 1cr & < 10 crs,
or 5% if TI > 10 crs

Rebate under Section 87A

An assessee, being an individual resident in India,

- whose total income does not exceeds 3,50,000 rupees, shall be entitled to a deduction,

• from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year,

• of an amount equal to 100 % of such income-tax or

• an amount equal to 2,500 whichever is less.

Analysis:

Rebate u/s 87A has been restricted to Rs. 2500 and for total income up to Rs. 3.5 lacs only.

Illustration:-

Mr A, aged 50 years , earned a total income of Rs 3,40,000.

Compute his tax liability.

Tax on 3,40,000	4500
(-) Relief under section 87A	(2500)
(100% of 4500 or 2500 whichever is lower)	
=	2000
+ Education cess& SHEC @ 3%	60
NET TAX PAYABLE	2060

Amendments Related to Exempt Income

Section 10(12B)

-Any payment from the National Pension System Trust

-to an employee under the pension scheme referred to in section 80CCD,

-on *partial withdrawal* made out of his account in accordance with the terms and

conditions, specified under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) and the regulations made thereunder,

-to the extent it does not exceed 25% of the amount of contributions made by him.

Analysis:

There will be an exemption on Partial withdrawal from NPS not exceeding 25% of the contributions made by an employee.

Section 10(38)

The following income shall be EXEMPT from Tax.

Any income arising from

the transfer of a long-term capital asset,

being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust where—

(*a*) the transaction of sale of such equity share or unit is entered into on or after 1.10.2004; and

(*b*) such transaction is <u>*chargeable to securities transaction tax*</u>

Provided that the income by way of long-term capital gain of a company shall be taken into account in computing the *book profit* and income-tax payable under section 115JB :

[**Provided also** *that nothing contained in sub-clause (*b*) shall apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.*] (Added By Finance Act 2016)

Following third proviso shall be inserted after the second proviso to clause (*38*) of section 10 by the Finance Act, 2017, w.e.f. 1-4-2018 :

Provided also that nothing contained in this clause shall apply to any income arising from the transfer of a long-term capital asset, being an equity share in a company, if the transaction of acquisition, other than the acquisition notified by the Central Government in this behalf, of such equity share is entered into on or after the 1st day of October, 2004 and such transaction is not chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004).

[Explanation.—*For the purposes of this clause,—*

*(*a*) "**equity oriented fund**" means a fund—*

*(*i*) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than sixty-five per cent of the total proceeds of such fund; and*

*(*ii*) which has been set up under a scheme of a Mutual Fund specified under clause (*23D*):*

Provided *that the percentage of equity share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;*

*(*b*) "**International Financial Services Centre**" shall have the same meaning as assigned to it in clause (*q*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);*

*(*c*) "**recognized stock exchange**" shall have the meaning assigned to it in clause (*ii*) of the* Explanation 1 *to *sub-section (*5*) of section 43;*]

ANALYSIS of Sec 10(38)

1. The exemption is available to ALL assesses including Foreign Institutional Investors & Non Residents.
2. The exemptions is available only if there is a gain from transfer of long term capital asset & such capital asset is either an equity share or units of Equity Oriented Fund or unit of Business Trust.
3. Thus it do not cover other securities such as preference shares , debentures, deep discount bonds, units of Debt Mutual Fund , etc.
4. The exemption is available if such sale transaction takes place on a recognised stock exchange located in IFSC provided the consideration is paid or payable in foreign currency. Such transaction is not chargeable to STT
5. Prior to Finance Act 2017, exemption under section 10(38) was available irrespective of whether assesse has paid Securities Transaction Tax (STT) on acquisition of equity shares or not. STT came into force on 1.10.2004 in India.

Law makers observed that exemption under section 10(38) was being misused by certain persons. These persons, normally promoters of Dabba Companies used to allot shares of such companies on preferential basis to people who wanted to convert black money into white money. No STT was paid on acquisition of shares by these persons who want to convert black money to white money since acquisition was not through stock exchange.

Tax planning which used to happen:-

Suppose the preferential allotment was made for 10 Lakh shares at Rs 10 each.

After a year (12 months) the promoters used to manipulate price at stock exchange and used to take the price to Rs 30 per share.

The Black money convertors used to sell the shared on stock exchange at Rs 30 per share and pay STT on sale & claim exemption.

Sale price of shares (Rs 30 x 10 lakhs)		300 Lakhs
(-) Cost	(Rs 10 x 10 lakhs)	(100)
= LTCG		200

Pay STT & claim exemption under 10(38) of full 200 lakhs LTCG

NOW THIS TAX PLANNING IS NOT POSSIBLE

CONCLUSION:-

Finance Act 2017, provides that exemption under section 10(38) on equity shares shall be available if shares sold:-

(i) Were acquired before 01/10/2004 in any manner (as STT came from 01/10/2004)

(ii) Were acquired on or after 01/10/2004 & STT was paid on acquisition of these shares. However Central government has notified certain acquisitions made on or after 01.10.2004 which will be eligible for exemption under section 10(38) even if STT is not paid on acquisition .

The notification 43/2017 dated 05-06-2017 provides for cases where exemption u/s 10(38) will still be available if the shares sold have been acquired without payment of STT.

Amendments Related to Charitable or Religious Trusts

Explanation 2 shall be inserted after the renumbered Explanation 1 to sub-section (1) of Section 11 :-

Any amount credited or paid, out of income derived from property held under the trust , to any other trust or institution registered under section 12AA or under section 10(23C), being contribution with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income for charitable or religious purposes.

Analysis:

Any contribution by a charitable or religious trust or institution to any other trust or institution registered u/s 12AA, with a specific direction that it shall form part of corpus of recipient trust/institution shall not be treated as application of income u/s 11 for the donor trust/ institution.

It means that corpus donations shall not be considered as an application of income.

Amendments Related to Charitable or Religious Trusts

Sec 12A:- Conditions for applicability of Sec 11 & 12

Clause (ab) shall be inserted after clause (aa) of sub-section (1) of section 12A

It means where a trust or an institution has been granted registration and subsequently it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration,

it shall be required to obtain *fresh registration* by making an *application* within a period of *thirty days* from the date of such adoption or modifications of the objects in the prescribed form and manner.

Amendments Related to Charitable or Religious Trusts

Sec 12A:- Conditions for applicability of Sec 11 & 12

Clause (ba) shall be inserted after clause (b) of sub-section (1) of section 12A by theFinance Act, 2017

Section 12A has been amended so as to provide for further condition that the person in receipt of income chargeable to income-tax shall furnish the return of income within the time specified u/s 139(4A) of the Income Tax Act.

HEADS OF INCOME

Amendments Relating to ***<u>Income under the head House Property</u>***

No Notional Income for house Property held as Stock-in-trade

Section 23 sub section(5) is inserted by the Finance Act, 2017

-Where the property consisting of any building or land appurtenant thereto

-is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year,

-the annual value of such property or part of the property,

-for the period up to one year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be NIL.

Analysis:

Any building held as stock in trade can remain vacant for one year just after the financial year in which completion certificate is obtained but after that year annual value of such property or part of property (deemed to be let out) will have to be taken as rental income.

Amendments Relating to Income under the head PGBP

Section 40A(3)

- Where the assessee incurs any expenditure
- in respect of which a payment or aggregate of payments made
- to a person
- in a single day,
- Of sum exceeding **Rs 10,000**
- otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account;
- no deduction shall be allowed in respect of such expenditure.

Analysis:

If any payment exceeding Rs. 10,000/- in a day is made otherwise than through an a/c payee cheque or a/c payee bank draft or use of ECS through a bank account, for any expenditure or to a creditor for such expenditure, then no deduction shall be made for such expenditure. Earlier this limit was Rs. 20,000/-

In case where payment is made to the transporters for plying, hiring & leasing goods carriage, per day limit for payment to a single person is Rs 35,000 instead of 10,000

ACTUAL COST Section 43(1)

Actual Cost means the actual cost of the asset to the assesse, reduced by that portion of the cost which has been directly or indirectly met by any other person or authority.

Provided further that

- where the assessee incurs any expenditure

- for acquisition of any asset or part thereof

- in respect of which a payment or aggregate of payments made to a person in a day,

- ***otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account,***
- ***exceeds ten thousand rupees,***
- ***such expenditure shall be ignored for the purposes of determination of actual cost***

(PROVISO ADDED BY FINANCE ACT 2017)

Analysis:

Purchase of asset were not earlier covered, now if there is any payment exceeding Rs. 10,000/- in a day for purchase of any asset or to any creditor for purchase of such asset,

otherwise than through an a/c payee cheque or a/c payee bank draft or use of ECS through a bank account *then such payment will not be considered for determining actual cost of asset as per Sec. 43(1)* for the purpose of Sec. 28 to 41,

& depreciation will not be allowed on such payment exceeding Rs. 10,000.

Example 1 :- Assessee purchases plant & machinery of Rs 4,00,000 on 01.01.2018 & pay 4,00,000 by cash.

Since payment of 4,00,000 is made by cash , it shall not be considered as actual cost of Plant & Machinery. The actual cost of plant & machinery shall be taken as NIL & NIL shall be added to WDV of Block of Assets.

NOTE:- As per section 269ST introduced by Finance Act 2017, the seller of the machinery is liable to pay penalty of Rs 4,00,000 for accepting cash of 2,00,000 or more. The penalty shall be under 271DA.

Example 2:- Suppose in Example 1 , assesse makes payments as under:-

01.01.2018	Cash	Rs 5000 x ten times
2^{nd} to 16.1.18	Cash	Rs 10000 every day x 15 days
24.01.18	Cheque	Rs 2,00,000

ACTUAL COST:- ?

PENALTY for seller under 269ST?

Section 269 ST Mode of Undertaking Transactions
(Inserted by Finance Act 2017)

No person shall receive an amount of two lakh rupees or more—

(a) in aggregate from a person in a day; or

(b) in respect of a single transaction; or

(c) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account:

Provided that the provisions of this section shall not apply to—

(i) any receipt by—

(a) Government;

(b) any banking company, post office savings bank or co-operative bank;

(ii) transactions of the nature referred to in section 269SS;

(iii) such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gazette, specify.

Section 271DA (Inserted by Finance Act 2017)

Penalty for failure to comply with provisions of Sec 269ST

(1) If a person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty, *a sum equal to the amount of such receipt.*

Provided that no penalty shall be imposable if such person proves that there were good and sufficient reasons for the contravention.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner.

Disallowance of Capital Expenditure u/s 35AD on Cash Payment

Section 35 AD (8) (f)

Any expenditure of capital nature shall not include

[any expenditure in respect of which the payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account,

exceeds ten thousand rupees or] any expenditure incurred on the acquisition of any land or goodwill or financial instrument.

Section 43B

Certain Deductions on Actual Payment Basis

Interest on Loan from Co-operative Bank will be subject to Section 43B:

Certain deductions to be only on actual payment basis in Previous year in which sum is actually paid

(e) any sum payable by the assessee as interest on any loan or advances from a scheduled bank

or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank

in accordance with the terms and conditions of the agreement governing such loan or advances.

Analysis:

Earlier payment of interest to scheduled bank on loans and advances were covered U/s 43B.

Now cooperative banks other than a primary agricultural credit society or a primary cooperative agricultural and rural development bank, have been covered

Increase in threshold limit for maintenance of Books of Accounts in case of Individuals and HUF (Section 44AA)

In order to reduce the compliance burden,

for maintenance of books of accounts,

in case of Individuals and HUFs carrying on business or profession,

increased limit of Income from Rs. 1,20,000 to Rs 2,50,000

and

limit for turnover/ gross receipts from Rs. 10,00,000 to Rs 25,00,000 respectively.

Section 44AB
Audit of Accounts of certain person carrying out Business / Profession

Exclusions of Certain Specified Persons from Requirement of Audit of Accounts

Proviso inserted by Finance Act 2017

Provided that this section shall not apply to the person, who declares profits & gains for the previous year in accordance with the provisions of 44AD (1) & his total sales /turnover/ gross receipts in the business does not exceed 2 crores rupees in such previous year.

An eligible person carrying on eligible business can opt for presumptive taxation scheme if the turnover in previous year does not exceed 2 Crore.

Thus, Section 44AB has been amended to exclude eligible person carrying on eligible business who opts for presumptive taxation scheme u/s 44AD from requirement of audit of books of accounts under section 44AB.

Section 44AD
Special provisions for computing Profits & Gains of Business on Presumptive Basis

Measures for Promoting Digital Payments

Section 44AD amended to reduce the existing rate of deemed total income of eight per cent

to **six per cent** in respect of the amount of such total turnover or gross receipts received by an account payee cheque or account payee bank draft or use of electronic clearing system

through a bank account during the previous year or before the due date specified in subsection (1) of section 139 in respect of that previous year.

However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act, shall continue to apply in respect of total turnover or gross receipts received in any other mode.

Analysis:

*If turnover or receipt which is received during the previous year or before the due date U/s 139(1) by an a/c payee cheque or draft or ECS through a bank a/c in respect of that previous year, then on such receipt **6%** or more income will be declared.*

Illustration:-

The assesse is covered by provisions of Section 44AD and its turnover is Rs 1,60,00,000 for the year ended 31.03.2018. The breakup of the turnover is as follows:-

Cash sales	Rs 70,00,000
Sales through Banking channel	Rs 90,00,000
(including account payee cheques)	

The due date of filling of return of income is 31st July 2018.

Out of Rs 90,00,000 the cheques of Rs 82,00,000 are received by 31.07.2018 & cheques of Rs 8,00,000 are received after 31.07.2018. Calculate income on presumptive basis.

Amendments Related to Income under the head Capital Gains

For Indexation Shifting Base Year from 1981 to 2001

Section 55 of the Act amended so as to provide that the cost of acquisition of an asset acquired before 01.04.2001 shall be allowed to be taken as fair market value as on 1st April, 2001 and the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001.

As per Notification no. So 1790(e) [no. 44/2017 (f. No. 370142/11/2017-tpl)], dated 5-6-2017, following table should be used for the Cost Inflation Index

S.No.	Financial Year	Cost Inflation Index
1	2001-02	100
2	2002-03	105

S.No.	Financial Year	Cost Inflation Index
3	2003-04	109
4	2004-05	113
5	2005-06	117
6	2006-07	122
7	2007-08	129
8	2008-09	137
9	2009-10	148
10	2010-11	167
11	2011-12	184
12	2012-13	200
13	2013-14	220
14	2014-15	240
15	2015-16	254
16	2016-17	264
17	2017-18	272

Amendment in the definition of Short Term Capital Asset (Section 2(42A))

With a view to promote the real-estate sector and to make it more attractive for investment, Finance Act 2017 provides that the period of Holding in case of *immovable property, being land or building* or both reduced from the existing 36 months to **24 months** to qualify as short term capital asset.

Special Provisions for Computation of Capital Gains in case of **Joint Development Agreements {***Sec 45(5A)}*

Under the existing provisions of section 45, capital gain is chargeable to tax in the year in which transfer takes place except in certain cases.

The definition of 'transfer', inter alia, includes any arrangement or transaction where any rights are handed over in execution of part performance of contract, even though the legal title has not been transferred.

In such a scenario, execution of Joint Development Agreement between the owner of immovable property and the developer triggers the capital gains tax liability in the hands of the owner in the year in which the possession of immovable property is handed over to the developer for development of a project.

With a view to minimise the genuine hardship which the owner of land may face in paying capital gains tax in the year of transfer , Sec 45 (5A) is added.

Following sub-section (5A) of section 45 shall be inserted by the Finance Act, 2017, w.e.f. 1-4-2018:

(5A) Notwithstanding anything contained in sub-section (1),

where the capital gain arises to an assessee,

being an individual or a Hindu undivided family,

from the transfer of a capital asset, being land or building or both,

under a specified agreement,

the capital gains shall be chargeable to income tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and

for the purposes of section 48, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by the consideration received in cash, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

Provided that the provisions of this sub-section shall not apply where the assessee transfers his share in the project on or before the date of issue of said certificate of completion, and the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and the provisions of this Act, other than the provisions of this sub-section, shall apply for the purpose of determination of full value of consideration received or accruing as a result of such transfer.

Explanation — For the purposes of this sub-section, the expression—

(i) "competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;

(ii) "specified agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;

(iii) "stamp duty value" means the value adopted or assessed or assessable by any authority of Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both.

ANALYSIS:

Postponement of Taxability of Capital Gain:

With a view to minimize the genuine hardships which the owner of land may face in paying the capital gains tax in the year of transfer, a new sub section (5A) in section 45 has been inserted to provide that

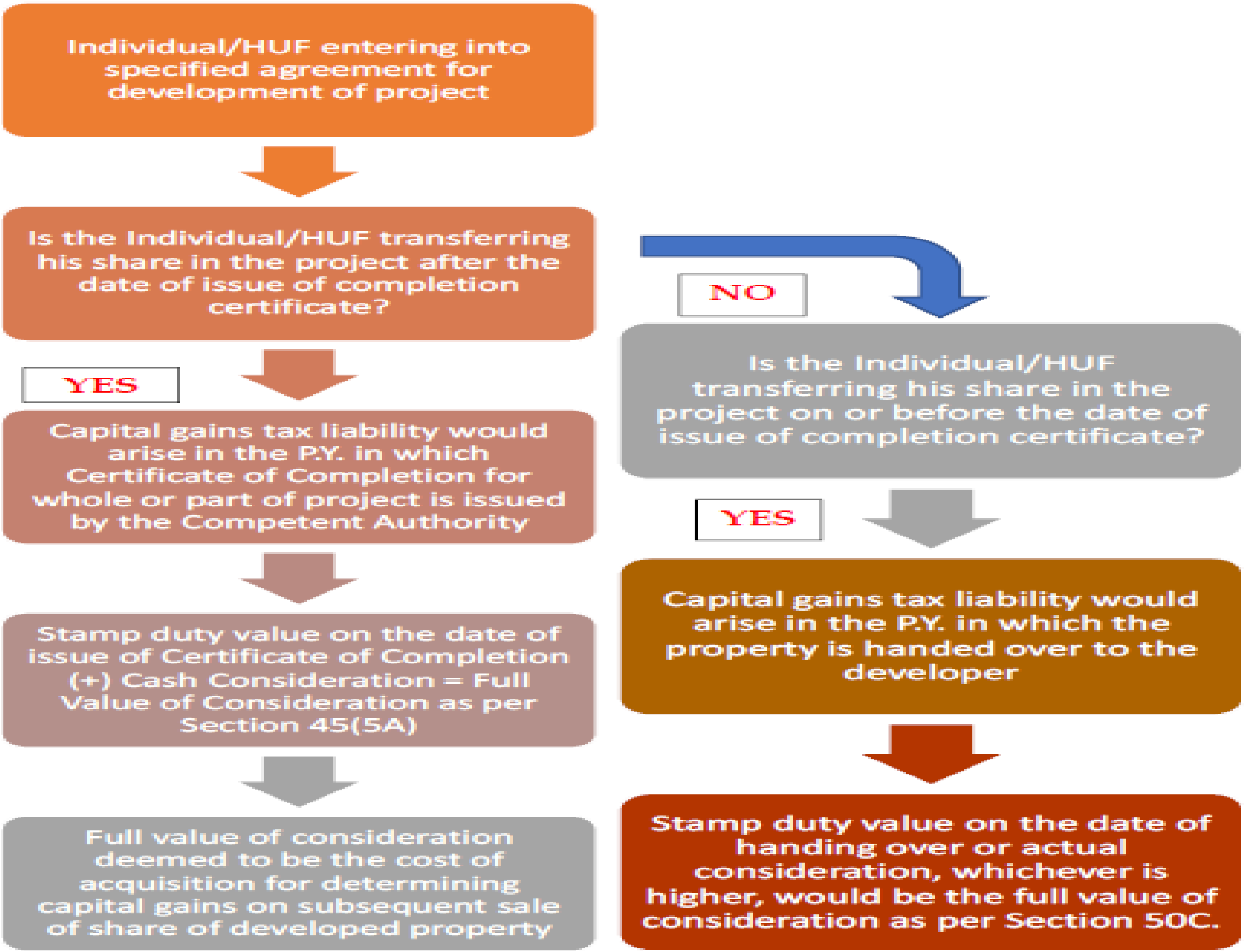
- in case of an assessee being **Individual or Hindu Undivided Family**,

- who enters into a **specified agreement** for **development of a project**,

- the **capital gain** arising from such transfer shall be chargeable to income tax as income Of the **previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.**

Non-Applicability of Beneficial Provisions:

It may, however, be noted that these beneficial provisions would not apply, where the assessee transfers his share in the project on or before the date of issue of said completion certificate and the capital gain tax liability would be deemed to arise in the previous year in which such transfer took place. In such a case, full value of consideration received or accruing shall be determined by the general provisions of the act.


Individual/HUF entering into specified agreement for development of project
Is the Individual/HUF transferring his share in the project after the date of issue of completion certificate?
YES
Capital gains tax liability would arise in the P.Y. in which Certificate of Completion for whole or part of project is issued by the Competent Authority
Stamp duty value on the date of issue of Certificate of Completion (+) Cash Consideration = Full Value of Consideration as per Section 45(5A)
Full value of consideration deemed to be the cost of acquisition for determining capital gains on subsequent sale of share of developed property
NO
Is the Individual/HUF transferring his share in the project on or before the date of issue of completion certificate?
YES
Capital gains tax liability would arise in the P.Y. in which the property is handed over to the developer
Stamp duty value on the date of handing over or actual consideration, whichever is higher, would be the full value of consideration as per Section 50C.

Sec 49(7) Cost of Acquisition of share of project under the Joint Development Agreement (Added by Finance Act 17)

Where the capital gain arises from transfer of a capital asset,

being share in the project, in the form of land & building or both,

referred to in section 45(5A), not being the capital asset referred to in proviso to the said sub section ,

the Cost of Acquisition of such asset, shall be the amount which is deemed

as Full Value of consideration in that sub section.

Example:-

Mr X purchased a residential plot on 01.01.1998 for Rs 50,00,000. FMV of plot as on 01.04.2001 is Rs 65,00,000. Alpha builder enters into a Development Agreement with Mr X on 01.05.2017 on following terms & conditions:

(a) Mr X will hand over the possession of plot to Alpha Builders on 01.05.2017

(b) Aplha builders will pay a cheque of Rs 60,00,000 to Mr X on 01.05.2017

(c) Alpha builders will construct residential units on the plot of land & will give 6 units to Mr X . The 10 units shall be completed by 30.06.2019 and on that date 6 units will be handed over to Mr X.

(d) The stamp duty value of plot as on 01.05.2017 is Rs 2 crores

(e) The stamp duty value of each flat on 30.06.2019 is Rs 45 lakhs

CASE 1:- The project completion certificate is issued by competent authority on 30.06.2019, 6 units are handed over to Mr X on 30.06.2019

CASE 2:- The project completion certificate is issued by competent authority on 30.04.2020 and on that date Stamp duty value of each flat is Rs 50 Lakhs. 6 units are handed over to Mr X on 30.04.2020

Section 194-IC

Payment under Specified Agreement - Payment made to resident only (Added by Finance Act 2017)

Notwithstanding anything contained in section 194-IA,

any person responsible for paying to a resident any sum by way of consideration,

not being consideration in kind,

under the agreement referred to in section 45(5A) ,

shall at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode,

whichever is earlier,

deduct an amount equal to 10% of such sum as income-tax thereon.

ANALYSIS:-

In joint development agreement referred to in Section 45(5A), if the builder pays any cash to the assesse in addition to share in the project, then the builder shall deduct TDS @ 10% on cash payment made to the assesse.

It may be noted that capital gains are taxable in the hands of the assesse in previous year in which certificate of completion is issued by competent authority .

Therefore, TDS credit shall be claimed by the assesse in the previous year in which capital gains are taxable.

For example, the builder makes a payment to the assesse on 1.1.2018 of 1crore.

The builder will deduct TDS @ 10 % on 1 crore on 1.1.2018.

However , completion certificate is obtained on 1.1.2020 and credit of TDS shall be claimed in previous year 31.3.2020.

Section 50CA

Special provision for Full Value of Consideration for Transfer of share other than Quoted share
(Added by Finance Act 2017)

Where consideration for transfer of share of a company (other than quoted share) is less than the Fair Market Value (FMV) of such share determined in accordance with the prescribed manner,

the FMV shall be deemed to be the full value of consideration for the purposes of computing income under the head "Capital gains"

Expanding the Scope of Long Term Bonds (Section 54EC)

Earlier, investment in bonds issued by the National Highways Authority of India or by the Rural Electrification Corporation Limited was eligible for exemption under this section.

Now, the government has notified that bonds issued by Power Finance Corporation Limited issued on or after 15.06.17 or Indian Railway Finance Corporation issued on or after 08.08.17 are also eligible for exemption.

Amendments in the head Income from Other Sources **Section 56(2)(X)** inserted by Finance Act 2017

Where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017, —

(a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(b) any immovable property, —

(A) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(B) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

Provided that where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement may be taken for the purposes of this sub-clause:

Provided further that the provisions of the first proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of agreement for transfer of such immovable property.

Provided also that where the stamp duty value of immovable property is disputed by the assesse on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of this sub-clause as they apply for valuation of capital asset under those sections;

(c) any property, other than immovable property, —

(A) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(B) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that this clause shall not apply to any sum of money or any property received—

(I) from any relative; or

(II) on the occasion of the marriage of the individual; or

(III) under a will or by way of inheritance; or

(IV) in contemplation of death of the payer or donor, as the case may be; or

(V) from any local authority as defined in the Explanation to clause (20) of section 10; or

(VI) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or

(VII) from or by any trust or institution registered under section 12A or section 12AA; or

(VIII) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10; or

(IX) by way of transaction not regarded as transfer under clause (i) or clause (vi) or clause (via) or clause (viaa) or clause (vib) or clause (vic) or clause (vica) or clause (vicb) or clause

(vid) or clause (vii) of section 47; or

(X) from an individual by a trust created or established solely for the benefit of relative of the individual.

Analysis:

Under the existing provisions of section 56(2)(vii), any sum of money or any property which is received without consideration or for inadequate consideration (in excess of the specified limit of Rs. 50,000) by an individual or Hindu undivided family is chargeable to income-tax in the hands of the resident under the head "Income from other sources" subject to certain exceptions.

Further, receipt of certain shares by a firm or a company in which the public are not substantially interested is also chargeable to income-tax in case such receipt is in excess of Rs. 50,000 and is received without consideration or for inadequate consideration.

The existing definition of property for the purpose of this section includes immovable property, jewellery, shares, paintings, etc. These anti-abuse provisions are currently applicable only in case of individual or HUF and firm or company in certain cases.

Therefore, receipt of sum of money or property without consideration or for inadequate consideration does not attract these anti-abuse provisions in cases of other assessees.

Section 56(2)(vii) for individual & HUF & (viia) for firm and private companies omitted from A.Y. 2018-19.

New section 56(2)(x) states that if any person (individual, HUF, company, firm, trust) receives any sum of money, without consideration the aggregate value of which exceeds Rs. 50000/- the whole of aggregate value of such sum will be income.

If any immovable property is received without consideration stamp duty value of which exceeds Rs. 50,000/- whole of the stamp duty value of such property will be income,

if received for a consideration which is less than stamp duty value of such property by an amount exceeding Rs. 50,000/- the stamp duty value of such property as exceeds such consideration shall be income.

If date of agreement and date of transfer is different and any amount is received through a/c payee cheque/account payee draft/ ECS through a bank account on or before the date of agreement then stamp duty value on the date of agreement will be taken.

If any property other than immovable property is received by any person without consideration then aggregate fair market value of such property if it exceeds Rs. 50000/-, and received for a consideration which is less than aggregate FMV of the property by an amount exceeding 50000/- then the aggregate FMV as exceeds such consideration will be treated as income.

This clause is not applicable to any sum of money or property received from any relative, on the occasion of marriage of individual, under will or inheritance, in contemplation of death, received by any trust or institution referred to in U/s 10(23C) any distribution of capital asset on partition of HUF, etc., from an individual by a trust created or established solely for the benefit of relative of that individual.

Here property means capital asset namely: - immovable property, shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures, any work of art or bullion. Property word doesn’t include car, mobile, furniture, rural agricultural land etc. which are not a capital asset or property.

Amendments Relating to Carry forward and Set-off of Losses

Restriction on Set off of Loss from House Property:

Section 71 of the Act relates to set-off of loss from one head against income from another.

In line with the international best practices, the act has inserted sub-section (3A) in the said section to provide that *set-off of loss under the head "Income from house property"*

against any other head of income shall be restricted to **two lakh rupees** for any assessment year.

However, the unabsorbed loss shall be allowed to be carried forward for set-off in

subsequent years in accordance with the existing provisions of the Act.

Carry Forward and Set-off of Loss in Case of Certain Companies:

In order to facilitate ease of doing business and to promote start up India, the act has

amended section 79 of the Act to provide that ***where a change in shareholding has taken place in a previous year in the case of a company***,

not being a company in which the public are substantially interested and being an eligible start-up as referred to in section 80 -IAC of this Act,

loss shall be carried forward and set off against the income of the previous year,

if all the shareholders of such company which held shares carrying voting power on the last day of the year or years in which the loss was incurred,

being the loss incurred during the period of *seven years* beginning from the year in which such company is incorporated, continue to hold those shares on the last day of such previous year.

Amendments Related to Deductions

Section 80CCD

In case of Self- employed individuals, the upper limit of Deductions u/s 80CCD is increased from 10% of the Gross Total Income to 20% of the Gross Total Income.

Section 80CCG

No deduction u/s 80CCG shall be allowed from A.Y 2018-19.

However, an assessee who has claimed deduction under this section for assessment year 2017-18 and earlier assessment years shall be allowed deduction under this section till the assessment year 2019-20 if he is otherwise eligible to claim the deduction as per the provisions of this section.

Section 80G

Section 80G amended so as to provide that no deduction shall be allowed under the section 80G in respect of donation of any sum exceeding Rs. 2,000/- unless such some is paid by any mode other than cash.

Earlier this limit was Rs. 10,000/-.

The Government has taken this step-in order to provide cash less economy and transparency.

Section 80-IAC

Section 80-IAC amended so as to provide that deduction under section 80-IAC can be claimed by an eligible start-up for any three consecutive assessment years out of seven years (Five Years) beginning from the year in which such eligible start-up is incorporated.

Section 80-IBA

In order to promote the development of affordable housing sector, section 80-IBA amended so as to provide the following relaxations:

(i) The size of residential unit shall be measured by taking into account the "carpet area“ as defined in Real Estate (Regulation and Development) Act, 2016 and not the "built up area".

(ii) The restriction of 30 square meters on the size of residential units shall not apply to the place located within a distance of 25 kms from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai.

(iii) The condition of period of completion of project for claiming deduction under this section shall be increased from existing three years to five years

Amendments Related to Tax on Dividends

Income by way of dividend in excess of Rs. 10 lakh is chargeable to tax at the rate of 10% on gross basis in case of a resident individual, Hindu undivided family or firm.

Section 115BBDA amended so as to provide that the provisions of said section shall be applicable to all resident assessees except domestic company or a charitable trust registered u/s 10(23C) or 12A.

Amendments Relating to Return of Income

Mandatory Furnishing of return of Income by certain exempt entities (Section 139(4C)):

In order to verify that certain entities which enjoy exemption under section 10 actually carry out the activities for which the exemption has been provided under the Act, the act has provided mandatory filing of the return of Income:

- Any person as referred to in section 10(23AAA) i.e. the fund established for welfare of employees and their dependents.
- Investor protection fund referred to in clause 10(23EC) or clause 10(23ED)
- Core settlement guarantee fund referred to in clause 10(23EE)
- Any board or authority referred to in clause 10(29A).

Maximum Time limit for Submission of Revised Return (Section 139(5))

LAW EFFECTIVE FROM AY 2018-19 (FINANCE ACT 2017)

If any person having furnished a return under section 139(1) or under section 139(4), discovers any omission or wrong statement therein, then he may furnish a revised return at any time before the end of the relevant Assessment Year or before completion of assessment , whichever is lower.

LAW UPTO AY 2017-18

Revised return can be filled upto one year from the end of the relevant assessment year or before completion of assessment , whichever is earlier.

Quoting of Aadhar Number- Section 139AA

Every person who is eligible to obtain Aadhaar number shall, on or after the 1st day of July, 2017, quote Aadhaar number—

i) in the application form for allotment of permanent account number;

ii) in the return of income:

However, where the person does not possess the Aadhar Number, the enrolment ID of Aadhar Application form issued to him at the time of enrollment shall be quoted in the application for permanent account number or, as the case may be, in the return of income furnished by him.

Intimation of Aadhar Number:

Every person who has been allotted permanent account number as on the 1st day of July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before a date to be notified by the Central Government in the Official Gazette:

Provided that in case of failure to intimate the Aadhaar number, the permanent account number allotted to the person shall be deemed to be invalid and the other provisions of this Act shall apply, as if the person had not applied for allotment of permanent account number.

Fee for Delayed Filing of Return of Income from A.Y 2018-19 onwards:

Amount of Fee payable for late filing of Return of Income:

i) a fee of **five thousand rupees** shall be payable, if the return is furnished after the due date but on or before the 31st day of December of the assessment year;

ii) a fee of **ten thousand rupees** shall be payable in any other case.

However, in a case where the total income does not exceed five lakh rupees, it is proposed that the fee amount shall not exceed one thousand rupees.

Important Note:

Consequentially, the provisions of section 271F in respect of penalty for failure to furnish return of income shall not apply in respect of assessment year 2018-19 and onwards.

Analysis:

If any person who is required to file a return of income u/s 139(1) fails to do so within the time prescribed then he will be liable to late fee u/s 234F, Rs. 5,000/- upto 31st December of the assessment year, and Rs. 10,000/- thereafter and if the total income does not exceed Rs. 5 Lakh then late fee will not exceed Rs. 1,000/-.

Such late fee and interest will be paid along with tax U/s 140A. if there is any shortfall then amount shall first be adjusted towards late fee then interest and then towards tax due.

Amendments Relating to TDS
Section 194-IB *(Added by Finance Act 2017)*

TDS on Payment of Rent by Individual or HUF:

Any person, being Individual or HUF (Other than those covered under the provisions of section 44AB) ,

responsible for paying to a resident any sum by way of rent exceeding Rs. 50,000 for a month or part of month during the previous year, shall deduct an amount equal to 5% of such income as income tax-thereon.

Time of Deduction of TDS:

At the time of credit of rent, for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

No Requirement to obtain TAN Number:

The provisions of section 203A shall not Apply to a person required to deduct tax in accordance with the provisions of this section.

Amount to be deducted when PAN is not provided by the recipient of the Rent:

In case the landlord does not have PAN, then instead of 5%, TDS will be deducted @ 20% because of section 206AA of the income tax act 1961. however total TDS cannot exceed last month rent.

Deduction of TDS is only one time in a tear. i.e, annually in the last month of previous year.

TDS deducted under this section shall be payable within 30 days from the end of the month in which deduction is made. For tax deducted in March, 2018, is payable by 30^{th} April 2018

Section 194J – TDS on fees for Professional / Technical services (Paid to residents only)

TDS rate reduced from 10% to 2% in case of payee engaged in the business of operation of call centre.

Section 194LA

Non-Deduction of Tax in Case of exempt compensation under RFCTLAAR Act'2013.

The Central Government has enacted a new law namely Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, ('RFCTLARR Act') on 26th September, 2013 which came into force on 1st January, 2014. Section 96 of the RFCTLARR Act inter-alia, provides that income-tax shall not be levied on award or agreement made subject to limitations mentioned in section 46 of the said Act.

Therefore, compensation received for compulsory acquisition of land under the RFCTLARR Act (except those made under section 46 of RFTCLARR Act), is exempted from the levy of income-tax section 194LA to provide that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 (except those made under section 46) of RFCTLARR Act.

THANK YOU

CS UDIT DUA

SUBSCRIBE, SHARE & LIKE

FOLLOW ON INSTA/FACEBOOK/LINKEDIN

WHATS APP - 9811373370