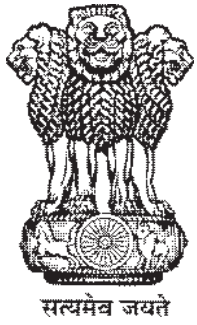
FOR DEPARTMENTAL USE



TAX BULLETIN

VOL. 119, JAN, 2017 - MARCH 2017

DIRECTORATE OF INCOME-TAX
(PUBLIC RELATIONS, PUBLICATIONS AND PUBLICITY)
INCOME-TAX DEPARTMENT
NEW DELHI-110001

CONTENTS

	PARTICULARS	PAGES
Part I	C.B.D.T. Circulars	01-215
Part II	C.B.D.T. Instructions	216-131

Contents

Sr.	Circular	Subject	Page No.
1	01/2017	Income-tax deduction from salaries during the Financial Year 2016-17 under section 192 of the Income-tax Act, 1961.	3
2	02/2017	Clarifications on the Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016.	94
3	03/2017	Finance Act, 2016 – Explanatory Notes to the Provisions of the Finance Act, 2016	98
4	04/2017	Circular No. 41/2016 [F. No. 500/43/2012-FT & TR] dated 21.12.2016	181
5	05/2017	Measure for reducing litigation - Clarification on Circulars 21/2015 and 8/2016 reg.	182
6	06/2017	Guiding Principles for determination of Place of Effective Management (POEM) of a Company.	183
7	07/2017	Clarifications on implementation of GAAR provisions under the Income Tax Act, 1961	192
8	08/2017	Clarifications for determination of Place of Effective Management (POEM) of a company, other than an Indian companyreg.	197
9	09/2017	Clarifications on the Taxation and Investment Regime for Pardhan Mantri Garib Kalyan Yojana, 2016	198
10	10/2017	Clarifications on Income Computation and Disclosure Standards (ICDS) notified under section 145(2) ofthe Income-tax Act, 1961.	199
11	11/2017	Guidelines for Waiver of interest charged under section 201(1A)(i) of the Income-tax Act, 1961.	207
12	12/2017	Clarifications on the Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016.	209
Instruction			
13	01/2017	Double Taxation Agreement - India-Sweden Convention For Avoidable Of Double Taxation And Prevention Of Fiscal Evasion-Suspension Of Collection Of Taxes During Mutual Agreement Procedure (Map)	210
14	02/2017	The Income Declaration Scheme, 2016 – reg.	219
15	03/2017	Standard Operating Procedure (SOP) to be followed by the Assessing Officers in verification of cash transactions relating to demonetisation - regd.	220
16	04/2017	Issue of notice under section 133(6) of the Income-tax Act, 1961 for verification of cash deposits under ‘Operation Clean Money’	229

C.B.D.T. CIRCULARS

CIRCULAR NO. 01/2017

Subject:- INCOME-TAX DEDUCTION FROM SALARIES DURING THE FINANCIAL YEAR 2016-17 UNDER SECTION 192 OF THE INCOME-TAX ACT, 1961.

Reference is invited to Circular No.20/2015 dated 02.12.2015 whereby the rates of deduction of income-tax from the payment of income under the head "Salaries" under Section 192 of the Income-tax Act, 1961 (hereinafter 'the Act'), during the financial year 2015-16, were intimated. The present Circular contains the rates of deduction of income-tax from the payment of income chargeable under the head "Salaries" during the financial year 2016-17 and explains certain related provisions of the Act and Income-tax Rules, 1962 (hereinafter the Rules). The relevant Acts, Rules, Forms and Notifications are available at the website of the Income Tax Department- www.incometaxindia.gov.in.

2. RATES OF INCOME-TAX AS PER FINANCE ACT, 2016:

As per the Finance Act, 2016, income-tax is required to be deducted under Section 192 of the Act from income chargeable under the head "Salaries" for the financial year 2016-17 (i.e. Assessment Year 2017-18) at the following rates:

2.1 Rates of tax

A. Normal Rates of tax:

Sl No	Total Income	Rate of tax
1	Where the total income does not exceed Rs. 2,50,000/-.	Nil
2	Where the total income exceeds Rs. 2,50,000/- but does not exceed Rs. 5,00,000/-.	10 per cent of the amount by which the total income exceeds Rs. 2,50,000/-
3	Where the total income exceeds Rs. 5,00,000/- but does not exceed Rs. 10,00,000/-.	Rs. 25,000/- plus 20 per cent of the amount by which the total income exceeds Rs. 5,00,000/-.
4	Where the total income exceeds Rs. 10,00,000/-.	Rs. 1,25,000/- plus 30 per cent of the amount by which the total income exceeds Rs. 10,00,000/-

B. Rates of tax for every individual, resident in India, who is of the age of sixty years or more but less than eighty years at any time during the financial year:

Sl No	Total Income	Rate of tax
1	Where the total income does not exceed Rs. 3,00,000/-	Nil
2	Where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000/-	10 per cent of the amount by which the total income exceeds Rs. 3,00,000/-
3	Where the total income exceeds Rs. 5,00,000/- but does not exceed Rs. 10,00,000/-	Rs. 20,000/- plus 20 per cent of the amount by which the total income exceeds Rs. 5,00,000/-.
4	Where the total income exceeds Rs. 10,00,000/-	Rs. 1,20,000/- plus 30 per cent of the amount by which the total income exceeds Rs. 10,00,000/-

C. In case of every individual being a resident in India, who is of the age of eighty years or more at any time during the financial year:

Sl No	Total Income	Rate of tax
1	Where the total income does not exceed Rs. 5,00,000/-	Nil
2	Where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000/-	20 per cent of the amount by which the total income exceeds Rs. 5,00,000/-
3	Where the total income exceeds Rs. 10,00,000/-	Rs. 1,00,000/- plus 30 per cent of the amount by which the total income exceeds Rs. 10,00,000/-

2.2 Surcharge on Income tax:

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, having a total income exceeding one crore rupees, be increased by a surcharge for the purpose of the Union calculated at the rate of fifteen per cent of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

2.3.1 Education Cess on Income tax:

The amount of income-tax including the surcharge if any, shall be increased by

Education Cess on Income Tax at the rate of **two percent** of the income-tax.

2.3.2 Secondary and Higher Education Cess on Income-tax:

An additional education cess is chargeable at the rate of one percent of income-tax including the surcharge if any, but not including the Education Cess on income tax as in 2.3.1.

3. SECTION 192 OF THE INCOME-TAX ACT, 1961: BROAD SCHEME OF TAX DEDUCTION AT SOURCE FROM "SALARIES":

3.1 Method of Tax Calculation:

Every person who is responsible for paying any income chargeable under the head "Salaries" shall deduct income-tax on the estimated income of the assessee under the head "Salaries" for the financial year 2016-17. The income-tax is required to be calculated on the basis of the rates given above, subject to the provisions related to requirement to furnish PAN as per sec 206AA of the Act, and shall be deducted at the time of each payment. No tax, however, will be required to be deducted at source in any case unless the estimated salary income including the value of perquisites, for the financial year exceeds Rs. 2,50,000/- or Rs.3,00,000/- or Rs. 5,00,000/-, as the case may be, depending upon the age of the employee.(*Some typical illustrations of computation of tax are given at* ***Annexure-I***).

3.2 Payment of Tax on Perquisites by Employer:

An option has been given to the employer to pay the tax on non-monetary perquisites given to an employee. The employer may, at its option, make payment of the tax on such perquisites himself without making any TDS from the salary of the employee. However, the employer will have to pay the tax at the time when such tax was otherwise deductible i.e. at the time of payment of income chargeable under the head "salaries" to the employee.

3.2.1 Computation of Average Income Tax:

For the purpose of making the payment of tax mentioned in para 3.2 above, tax is to be determined at the average of income tax computed on the basis of rate in force for the financial year, on the income chargeable under the head "salaries", including the value of perquisites for which tax has been paid by the employer himself.

3.2.2 Illustration:

The income chargeable under the head "salaries" of an employee below sixty years of age for the year inclusive of all perquisites is Rs.4,50,000/-, out of which, Rs.50,000/- is on account of non-monetary perquisites and the employer opts to pay the tax on such perquisites as per the provisions discussed in para 3.2 above.

STEPS:

Income Chargeable under the head "Salaries" inclusive of all perquisites	Rs. 4,50,000/-
Tax on Total Salary (including Cess)	Rs. 20,600/-
Average Rate of Tax [(20,600/4,50,000) X 100]	4.57%
Tax payable on Rs.50,000/= (4.57% of 50,000)	Rs. 2285/-
Amount required to be deposited each month	Rs. 190 ((Rs. 190.40) =2285/12)

The tax so paid by the employer shall be deemed to be TDS made from the salary of the employee.

3.3 Salary From More Than One Employer:

Section 192(2) deals with situations where an individual is working under more than one employer or has changed from one employer to another. It provides for deduction of tax at source by such employer (as the tax payer may choose) from the aggregate salary of the employee, who is or has been in receipt of salary from more than one employer. The employee is now required to furnish to the present/chosen employer details of the income under the head "Salaries" due or received from the former/other employer and also tax deducted at source therefrom, **in writing and duly verified by him and by the former/other employer**. The present/chosen employer will be required to deduct tax at source on the aggregate amount of salary (including salary received from the former or other employer).

3.4 Relief When Salary Paid in Arrear or Advance:

3.4.1 Under section 192(2A) where the assessee, being a Government servant or an employee in a company, co-operative society, local authority, university, institution, association or body is entitled to the relief under he may furnish to the person responsible for making the payment referred to in Para (3.1), such particulars in **Form No. 10E duly verified by him**, and thereupon the person responsible, as aforesaid, shall compute the relief on the basis of such particulars and take the same into account in making the deduction under Para(3.1) above.

Here "university" means a university established or incorporated by or under a Central, State or Provincial Act, and includes an institution declared under Section 3 of the University Grants Commission Act, 1956 to be a university for the purpose of that Act.

3.4.2 With effect from 1/04/2010 (AY 2010-11), no such relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary

retirement or in the case of a public sector company referred to in section 10(10C)(i) (read with Rule 2BA), a scheme of voluntary separation, if an exemption in respect of any amount received or receivable on such voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee under section 10(10C) in respect of such, or any other, assessment year.

3.5 Information regarding Income under any other head:

(i) Section 192(2B) enables a taxpayer to furnish particulars of income under any head other than "Salaries" (not being a loss under any such head other than the loss under the head " Income from house property") received by the taxpayer for the same financial year and of any tax deducted at source thereon. The particulars may now be furnished in a **simple statement**, which is properly signed and verified by the taxpayer in the manner as prescribed under Rule 26B(2) of the Rules and shall be annexed to the simple statement. The form of verification is reproduced as under:

I,.....(name of the assessee), do declare that what is stated above is true to the best of my information and belief.

It is reiterated that the DDO can take into account **any loss only under the head** "Income from house property". Loss under any other head cannot be considered by the DDO for calculating the amount of tax to be deducted.

3.6 Computation of income under the head " Income from house property":

While taking into account the loss from House Property, the DDO shall ensure that the employee files the declaration referred to above and encloses therewith a computation of such loss from house property. Following details shall be obtained and kept by the employer in respect of loss claimed under the head " Income from house property" separately for each house property:

a) Gross annual rent/value

b) Municipal Taxes paid, if any

c) Deduction claimed for interest paid, if any

d) Other deductions claimed

e) Address of the property

The DDO shall also ensure furnishing of the evidence or particulars in Form No. 12BB in respect of deduction of interest as specified in Rule 26C read with section 192 (2D).

3.6.1 Conditions for Claim of Deduction of Interest on Borrowed Capital for Computation of Income From House Property [Section 24(b)]:

Section 24(b) of the Act allows deduction from income from houses property on interest on borrowed capital as under:-

(i) the deduction is allowed only in case of house property which is owned and is in the occupation of the employee for his own residence. However, if it is actually not occupied by the employee in view of his place of the employment being at other place, his residence in that other place should not be in a building belonging to him.

(ii) the quantum of deduction allowed as per table below:

Sl No	**Purpose of borrowing capital**	**Date of borrowing capital**	**Maximum Deduction allowable**
1	Repair or renewal or reconstruction of the house	Any time	Rs. 30,000/-
2	Acquisition or construction of the house	Before 01.04.1999	Rs. 30,000/-
3	Acquisition or construction of the house	On or after 01.04.1999	Rs. 1,50,000/- (upto AY 2014-15)
			Rs. 2,00,000/- (w. e. f. AY 2015-16)

In case of Serial No. 3 above

(a) The acquisition or construction of the house should be completed within3 years from the end of the FY in which the capital was borrowed. Hence, it is necessary for the DDO to have the completion certificate of the house property against which deduction is claimed either from the builder or through self-declaration from the employee.

(b) Further any prior period interest for the FYs upto the FY in which the property was acquired or constructed (as reduced by any part of interest allowed as deduction under any other section of the Act) shall be deducted in equal installments for the FY in question and subsequent four FYs.

(c) The employee has to furnish before the DDO a certificate from the person to whom any interest is payable on the borrowed capital specifying the amount of interest payable. In case a new loan is taken to repay the earlier loan, then the certificate should also show the details of Principal and Interest of the loan so repaid.

3.7 Adjustment for Excess or Shortfall of Deduction:

The provisions of Section 192(3) allow the deductor to make adjustments for any excess or shortfall in the deduction of tax already made during the financial year, in subsequent deductions for that employee within that financial year itself.

3.8 Salary Paid in Foreign Currency:

For the purposes of deduction of tax on salary payable in foreign currency, the value in rupees of such salary shall be calculated at the "**Telegraphic transfer buying rate**" of such currency as on the date on which tax is required to be deducted at source (see Rule 26).

4. PERSONS RESPONSIBLE FOR DEDUCTING TAX AND THEIR DUTIES:

4.1. As per section 204(i) of the Act, in the context of payments other than payments by the Central Government of the State Government the "persons responsible for paying" for the purpose of Section 192 means the employer himself or if the employer is a Company, the Company itself including the Principal Officer thereof. Further, as per Section 204(iv), in case the credit, or as the case may be, the payment is made by or on behalf of Central Government or State Government, the DDO or any other person by whatever name called, responsible for crediting, or as the case may be, paying such sum is the "persons responsible for paying" for the purpose of Section 192.

4.2. The tax determined as per para 9 should be deducted from the salary u/s 192 of the Act.

4.3. Deduction of Tax at Lower Rate:

If the jurisdictional TDS officer of the Taxpayer issues a certificate of No Deduction or Lower Deduction of Tax under section 197 of the Act, in response to the application filed before him in Form No 13 by the Taxpayer; then the DDO should take into account such certificate and deduct tax on the salary payable at the rates mentioned therein. (see Rule 28AA). The Unique Identification Number of the certificate is required to be reported in Quarterly Statement of TDS (Form 24Q).

4.4. Deposit of Tax Deducted:

Rule 30 prescribes time and mode of payment of tax deducted at source to the account of Central Government.

4.4.1. Due dates for payment of TDS:

Prescribed time of payment/deposit of TDS to the credit of Central Government account is as under:

a) In case of an Office of Government:

Sl No.	Description	Time up to which to be deposited.
1	Tax deposited without Challan [Book Entry]	SAME DAY
2	Tax deposited with Challan	7TH DAY NEXT MONTH
3	Tax on perquisites opt to be deposited by the employer.	7TH DAY NEXT MONTH

b) In any case other than an Office of Government

Sl No.	Description	Time up to which to be deposited.
1	Tax deducted in March	30th APRIL NEXT FINANCIAL YEAR
2	Tax deducted in any other month	7TH DAY NEXT MONTH
3	Tax on perquisites opted to be deposited by the employer	7TH DAY NEXT MONTH

However, if a DDO applies before the jurisdictional Additional/Joint Commissioner of Income Tax to permit quarterly payments of TDS under section 192, the Rule 30(3) allows for payments on quarterly basis and as per time given in Table below:

Sl. No.	Quarter of the financial year ended on	Date for quarterly payment
1	30th June	7th July
2	30th September	7th October
3	31st December	7th January
4	31st March	30th April next Financial Year

4.4.2 Mode of Payment of TDS

4.4.2.1 Compulsory filing of Statement by PAO, Treasury Officer, etc in case of payment of TDS by Book Entry u/ s 200 (2A):

In the case of an office of the Government, where tax has been paid to the credit of the Central Government *without the production of a challan* [**Book Entry**], the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person by whatever name called to whom the deductor reports about the tax deducted and who is responsible for crediting such sum to the credit of the Central Government, shall-

(a) submit a statement in Form No. 24G **under section 200 (2A)** on or before the 30th day of April where statement relates to the month of March; and in any other case, on or before 15 days from the end of relevant month to the agency authorized by the Director General of Income-tax (Systems) [TIN Facilitation Centres currently managed by M/s National Securities Depository Ltd] in respect of tax deducted by the deductors and reported to him for that month; and

(b) intimate the number (hereinafter referred to as the Book Identification Number or BIN) generated by the agency to each of the deductors in respect of whom the sum deducted has been credited. BIN consist of receipt number of Form 24G, DDO sequence number in Form No. 24G and date on which tax is deposited.

If the PAO/CDDO/TO etc, as stated above, fails to deliver the statement as required u/s 200(2A), he will be liable to pay, by way of penalty, under section 272A(2)(m), a sum which shall be Rs.100/- for every day during which the failure continues. However, the amount of such penalty shall not exceed the amount of tax which is deductable at source.

The procedure of furnishing Form 24G is detailed in Annexure III. PAOs/DDOs should go through the FAQs in Annexure IV to understand the correct process to be followed. The ZAO / PAO of Central Government Ministries is responsible for filing of Form No. 24G on monthly basis. The person responsible for filing Form No. 24G in case of State Govt. Departments is shown at Annexure V.

The procedure of furnishing Form 24G is detailed in Annexure IV. PAOs/DDOs should go through the FAQs therein to understand the correct process to be followed.

4.4.2.2 Payment by an Income Tax Challan:

(i) In case the payment is made by an income-tax challan, the amount of tax so deducted shall be deposited to the credit of the Central Government by remitting it, within the time specified in Table in para 4.4.1 above, into any office of the Reserve Bank of India or branches of the State Bank of India or of any authorized bank;

(ii) In case of a company and a person (other than a company), to whom provisions of section 44AB are applicable, the amount deducted shall be electronically remitted into the Reserve Bank of India or the State Bank of India or any authorised bank accompanied by an electronic income-tax challan (Rule125).

The amount shall be construed as electronically remitted to the Reserve Bank of India or to the State Bank of India or to any authorized bank, if the amount is remitted by way of:

(a) internet banking facility of the Reserve Bank of India or of the State Bank of India or of any authorized bank; or

(b) debit card. {Notification No.41/2010 dated 31st May 2010}

4.5 Interest, Penalty & Prosecution for Failure to Deposit Tax Deducted:

4.5.1 If a person fails to deduct the whole or any part of the tax at source, or, after

deducting, fails to pay the whole or any part of the tax to the credit of the Central Government within the prescribed time, he shall be liable to action in accordance with the provisions of section 201 and shall be deemed to be an assessee-in-default in respect of such tax and liable for penal action u/s 221 of the Act. Further Section 201(1A) provides that such person shall be liable to pay simple interest

(i) at the rate of 1% for every month or part of the month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and

(ii) at the rate of one and one-half percent for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid.

Such interest, if chargeable, is mandatory in nature and has to be paid before furnishing of quarterly statement of TDS for respective quarter.

4.5.2 Section 271C inter alia lays down that if any person fails to deduct whole or any part of tax at source or fails to pay the whole or part of tax under the second proviso to section 194B, he shall be liable to pay, by way of penalty, a sum equal to the amount of tax not deducted or paid by him.

4.5.3 Further, section 276B lays down that if a person fails to pay to the credit of the Central Government within the prescribed time, as above, the tax deducted at source by him or tax payable by him under the second proviso to Section 194B, he shall be punishable with rigorous imprisonment for a term which shall be between 3 months and 7 years, along with fine.

4.6 Furnishing of Certificate for Tax Deducted (Section 203):

4.6.1 Section 203 requires the DDO to furnish to the employee a certificate in Form 16 detailing the amount of TDS and certain other particulars. Rule 31 prescribes that Form 16 should be furnished to the employee by 31st May after the end of the financial year in which the income was paid and tax deducted. Even the banks deducting tax at the time of payment of pension are required to issue such certificates. Revised Form 16 annexed to Notification No 11 dated 19-02-2013 is enclosed. The certificate in Form 16 shall specify

(a) Valid permanent account number (PAN) of the deductee;

(b) Valid tax deduction and collection account number (TAN) of the deductor;

(c) (i) Book identification number or numbers (BIN) where deposit of tax deducted is without production of challan in case of an office of the Government;

(ii) Challan identification number or numbers (CIN*) in case of payment through bank.

*(*Challan identification number (CIN) means the number comprising the Basic Statistical Returns (BSR) Code of the Bank branch where the tax has been deposited, the date on which the tax has been deposited and challan serial number given by the bank.)*

(d) Receipt numbers of all the relevant quarterly statements of TDS (24Q). The receipt number of the quarterly statement is of 8 digit.

Further as per Circular 04/2013 dated 17-04-2013 all deductors (including Government deductors who deposit TDS in the Central Government Account through book entry) shall issue the Part A of Form No. 16, by generating and subsequently downloading it through TRACES Portal and after duly authenticating and verifying it, in respect of all sums deducted on or after the 1st day of April, 2012 under the provisions of section 192 of Chapter XVII-B. Part A of Form No 16 shall have a unique TDS certificate number. 'Part B (Annexure)' of Form No. 16 shall be prepared by the deductor manually and issued to the deductee after due authentication and verification along with the Part A of the Form No. 16.

It may be noted that under the new TDS procedure, TAN of deductee/ PAN of the deductee and receipt number of TDS statement filed by the deductor act as unique identifier for granting online credit of TDS to the decutee. Hence due care should be taken in filling these particulars. Due care should also be taken in indicating correct CIN/ BIN in TDS statement.

If the DDO fails to issue these certificates to the person concerned, as required by section 203, he will be liable to pay, by way of penalty, under section 272A(2)(g), a sum which shall be Rs.100/- for every day during which the failure continues.

It is, however, clarified that there is no obligation to issue the TDS certificate in case tax at source is not deductible/deducted by virtue of claims of exemptions and deductions.

[Note: TRACES is a web-based application of the Income - tax Department that provides an interface to all stakeholders associated with TDS administration. It enables viewing of challan status, downloading of NSDL Conso File, Justification Report and Form 16 / 16A as well as viewing of annual tax credit statements (Form 26AS). Each deductor is required to Register in the Traces portal. Form 16/16A issued to deductees should mandatorily be generated and downloaded from the TRACES portal].

Certain essential points regarding the filing of the Statement and obtaining TDS certificates are mentioned below:

(a) TDS certificate (Form16) would be generated for the deductee only if Valid

PAN is correctly mentioned in the Annexure II of Form 24Q in Quarter 4 filed by the deductor. Moreover, employers are advised to ensure in Form 16 that the status of "matching" with respect to "Form 24G/OLTAS" is 'F'. If the status of matching other than 'F', kindly take necessary action promptly to rectify the same. It is pertinent to mention here that certain facilities have been provided to the deductors at website www.tdscpc.gov.in/ including online correction of statements (Form 24Q).

(b) The employer should quote the **gross amount of salary** (including any amount exempt under section 10 and the deductions under chapter VI A) in column 321 (Amount paid/credited) of Annexure I of Form 24Q as per NSDL RPU (hereafter Return Preparation Utility).

(c) The employer should quote the amount of salary excluding any amount exempt under section 10 in column 333 (Total amount of salary) of Annexure II of Form 24Q as per NSDL RPU.

(d) TDS on Income (including loss from House Property) under any Head other than the head 'Salaries' offered for TDS (shown in column 339) can be shown in column 350 (Reported amount of TDS by previous employer, as per NSDL RPU.

(e) Employer is advised to quote Total Taxable Income (Column 346) in Annexure II without rounding-off and TDS should be deducted and reported accordingly i.e. without rounding-off of TDS also.

Example:

Total Taxable Income	Total Taxable Income (Rounded Off)	TDS to be Deducted	TDS Deducted/ Reported after rounding-off of income	Short Deduction
Rs.1350094	Rs. 1350090	Rs. 235028.20	Rs 235027	Rs.1.20

4.6.2. If an assessee is employed by more than one employer during the year, each of the employers shall issue Part A of the certificate in Form No. 16 pertaining to the period for which such assessee was employed with each of the employers and *Part B may be issued by each of the employers or the last employer at the option of the assessee.*

4.6.3. Authentication by Digital Signatures:

(i) Where a certificate is to be furnished in Form No. 16, the deductor may, at his option, use digital signatures to authenticate such certificates.

(ii) In case of certificates issued under clause (i), the deductor shall ensure that

(a) the conditions prescribed in para 4.6.1 above are complied with;

(b) once the certificate is digitally signed, the contents of the certificates are not amenable to change; and

(c) the certificates have a control number and a log of such certificates is maintained by the deductor.

The digital signature is being used to authenticate most of the e-transactions on the internet as transmission of information using digital signature is failsafe. It saves time specially in organisations having large number of employees where issuance of certificate of deduction of tax with manual signature is time consuming (Circular no 2 of 2007 dated 21.05.2007)

4.6.4. Furnishing of particulars pertaining to perquisites, etc (Section 192(2C):

4.6.4.1 As per section 192(2C), the responsibility of providing correct and complete particulars of perquisites or profits in lieu of salary given to an employee is placed on the person responsible for paying such income i.e., the person responsible for deducting tax at source. The form and manner of such particulars are prescribed in Rule 26A, Form 12BA (Annexure II) and Form 16 of the Rules. Information relating to the nature and value of perquisites is to be provided by the employer in Form 12BA in case salary paid or payable is above Rs.1,50,000/-. In other cases, the information would have to be provided by the employer in Form 16 itself.

4.6.4.2 An employer, who has paid the tax on perquisites on behalf of the employee as per the provisions discussed in para 3.2 of this circular, shall furnish to the employee concerned, a certificate to the effect that tax has been paid to the Central Government and specify the amount so paid, the rate at which tax has been paid and certain other particulars in the amended Form 16.

4.6.4.3 The obligation cast on the employer under Section 192(2C) for furnishing a statement showing the value of perquisites provided to the employee is a crucial responsibility of the employer, which is expected to be discharged in accordance with law and rules of valuation framed there under. Any false information, fabricated documentation or suppression of requisite information will entail consequences thereof provided under the law. The certificates in Forms 16 and/or Form 12BA specified above, shall be furnished to the employee by 31st May of the financial year immediately following the financial year in which the income was paid and tax deducted. If he fails to issue these certificates to the person concerned, as required by section 192(2C), he will be liable to pay, by way of penalty, under section 272A(2)(i), a sum which shall be Rs.100/- for every day during which the failure continues.

As per Section 139C of the Act, the Assessing Officer can require the taxpayer to

produce Form 12BA alongwith Form 16, as issued by the employer.

4.6.5 DDOs empowered to obtain evidence of proof or particulars of the prescribed claim (including claim for set-off of loss) under the section 192(2D):

DDOs have been authorized u/s 192 to allow certain deductions, exemptions or allowances or set-off of certain loss as per the provisions of the Act for the purpose of estimating the income of the assessee or computing the amount of tax deductible under the said section. The evidence /proof /particulars for some of the deductions/ exemptions/allowances/set-off of loss claimed by the employee such as rent receipt for claiming deduction in HRA, evidence of interest payments for claiming loss from self-occupied house property, etc is not available to the DDO. To bring certainity and uniformity in this matter, section 192(2D) provides that person responsible for paying (DDOs) shall obtain from the assessee evidence or proof or particular of claims such as House rent Allowance (where aggregate annual rent exceeds one lakh rupees); Leave Travel Concession or Assistance; Deduction of interest under the head "Income from house property" and deduction under Chapter VI-A as per the prescribed form 12BB laid down by Rule 26C of the **Rules. Form 12BB is enclosed as Annexure IIa**.

4.7 Mandatory Quoting of PAN and TAN:

4.7.1 Section 203A of the Act makes it obligatory for all persons responsible for deducting tax at source to obtain and quote the Tax deduction and collection Account No (TAN) in the challans, TDS-certificates, statements and other documents. Detailed instructions in this regard are available in this Department's Circular No.497 [F.No.275/118/ 87-IT(B) dated 9.10.1987]. If a person fails to comply with the provisions of section 203A, he will be liable to pay, by way of penalty, under section 272BB, a sum of ten thousand rupees. Similarly, as per Section 139A(5B), it is obligatory for persons deducting tax at source to quote PAN of the persons from whose income tax has been deducted in the statement furnished u/s 192(2C), certificates furnished u/s 203 and all statements prepared and delivered as per the provisions of section 200(3) of the Act.

4.7.2 All tax deductors are required to file the TDS statements in Form No.24Q (for tax deducted from salaries). As the requirement of filing TDS certificates alongwith the return of income has been done away with, the lack of PAN of deductees is creating difficulties in giving credit for the tax deducted. Tax deductors are, therefore, advised to procure and quote correct PAN details of all deductees in the TDS statements for salaries in Form 24Q. Taxpayers are also liable to furnish their correct PAN to their deductors. Non-furnishing of PAN by the deductee (employee) to the deductor (employer) will result in deduction of TDS at higher rates u/s 206AA of the Act mentioned in para 4.8 below.

4.8 Compulsory Requirement to furnish PAN by employee (Section 206AA):

4.8.1 Section 206AA in the Act makes furnishing of PAN by the employee compulsory

in case of receipt of any sum or income or amount, on which tax is deductible. If employee (deductee) fails to furnish his/her PAN to the deductor , the deductor has been made responsible to make TDS at higher of the following rates:

i) at the rate specified in the relevant provision of this Act; or

ii) at the rate or rates in force; or

iii) at the rate of twenty per cent.

The deductor has to determine the tax amount in all the three conditions and apply the higher rate of TDS. *However, where the income of the employee computed for TDS u/s 192 is below taxable limit, no tax will be deducted*. But where the income of the employee computed for TDS u/s 192 is above taxable limit, the deductor will calculate the average rate of income-tax based on rates in force as provided in sec 192. If the tax so calculated is below 20%, deduction of tax will be made at the rate of 20% and in case the average rate exceeds 20%, tax is to be deducted at the average rate. Education cess @ 2% and Secondary and Higher Education Cess @ 1% is not to be deducted, in case the tax is deducted at 20% u/s 206AA of the Act.

4.9 Statement of deduction of tax under section 200(3) [Quarterly Statement of TDSI:

4.9.1 The person deducting the tax (employer in case of salary income), is required to file duly verified Quarterly Statements of TDS in Form 24Q for the periods [details in Table below] of each financial year, to the TIN Facilitation Centres authorized by DGIT (System's) which is currently managed by M/s National Securities Depository Ltd (NSDL) or at www.incometaxindiaefiling.gov.in after registering as Deductor. Particulars of e-TDS Intermediary at any of the TIN Facilitation Centres are available at http://www.incometaxindia.gov.in and http://tin-nsdl.com portals. The requirement of filing an annual return of TDS has been done away with w.e.f. 1.4.2006. The quarterly statement for the last quarter filed in Form 24Q (as amended by Notification No. S.O.704(E) dated 12.5.2006) shall be treated as the annual return of TDS. Due dates of filing this statement quarterwise is as in the Table below.

TABLE: Dates of filing Quarterly Statements E-TDS Return 24Q

Sl No	Return for Quarter ending	Due date for Government Offices	Due date for Other Deductors
1	30th June	31st July	15th July
2	30th September	31st October	15th October
3	31st December	31st January	15th January
4	31st March	15th May	15th May

4.9.2 The statements referred above may be furnished in paper form or electronically

under digital signature or alongwith verification of the statement in Form 27A of verified through an electronic process in accordance with the procedures, formats and standards specified by the Director General of Income-tax (Systems). The procedure for furnishing the e-TDS/TCS statement is detailed at Annexure VI.

4.9.3 All Returns in Form 24Q are required to be furnished in electronically except in case where the number of deductee records is less than 20 and deductor is not an office of Government, or a company or a person who is required to get his accounts audited under section 44AB of the Act. [Notification No. 11 dated 19.02.2013].

4.9.4 Fee for default in furnishing statements (Section 234E):

If a person fails to deliver or caused to be delivered a statement within the time prescribed in section 200(3) in respect of tax deducted at source on or after 1.07.2012 he shall be liable to pay, by way of fee a sum of Rs. 200 for every day during which the failure continues. However, the amount of such fee shall not exceed the amount of tax which was deductible at source. This fee is mandatory in nature and to be paid before furnishing of such statement.

4.9.5 Rectification of mistake in filing TDS Statement:

A DDO can also file a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered earlier.

4.9.6 Penalty for failure in furnishing statements or furnishing incorrect information (section 271H):

If a person fails to deliver or caused to be delivered a statement within the time prescribed in section 200(3) or furnishes an incorrect statement, in respect of tax deducted at source on or after 1.07.2012, he shall be liable to pay, by way of penalty a sum which shall not be less than Rs. 10,000/- but which may extend to Rs 1,00,000/-. However, the penalty shall not be levied if the person proves that after paying TDS with the fee and interest, if any, to the credit of Central Government, he had delivered such statement before the expiry of one year from the time prescribed for delivering the statement.

4.9.7 At the time of preparing statements of tax deducted, the deductor is required to:

(i) mandatory quote his tax deduction and collection account number (TAN) in the statement;

(ii) mandatory quote his permanent account number (PAN) in the statement except in the case where the deductor is an office of the Government(including State Government). In case of Government deductors “PANNOTREQD” to be quoted in the e-TDS statement;

(iii) mandatory quote of permanent account number PAN of all deductees;

(iv) furnish particulars of the tax paid to the Central Government including book identification number or challan identification number, as the case may be.

(v) furnish particular of amounts paid or credited on which tax was not deducted in view of the issue of certificate of no deduction of tax u/s 197 by the assessing officer of the payee.

4.10 TDS on Income from Pension:

In the case of pensioners who receive their pension (not being family pension paid to a spouse) from a nationalized bank, the instructions contained in this circular shall apply in the same manner as they apply to salary-income. The deductions from the amount of pension under section 80C on account of contribution to Life Insurance, Provident Fund, NSC etc., if the pensioner furnishes the relevant details to the banks, may be allowed. **Necessary instructions in this regard were issued by the Reserve Bank of India to the State Bank of India and other nationalized Banks vide RBI's Pension Circular(Central Series) No.7/C.D.R./1992 (Ref. CO: DGBA: GA (NBS) No.60/GA.64 (11CVL)-/92) dated the 27th April 1992, and, these instructions should be followed by all the branches of the Banks, which have been entrusted with the task of payment of pensions.** Further all branches of the banks are bound u/s 203 to issue certificate of tax deducted in Form 16 to the pensioners also vide CBDT circular no. 761 dated 13.1.98.

4.11. Matters pertaining to the TDS made in case of Non Resident:

4.11.1 Where Non-Residents are deputed to work in India and taxes are borne by the employer, if any refund becomes due to the employee after he has already left India and has no bank account in India by the time the assessment orders are passed, the refund can be issued to the employer as the tax has been borne by it [**Circular No. 707 dated 11.07.1995**].

4.11.2 In respect of non-residents, the salary paid for services rendered in India shall be regarded as income earned in India. It has been specifically provided in the Act that any salary payable for rest period or leave period which is both preceded or succeeded by service in India and forms part of the service contract of employment will also be regarded as income earned in India.

5. COMPUTATION OF INCOME UNDER THE HEAD "SALARIES"

5.1 INCOME CHARGEABLE UNDER THE HEAD "SALARIES":

(1) The following income shall be chargeable to income-tax under the head "Salaries" :

(a) any salary due from an employer or a former employer to an assessee in the previous year, whether paid or not;

(b) any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him.

(c) any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year.

(2) For the removal of doubts, it is clarified that where any salary paid in advance is included in the total income of any person for any previous year it shall not be included again in the total income of the person when the salary becomes due.

Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as "Salary".

5.2 DEFINITION OF "SALARY", "PERQUISITE" AND "PROFIT IN LIEU OF SALARY" (SECTION 17):

5.2.1 "Salary" includes:-

i. wages, fees, commissions, perquisites, profits in lieu of, or, in addition to salary, advance of salary, annuity or pension, gratuity, payments in respect of encashment of leave etc.

ii. the portion of the annual accretion to the balance at the credit of the employee participating in a recognized provident fund as consists of {Rule 6 of Part A of the Fourth Schedule of the Act}:

a) contributions made by the employer to the account of the employee in a recognized provident fund in excess of 12% of the salary of the employee, and

b) interest credited on the balance to the credit of the employee in so far as it is allowed at a rate exceeding such rate as may be fixed by Central Government. [w.e.f. 01-09-2010 rate is fixed at 9.5% - Notification No SO 1046(E) dated 13-05-2011]

iii. the contribution made by the Central Government or any other employer to the account of the employee under the New Pension Scheme as notified vide Notification F.N. 5/7/2003- ECB&PR dated 22.12.2003 (enclosed as Annexure VII) referred to in section 80CCD (para 5.5.3 of this Circular).

It may be noted that, since salary includes pension, tax at source would have to be deducted from pension also, unless otherwise so required. However, no tax is required to be deducted from the commuted portion of pension to the extent exempt under section 10 (10A).

Family Pension is chargeable to tax under head "Income from other sources" and not under the head "Salaries". Therefore, provisions of section 192 of the Act are not applicable. Hence, DDOs are not required to deduct TDS on family pension paid to person.

5.2.2 Perquisite includes:

I. The value of rent free accommodation provided to the employee by his employer;

II. The value of any concession in the matter of rent in respect of any accommodation provided to the employee by his employer;

III. The value of any benefit or amenity granted or provided free of cost or at concessional rate in any of the following cases:

i) By a company to an employee who is a director of such company;

ii) By a company to an employee who has a substantial interest in the company;

iii) By an employer (including a company)to an employee, who is not covered by (i) or (ii) above and whose income under the head "Salaries" (whether due from or paid or allowed by one or more employers), exclusive of the value of all benefits and amenities not provided by way of monetary payment, exceeds Rs.50,000/-.

[What constitutes concession in the matter of rent have been prescribed in Explanations 1 to 4 below section 17(2)(ii) of the Act]

IV. Any sum paid by the employer in respect of any obligation which would otherwise have been payable by the assessee.

V. Any sum payable by the employer, whether directly or through a fund, other than a recognized provident fund or an approved superannuation fund or other specified funds u/s 17, to effect an assurance on the life of an assessee or to effect a contract for an annuity.

VI. The value of **any specified security or sweat equity shares allotted or transferred**, directly or indirectly, **by the employer, or former employer**, free of cost or at concessional rate to the employee and for this purpose, .

(a) "specified security" means the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 and, where employees'

stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme;

(b) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(c) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from the assessee in respect of such security or shares;

(d) "fair market value" means the value determined in accordance with the method as may be prescribed (refer Rule 3(9) of the IT Rules);

(e) "option" means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

VII. The amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds one lakh rupees; and

VIII The **value of any other fringe benefit** or amenity as prescribed in Rule 3.

5.2.2A Rules for valuation of such benefit or amenity as given in Rule 3 are as under : -

I. Residential Accommodation provided by the employer [Rule 3(1)]:-

"Accommodation" includes a house, flat, farm house or part thereof , hotel accommodation, motel, service apartment, guest house, a caravan, mobile home, ship or other floating structure.

A. For valuation of the perquisite of **rent free unfurnished accommodation**, all employees are divided into two categories:

(i) For employees of the Central and State governments the value of perquisite shall be **equal to the licence fee charged for such accommodation as reduced by the rent actually paid by the employee. Employees of autonomous, semi-autonomous institutions, PSUs/PSEs & subsidiaries, Universities, etc. are not covered under this method of valuation**.

(ii) For all others, i.e., those salaried taxpayers not in employment of the Central government and the State government, the valuation of perquisite in respect of accommodation would be at prescribed rates, as discussed below:

a) Where the accommodation provided to the employee is owned by the employer:

Sl No	Cities having population as per the 2001 census	Perquisite
1	Exceeds 25 lakh	15% of salary
2	Exceeds 10 lakhs but does not exceed 25 lakhs	10% of salary
3	For other places	7.5 % of salary

b) Where the accommodation so provided is taken on lease/ rent by the employer:

The prescribed rate is 15% of the salary or the actual amount of lease rental payable by the employer, whichever is lower, as reduced by any amount of rent paid by the employee. Meaning of 'Salary 'for the purpose of calculation of perquisite in respect of Residential Accommodation :

a. Basic Salary ;

b. Dearness Allowance, or Dearness Pay if it enters into the computation of superannuation or retirement benefit of the employees;

c. Bonus ;

d. Commission ;

e. All other taxable allowances (excluding the portion not taxable); and

f. Any monetary payment which is chargeable to tax (by whatever name called).

Salary from all employers shall be taken into consideration in respect of the period during which an accommodation is provided. Where on account of the transfer of an employee from one place to another, he is provided with accommodation at the new place of posting while retaining the accommodation at the other place, the value of perquisite shall be determined with reference to only one such accommodation which has the lower value for a period not exceeding 90 days and thereafter the value of perquisite shall be charged for both such accommodation.

B Valuation of the perquisite of **furnished accommodation**- the value of perquisite as determined by the above method (in A) shall be increased by-

i) 10% of the cost of furniture, appliances and equipments, or

ii) where the furniture, appliances and equipments have been taken on hire, by the amount of actual hire charges payable

and the value so arrived at shall be reduced by any charges paid by the employee himself.

It is added that where the accommodation is provided by the Central Government or any State Government to an employee who is serving on deputation with any body or undertaking under the control of such Government,-

(i). the employer of such an employee shall be deemed to be that body or undertaking where the employee is serving on deputation; and

(ii). the value of perquisite of such an accommodation shall be the amount calculated in accordance with Table in A(ii)(a) above, as if the accommodation is owned by the employer.

C. Furnished Accommodation in a Hotel: The value of perquisite shall be determined on the basis of lower of the following two:

1. 24% of salary paid or payable in respect of period during which the accommodation is provided; or

2. Actual charges paid or payable by the employer to such hotel, for the period during which such accommodation is provided as reduced by any rent actually paid or payable by the employee.

However, nothing in (C) shall be taxable if following two conditions are satisfied :

1. The hotel accommodation is provided for a total period not exceeding in aggregate 15 days in a previous year, and

2. Such accommodation is provided on an employee's transfer from one place to another place.

It may be clarified that while services provided as an integral part of the accommodation, need not be valued separately as perquisite, any other services over and above that for which the employer makes payment or reimburses the employee shall be valued as a perquisite as per the residual clause. In other words, composite tariff for accommodation will be valued as per the Rules and any other charges for other facilities provided by the hotel will be separately valued under the residual clause.

D. However, the value of any accommodation provided to an employee working at a mining site or an on-shore oil exploration site or a project execution site or a dam site or a power generation site or an off-shore site will not be treated as a perquisite if:

i) such accommodation is located in a "remote area" or

ii) where it is not located in a "remote area", the accommodation is of a temporary nature having plinth area of not more than 800 square feet and should not be located within 8 kilometers of the local limits of any municipality or cantonment board.

A project execution site here means a site of project up to the stage of its commissioning. A “remote area” means an area located at least 40 kilometers away from a town having a population not exceeding 20,000 as per the latest published all-India census.

II Perquisite on Motor car provided by the Employer [Rule 3(2)1:

(1) If an employer provides motor car facility to his employee, the value of such perquisite shall be :

a) Nil, if the motor car is used by the employee wholly and exclusively in the performance of his official duties.

b) Actual expenditure incurred by the employer on the running and maintenance of motor car including remuneration to chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged from the employee for such use (in case the motor car is exclusively for private or personal purposes of the employee or any member of his household).

c) Rs. 1800/- (plus Rs. 900/-, if chauffeur is also provided) per month (in case the motor car is used partly in performance of duties and partly for private or personal purposes of the employee or any member of his household if the expenses on maintenance and running of motor car are met or reimbursed by the employer). However, the value of perquisite will be Rs. 2400/-(plus Rs. 900/-, if chauffeur is also provided) per month if the cubic capacity of engine of the motor car exceeds 1.6 litres.

d) Rs. 600/- (plus Rs. 900/-, if chauffeur is also provided) per month (In case the motor car is used partly in performance of duties and partly for private or personal purposes of the employee or any member of his household if the expenses on maintenance and running of motor car for such private or personal use are fully met by the employee). However, the value of perquisite will be Rs. 900/- (plus Rs. 900/-, if chauffeur is also provided) per month if the cubic capacity of engine of the motor car exceeds 1.6 litres.

(2) If the motor car or any other automotive conveyance is owned by the employee but the actual running and maintenance charges are met or reimbursed by the employer, the method of valuation of perquisite value is different and as below:

a) where the motor car or any other automotive conveyance is owned by the employee but actual maintenance & running expenses (including chauffeur salary, if any) are met or reimbursed by the employer, no perquisite shall be chargeable to tax if the car is used wholly and exclusively for official purposes. However following compliances are necessary:

- The employer has maintained complete details of the journey undertaken for official purposes;
- The employer gives a certificate that the expenditure was incurred wholly for official duties.

However if the motor car is used partly for official or partly for private purposes then the amount of perquisite shall be the actual expenditure incurred by the employer as reduced by the amounts in c) referred to in (1) above.

Normal wear and tear of the motor shall be taken at 10 % per annum of the actual cost of the motor car.

III Personal attendants etc. [Rule 3(3)1: The value of free service of all personal attendants including a sweeper, gardener and a watchman is to be taken at actual cost to the employer. Where the attendant is provided at the residence of the employee, full cost will be taxed as perquisite in the hands of the employee irrespective of the degree of personal service rendered to him. Any amount paid by the employee for such facilities or services shall be reduced from the above amount.

IV Gas, electricity & water for household consumption [Rule 3(4)1: The value of perquisite in the nature of gas, electricity and water shall be the amount paid by the employer. Where the supply is made from the employer's own resources, the manufacturing cost per unit incurred by the employer would be taken for the valuation of perquisite. Any amount paid by the employee for such facilities or services shall be reduced from the perquisite value.

V Free or concessional education [Rule 3(5)1: Perquisite on account of free or concessional education for any member of the employee's household shall be determined as the sum equal to the amount of expenditure incurred by the employer in that behalf. However, where such educational institution itself is maintained and owned by the employer or where such free educational facilities are provided in any institution by reason of his being in employment of that employer, the value of the perquisite to the employee shall be determined with reference to the cost of such education in a similar institution in or near the locality if the cost of such education or such benefit per child exceeds Rs.1000/- p.m. The value of perquisite shall be reduced by the amount, if any, paid or recovered from the employee.

VI Carriage of Passenger Goods [Rule 3(6)1: The value of any benefit or amenity resulting from the provision by an employer, who is engaged in the carriage of passengers or goods, to any employee or to any member of his household for personal or private journey free of cost or at concessional fare, in any conveyance owned, leased or made available by any other arrangement by such employer for the purpose of transport of passengers or goods shall be taken to be the value at which such benefit or amenity is offered by such employer to the public as reduced by the amount,

if any, paid by or recovered from the employee for such benefit or amenity. This will not apply to the employees of any airline or the railways.

VII Interest free or concessional loans [Rule 3(7)(i)1: It is common practice, particularly in financial institutions, to provide interest free or concessional loans to employees or any member of his household. The value of perquisite arising from such loans would be the excess of interest payable at **prescribed interest rate** over interest, if any, actually paid by the employee or any member of his household. The **prescribed interest rate** would now be ***the rate charged per annum by the State Bank of India as on the 1st day of the relevant financial year in respect of loans of same type and for the same purpose advanced by it to the general public***. Perquisite value would be calculated on the basis of the maximum outstanding monthly balance method. For valuing perquisites under this rule, any other method of calculation and adjustment otherwise adopted by the employer shall not be relevant. However, small loans up to Rs. 20,000/- in the aggregate are exempt.

Loans for medical treatment of diseases specified in Rule 3A are also exempt, provided the amount of loan for medical reimbursement is not reimbursed under any medical insurance scheme. Where any medical insurance reimbursement is received, the perquisite value at the prescribed rate shall be charged from the date of reimbursement on the amount reimbursed, but not repaid against the outstanding loan taken specifically for this purpose.

VIII Perquisite on account of travelling, touring, accommodation and any other expenses paid for or reimbursed by the employer for any holiday availed [Rule 3(7)(ii)1:

The value of perquisite on account of travelling, touring, accommodation and any other expenses paid for or reimbursed by the employer for any holiday availed of by the employee or any member of his household, other than leave travel concession (as per section 10(5)), shall be the amount of the expenditure incurred by the employer in that behalf. However, any amount recovered from or paid by the employee shall be reduced from the perquisite value so determined.

Where such facility is maintained by the employer, and is not available uniformly to all employees, the value of benefit shall be taken to be the value at which such facilities are offered by other agencies to the public. If a holiday facility is maintained by the employer and is available uniformly to all employees, the value of such benefit would be exempt.

Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him, the amount of expenditure with respect to the member of the household shall be a perquisite.

IX Value of Subsidized / Free food / non-alcoholic beverages provided by employer to an employee[Rule 3(7)(iii)1:

Value of taxable perquisite is calculated as under:

Expenditure incurred by the employer on the value of food / non-alcoholic beverages including 'paid vouchers which are not transferable and usable only at eating joints'	XXX
Less: Fixed value of a sum of Rs. 50/- per meal	XXX
Less: Amount recovered from the employee	XXX XXX
Balance amount is the taxable as perquisites on the value of food provided to the employees	XXX

Note : Exemption is given in following situations :

1. Tea / snacks provided in working hours.
2. Food & non-alcoholic beverages provided in working hours in remote area or in an offshore installation.

X Membership fees and Annual Fees [Rule 3(7)(v)1: Any membership fees and annual fees incurred by the employee (or any member of his household), which is charged to a credit card (including any add-on card) provided by the employer, or otherwise, paid for or reimbursed by the employer is taxable on the following basis:

Amount of expenditure incurred by the employer	XXX
Less : Expenditure on use for official purposes	XXX
Less : Amount, if any, recovered from the employee	XXX XXX
Amount taxable as perquisite	XXX

However if the amount is incurred wholly and exclusively for official purposes it will be exempt if the following conditions are fulfilled

i) Complete details of such expense, including date and nature of expenditure, is maintained by the employer.

ii) Employer gives a certificate that the same was incurred wholly and exclusively for official purpose.

XI Club Expenditure [Rule 3(7)(vi)]:

Any annual or periodical fee for Club facility and any expenditure in a club by the employee (or any member of his household), which is paid or reimbursed by the employer is taxable on the following basis:

Amount of expenditure incurred by the employer	XXX
Less : Expenditure on use for official purposes	XXX
Less : Amount, if any, recovered from the employee	XXX XXX
Amount taxable as perquisite	XXX

However if the amount is incurred wholly and exclusively for official purposes it will be exempt if the following conditions are fulfilled

i) Complete details of such expense, including date and nature of expenditure and its business expediency is maintained by the employer.

ii) Employer gives a certificate that the same was incurred wholly and exclusively for official purpose.

Note: 1) Health club, sport facilities etc. provided uniformly to all classes of employee by the employer at the employer's premises and expenditure incurred on them are exempt.

2) The initial one-time deposits or fees for corporate or institutional membership, where benefit does not remain with a particular employee after cessation of employment are exempt. Initial fees / deposits, in such case, is not included.

XII Use of assets [Rule 3(7)(vii)]: It is common practice for a movable asset (other than those referred in other sub rules of rule 3) owned by the employer to be used by the employee or any member of his household. This perquisite is to be charged at the rate of 10% of the original cost of the asset as reduced by any charges recovered from the employee for such use. However, the use of Computers and Laptops would not give rise to any perquisite.

XIII Transfer of assets [Rule 3(7)(viii)]: Often an employee or member of his household benefits from the transfer of movable asset (not being shares or securities) at no cost or at a cost less than its market value from the employer. The difference between the original cost of the movable asset (not being shares or securities) and the sum, if any, paid by the employee, shall be taken as the value of perquisite. In case of a movable asset, which has already been put to use, the original cost shall be reduced by a sum of 10% of such original cost for every completed year of use of the asset. Owing to a higher degree of obsolescence, in case of computers and electronic gadgets, however, the value of perquisite shall be worked out by reducing 50% of the actual cost by the reducing balance method for each completed year of use. Electronic gadgets in this case means data storage and handling devices like computer, digital diaries and printers. They do not include household appliance (i.e. white goods) like washing machines, microwave ovens, mixers, hot plates, ovens etc. Similarly, in case of cars, the value of perquisite shall be worked out by reducing 20% of its actual cost by the reducing balance method for each completed year of use.

XIV Gifts [Rule 3(7)(iv)]:

The value of any gift or vouchers or token in lieu of which such gift may be received, given by the employer to the employee or member of his household, is taxable as perquisite. However gift, etc less than Rs. 5,000 in aggregate per annum would be exempt.

XV Medical Reimbursement by the employer exceeding Rs. 15,000/- p.a. u/s 17(2) is to be taken as perquisite.

It is further clarified that the method regarding valuation of perquisites are given in section 17(2) of the Act and in rule 3 of the Rules. The deductors may look into the above provisions carefully before they determine the perquisite value for deduction purposes.

5.2.3 **'Profits in lieu of salary' shall include**

I. the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto;

II. any payment (other than any payment referred to in clauses (10), (10A), (10B), (11), (12) (13) or (13A) of section 10 due to or received by an assessee from an employer or a former employer or from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions or any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

"Keyman insurance policy" shall have the same meaning as assigned to it in section 10(10D);

III. any amount due to or received, whether in lump sum or otherwise, by any assessee from any person—

(A) before his joining any employment with that person; or

(B) after cessation of his employment with that person.

5.3 INCOMES NOT INCLUDED UNDER THE HEAD "SALARIES" (EXEMPTIONS)

Any income falling within any of the following clauses shall not be included in computing the income from salaries for the purpose of section 192 of the Act :-

5.3.1 The value of any **travel concession or assistance** received by or due to an employee from his employer or former employer for himself and his family, in connection

with his proceeding (a) on leave to **any place in India** or (b) after retirement from service, or, after termination of service to any place in India is exempt under Section 10(5) subject, however, to the conditions prescribed in Rule 2B of the Rules.

For the purpose of this clause, "family" in relation to an individual means:

(i) the spouse and children of the individual; and

(ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.

It may also be noted that the amount exempt under this clause shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.

5.3.2 Death-cum-retirement gratuity or any other gratuity is exempt to the extent specified from inclusion in computing the total income under Section 10(10). Any death-cum-retirement gratuity received under the revised Pension Rules of the Central Government or, as the case may be, the Central Civil Services (Pension) Rules, 1972, or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority or any payment of retiring gratuity received under the Pension Code or Regulations applicable to the members of the defence service is exempt. Gratuity received in cases other than those mentioned above, on retirement, termination etc is exempt up to the limit as prescribed by the Board. Presently the limit is Rs. 10 lakhs w.e.f. 24.05.2010 [Notification no. 43/2010 S.O. 1414(E) F.No. 200/33/2009¬ ITA-1 dated 11th June 2010].

5.3.3 Any payment in **commutation of pension** received under the Civil Pensions (Commutation) Rules of the Central Government or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all- India services or to the members of the defence services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority] or a corporation established by a Central, State or Provincial Act, is exempt under Section10(10A)(i). As regards payments in commutation of pension received under any scheme of any other employer, exemption will be governed by the provisions of section 10(10A)(ii). Also, any payment in commutation of pension from a fund referred to in Section 10(23AAB) is exempt under Section 10(10A)(iii).

5.3.4 Any payment received by an employee of the Central Government or a State Government, as **cash-equivalent of the leave salary** in respect of the period of

earned leave at his credit **at the time of his retirement**, whether on superannuation or otherwise, is exempt under Section 10(10AA)(i). In the case of other employees, this exemption will be determined with reference to the leave to their credit at the time of retirement on superannuation or otherwise, subject to a maximum of ten months' leave. This exemption will be further limited to the maximum amount specified by the Government of India Notification No.S.O.588(E) dated 31.05.2002 at Rs. 3,00,000/- in relation to such employees who retire, whether on superannuation or otherwise, after 1.4.1998.

5.3.5 Under Section 10(10B), the **retrenchment compensation** received by a workman is exempt from income-tax subject to certain limits. The maximum amount of retrenchment compensation exempt is the sum calculated on the basis provided in section 25F(b) of the Industrial Disputes Act, 1947 or any amount not less than Rs.50,000/- as the Central Government may by notification specify in the Official Gazette, whichever is less. These limits shall not apply in the case where the compensation is paid under any scheme which is approved in this behalf by the Central Government, having regard to the need for extending special protection to the workmen in the undertaking to which the scheme applies and other relevant circumstances. The maximum limit of such payment is Rs. 5,00,000/- where retrenchment is on or after 1.1.1997 as specified in Notification No. 10969 dated 25-06-1999.

5.3.6 Under Section 10(10C), any payment received or receivable (even if received in installments) by an employee of the following bodies at the time of his voluntary retirement or termination of his service, in accordance with any scheme or **schemes of voluntary retirement** or in the case of public sector company, a s**cheme of voluntary separation**, is exempt from income-tax to the extent that such amount does not exceed Rs. 5,00,000/-:

a) A public sector company;

b) Any other company;

c) An Authority established under a Central, State or Provincial Act;

d) A Local Authority;

e) A Cooperative Society;

f) A university established or incorporated or under a Central, State or Provincial Act, or, an Institution declared to be a University under section 3 of the University Grants Commission Act, 1956;

g) Any Indian Institute of Technology within the meaning of Section 3 (g) of the Institute of Technology Act, 1961;

h) Such Institute of Management as the Central Government may by notification in the Official Gazette, specify in this behalf.

The exemption of amount received under VRS has been extended to employees of the Central Government and State Government and employees of notified institutions having importance throughout India or any State or States. It may also be noted that where this exemption has been allowed to any employee for any assessment year, it shall not be allowed to him for any other assessment year. Further, if relief has been allowed under section 89 for any assessment year in respect of amount received on voluntary retirement or superannuation, no exemption under section 10(10C) shall be available.

5.3.7 Any **sum received under a Life Insurance Policy (Sec 10(10D),** including the sum allocated by way of bonus on such policy other than the following is exempt under section 10(10D):

i) any sum received under section 80DD(3) or section 80DDA(3); or

ii) any sum received under a Keyman insurance policy; or

iii) any sum received under an insurance policy issued on or after 1.4.2003, but on or before 31-03-2012, in respect of which the premium payable for any of the years during the term of the policy exceeds 20 percent of the actual capital sum assured; or

iv) any sum received under an insurance policy issued on or after 1.4.2012 in respect of which the premium payable for any of the years during the term of the policy exceeds 10 percent of the actual capital sum assured; or

v) any sum received under an insurance policy issued on or after 1.4.2013 in cases of persons with disability or person with severe disability as per Sec 80U or suffering from disease or ailment as specified in Sec 80DDB, in respect of which the premium payable for any of the years during the term of the policy exceeds 15 percent of the actual capital sum assured

However, any sum received under such policy referred to in (iii), (iv) and (v) above, on the death of a person would be exempt.

5.3.8 Any **payment from a Provident Fund** to which the Provident Funds Act, 1925, applies or from any other provident fund set up by the Central Government and notified by it in the Official Gazette is exempt under section 10(11).

5.3.9 Under section **10(13A)** of the Act, any special allowance specifically granted to an assessee by his employer to **meet expenditure incurred on payment of rent** (by whatever name called) in respect of residential accommodation occupied by the assessee is exempt from Income-tax to the extent as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations. According to Rule 2A of the Rules, the quantum of exemption

allowable on account of grant of special allowance to meet expenditure on payment of rent shall be the least of the following:

(a) the actual amount of such allowance received by the assessee in respect of the relevant period i. e. the period during which the accommodation was occupied by the assesse during the financial year; or

(b) the actual expenditure incurred in payment of rent in excess of one-tenth of the salary due for the relevant period; or

  (i) where such accommodation is situated in Bombay, Calcutta, Delhi or Madras, 50% of the salary due to the employee for the relevant period; or

  (ii) where such accommodation is situated in any other places, 40% of the salary due to the employee for the relevant period.

For this purpose, “Salary” includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

It has to be noted that only the expenditure actually incurred on payment of rent in respect of residential accommodation occupied by the assessee subject to the limits laid down in Rule 2A, qualifies for exemption from income-tax. Thus, house rent allowance granted to an employee who is residing in a house/flat owned by him is not exempt from income-tax. The disbursing authorities should satisfy themselves in this regard by insisting on production of evidence of actual payment of rent before excluding the House Rent Allowance or any portion thereof from the total income of the employee.

Though incurring actual expenditure on payment of rent is a pre-requisite for claiming deduction under section 10(13A), it has been decided as an administrative measure that salaried employees drawing house rent allowance upto Rs.3000/- per month will be exempted from production of rent receipt. It may, however, be noted that this concession is only for the purpose of tax-deduction at source, and, in the regular assessment of the employee, the Assessing Officer will be free to make such enquiry as he deems fit for the purpose of satisfying himself that the employee has incurred actual expenditure on payment of rent.

Further if annual rent paid by the employee exceeds Rs 1,00,000 per annum, it is mandatory for the employee to report PAN of the landlord to the employer. In case the landlord does not have a PAN, a declaration to this effect from the landlord along with the name and address of the landlord should be filed by the employee.

5.3.10 Section 10(14) provides for exemption of the following allowances :-

(i) Any special allowance or benefit granted to an employee to meet the **expenses wholly, necessarily and exclusively incurred in the performance of his**

duties as prescribed under Rule 2BB subject to the extent to which such expenses are actually incurred for that purpose.

(ii) Any allowance granted to an employee either to meet his personal expenses at the place of his posting or at the place he ordinarily resides or to **compensate him for the increased cost of living**, which may be prescribed and to the extent as may be prescribed.

However, the allowance referred to in (ii) above should not be in the nature of a personal allowance granted to the assessee to remunerate or compensate him for performing duties of a special nature relating to his office or employment unless such allowance is related to his place of posting or residence.

The CBDT has prescribed guidelines for the purpose of Section 10(14) (i) & 10 (14) (ii) vide notification No.SO 617(E) dated 7th July, 1995 (F.No.142/9/95-TPL)which has been amended vide notification SO No.403(E) dt 24.4.2000 (F.No.142/34/99¬ TPL). The transport allowance granted to an employee to meet his expenditure for the purpose of commuting between the place of his residence and the place of duty is exempt to the extent of Rs. 1600 p. m. or Rs 3200 p.m. (for a person who is blind or deaf and dumb or is orthopaedically handicapped with disabilities of lower extremes) vide notification S.O.No. 395(E) dated 13.05.98 r/w S.O. No. 1002 (E) dated 13.04.2015 & S.O. No. 2604 (E) dated 23.09.2015.

5.3.11 Under Section 10(15)(iv)(i) of the Act, interest payable by the Government on deposits made by an employee of the Central Government or a State Government or a public sector company out of his retirement benefits, in accordance with such scheme framed in this behalf by the Central Government and notified in the Official Gazette is exempt from income-tax. By notification No.F.2/14/89-NS-II dated 7.6.89, as amended by notification No.F.2/14/89-NS-II dated 12.10.89, the Central Government has notified a scheme called **Deposit Scheme for Retiring Government Employees, 1989** for the purpose of the said clause.

5.3.12 Any scholarship granted to meet the cost of education is not to be included in total income as per provisions of section 10(16) of the Act.

5.3.13 Section 10(18) provides for exemption of any income by way of pension received by an individual who has been in the service of the Central Government or State Government and has been awarded “Param Vir Chakra” or “Maha Vir Chakra” or “Vir Chakra” or such other gallantry award as may be specifically notified by the Central Government. Family pension received by any member of the family of such individual is also exempt [Notifications No.S.O.1948(E) dated 24.11.2000 and 81(E) dated 29.1.2001, which are enclosed as per Annexure VIII & IX]. “Family” for this purpose shall have the meaning assigned to it in Section 10(5) of the Act.

DDO may not deduct any tax in the case of recipients of such awards after satisfying himself about the veracity of the claim. ***5.3.14*** *Under Section 17 of the Act, exemption from tax will also be available in respect of:-*

(a) the value of any medical treatment provided to an employee or any member of his family, in any hospital maintained by the employer;

(b) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or of any member of his family:

  (i) in any hospital maintained by the Government or any local authority or any other hospital approved by the Government for the purposes of medical treatment of its employees;

  ii) in respect of the prescribed diseases or ailments as provided in Rule 3A(2) of the Rules in any hospital approved by the Chief Commissioner having regard to the prescribed guidelines as provided in Rule 3(A)(1)of the Rules,

(c) premium paid by the employer in respect of medical insurance taken for his employees (under any scheme approved by the Central Government or Insurance Regulatory and Development Authority) or reimbursement of insurance premium to the employees who take medical insurance for themselves or for their family members (under any scheme approved by the Central Government or Insurance Regulatory and Development Authority);

(d) reimbursement, by the employer, of the amount spent by an employee in obtaining medical treatment for himself or any member of his family from any doctor, not exceeding in the aggregate Rs.15,000/- in an year;

(e) As regards medical treatment abroad, the actual expenditure on stay and treatment abroad of the employee or any member of his family, or, on stay abroad of one attendant who accompanies the patient, in connection with such treatment, will be excluded from perquisites to the extent permitted by the Reserve Bank of India. It may be noted that the expenditure incurred on travel abroad by the patient/attendant, shall be excluded from perquisites only if the employee's gross total income, as computed before including the said expenditure, does not exceed Rs.2 lakhs.

For the purpose of availing exemption on expenditure incurred on medical treatment, "hospital" includes a dispensary or clinic or nursing home, and "family" in relation to an individual means the spouse and children of the individual. Family also includes parents, brothers and sisters of the individual if they are wholly or mainly dependent on the individual.

It is pertinent to mention that benefits specifically exempt u/s 10(13A), 10(5), 10(14), 17 etc. of the Act would continue to be exempt. These include benefits like house rent allowance, leave travel concession, travel expense allowance on tour and transfer, daily allowance to meet tour expenses as prescribed, medical facilities subject to conditions.

5.3.15 In this connection it is to be noted that as per sec. 10 (14) read wit rule 2BBany allowance granted to meet the cost of travel on tour or on transfer includes any sum paid in connection with transfer, packing and transportation of personal effects o such transfer shall be exempt. Also any allowance, whether, granted for the period of journey in connection with transfer, to meet the ordinary daily charges incurred by an employee on account of absence form his normal place of duty shall be exempt.

5.4 DEDUCTIONS U/S 16 OF THE ACT FROM THE INCOME FROM SALARIES

5.4.1 Entertainment Allowance [Section 16(ii)]:

A deduction is also allowed under section 16(ii) in respect of any allowance in the nature of an entertainment allowance specifically granted by an employer to the assessee, who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary(exclusive of any allowance, benefit or other perquisite) or five thousand rupees whichever is less. No deduction on account of entertainment allowance is available to non-government employees.

5.4.2 Tax on Employment [Section 16(iii)]:

The tax on employment (Professional Tax) within the meaning of article 276(2) of the Constitution of India, leviable by or under any law, shall also be allowed as a deduction in computing the income under the head “Salaries”.

It may be clarified that “Standard Deduction” from gross salary income, which was being allowed up to financial year 2004-05 is not allowable from financial year 2005-06 onwards.

5.5 DEDUCTIONS UNDER CHAPTER VI-A OF THE ACT

In computing the taxable income of the employee, the following deductions under Chapter VI-A of the Act are to be allowed from his gross total income:

5.5.1 Deduction in respect of Life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc. (section 80C)

A. **Section 80C,** entitles an employee to deductions for the whole of amounts paid or deposited in the current financial year in the following schemes, **subject to a limit of Rs.1,50,000/-**:

(1) Payment of **insurance premium** to effect or to keep in force an insurance on the life of the individual, the spouse or any child of the individual.

(2) Any payment made to effect or to keep in force a contract for a **deferred annuity**, not being an annuity plan as is referred to in item (7) herein below on the life of the individual, the spouse or any child of the individual, provided that such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity;

(3) Any sum deducted from the salary payable by, or, on behalf of the Government to any individual, being a sum deducted in accordance with the conditions of his service for the purpose of securing to him a **deferred annuity** or making provision for his spouse or children, in so far as the sum deducted does not exceed 1/5th of the salary;

(4) Any contribution made :

(a) by an individual to any **Provident Fund** to which the Provident Fund Act, 1925 applies;

(b) to any provident fund set up by the Central Government, and notified by it in this behalf in the Official Gazette, where such contribution is to an account standing in the name of an individual, or spouse or children;

[The Central Government has since notified Public Provident Fund vide Notification S.O. No. 1559(E) dated 3.11.05]

(c) by an employee to a Recognized Provident Fund;

(d) by an employee to an approved superannuation fund;

It may be noted that "contribution" to any Fund shall not include any sums in repayment of loan or advance;

(5) Any sum paid or deposited during the year as a subscription :-

(a) in the name of employee or a girl child of that employee including a girl child for whom the employee is the legal guardian in any such security of the Central Government or any such deposit scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf;

*[The Central Government has since notified the scheme '**Sukanya Samriddhi Account'** vide Notification GSR No. 863(E) dated 02.12.2014]*

(b) to any such saving certificates as defined under section 2(c) of the Government Saving Certificate Act, 1959 as the Government may, by notification in the Official Gazette, specify in this behalf.

[The Central Government has since notified National Saving Certificate (VIIIth Issue) vide Notification S.O. No. 1560(E) dated 3.11.05and National Saving Certificate (IXth Issue) vide Notification . G.S.R. 848 (E), dated the 29th November, 2011, publishing the National Savings Certificates (IX-Issue) Rules, 2011 G.S.R. 868 (E), dated the 7th December, 2011, specifying the National Savings Certificates IX Issue as the class of Savings Certificates F No1-13/2011-NS-II r/w amendment Notification No.GSR 319(E), dated 25-4-2012]

(6) Any sum paid as contribution in the case of an individual, for himself, spouse or any child,

a. for participation in the Unit Linked Insurance Plan, 1971 of the Unit Trust of India;

b. for participation in any unit-linked insurance plan of the LIC Mutual Fund referred to section 10 (23D) and as notified by the Central Government.

[The Central Government has since notified Unit Linked Insurance Plan (formerly known as Dhanraksha, 1989) of LIC Mutual Fund vide Notification S.O. No. 1561(E) dated 3.11.05.]

(7) Any subscription made to effect or keep in force a contract for such annuity plan of the Life Insurance Corporation or any other insurer as the Central Government may, by notification in the Official Gazette, specify;

[The Central Government has since notified New Jeevan Dhara, New Jeevan Dhara-I, New Jeevan Akshay, New Jeevan Akshay-I and New Jeevan Akshay-II vide Notification S.O. No. 1562(E) dated 3.11.05 and Jeevan Akshay-III vide Notification S.O. No. 847(E) dated 1.6.2006]

(8) Any subscription made to any units of any Mutual Fund, of section 10(23D), or from the Administrator or the specified company referred to in Unit Trust of India (Transfer of Undertaking & Repeal) Act, 2002 under any plan formulated in accordance with any scheme as the Central Government, may, by notification in the Official Gazette, specify in this behalf;

[The Central Government has since notified the Equity Linked Saving Scheme, 2005 for this purpose vide Notification S.O. No. 1563(E) dated 3.11.2005]

The investments made after 1.4.2006 in plans formulated in accordance with Equity Linked Saving Scheme, 1992 or Equity Linked Saving Scheme, 1998 shall also qualify for deduction under section 80C.

(9) Any contribution made by an individual to any pension fund set up by any Mutual Fund referred to in section 10(23D), or, by the Administrator or the specified company defined in Unit Trust of India (Transfer of Undertaking & Repeal) Act,

2002, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

[The Central Government has since notified the Equity Linked Saving Scheme, 2005 for this purpose vide Notification S.O. No. 1563(E) dated 3.11.2005]

(10) Any subscription made to any such deposit scheme of, or, any contribution made to any such pension fund set up by, the National Housing Bank, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(11) Any subscription made to any such deposit scheme, as the Central Government may, by notification in the Official Gazette, specify for the purpose of being floated by (a) public sector companies engaged in providing long-term finance for construction or purchase of houses in India for residential purposes, or, (b) any authority constituted in India by, or, under any law, enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both.

(12) Any sums paid by an assessee for the purpose of purchase or construction of a residential house property, the income from which is chargeable to tax under the head "Income from house property" (or which would, if it has not been used for assessee's own residence, have been chargeable to tax under that head) where such payments are made towards or by way of any instalment or part payment of the amount due under any self-financing or other scheme of any Development Authority, Housing Board etc.

The deduction will also be allowable in respect of re-payment of loans borrowed by an assessee from the Government, or any bank or Life Insurance Corporation, or National Housing Bank, or certain other categories of institutions engaged in the business of providing long term finance for construction or purchase of houses in India. Any repayment of loan borrowed from the employer will also be covered, if the employer happens to be a public company, or a public sector company, or a university established by law, or a college affiliated to such university, or a local authority, or a cooperative society, or an authority, or a board, or a corporation, or any other body established under a Central or State Act.

The stamp duty, registration fee and other expenses incurred for the purpose of transfer shall also be covered. Payment towards the cost of house property, however, will not include, admission fee or cost of share or initial deposit or the cost of any addition or alteration to, or, renovation or repair of the house property which is carried out after the issue of the completion certificate by competent authority, or after the occupation of the house by the assessee or after it has been let out. Payments towards any expenditure

in respect of which the deduction is allowable under the provisions of section 24 of the Act will also not be included in payments towards the cost of purchase or construction of a house property.

Where the house property in respect of which deduction has been allowed under these provisions is transferred by the tax-payer at any time before the expiry of five years from the end of the financial year in which possession of such property is obtained by him or he receives back, by way of refund or otherwise, any sum specified in section 80C(2)(xviii), no deduction under these provisions shall be allowed in respect of such sums paid in such previous year in which the transfer is made and the aggregate amount of deductions of income so allowed in the earlier years shall be added to the total income of the assessee of such previous year and shall be liable to tax accordingly.

(13) Tuition fees, whether at the time of admission or thereafter, paid to any university, college, school or other educational institution situated in India, for the purpose of full-time education of any two children of the employee.

Full-time education includes any educational course offered by any university, college, school or other educational institution to a student who is enrolled full-time for the said course. It is also clarified that full-time education includes play-school activities, pre-nursery and nursery classes.

It is clarified that the amount allowable as tuition fees shall include any payment of fee to any university, college, school or other educational institution in India except the amount representing payment in the nature of development fees or donation or capitation fees or payment of similar nature.

(14) Subscription to equity shares or debentures forming part of any eligible issue of capital made by a public company, which is approved by the Board or by any public finance institution.

(15) Subscription to any units of any mutual fund referred to in clause (23D) of Section 10 and approved by the Board, if the amount of subscription to such units is subscribed only in eligible issue of capital of any company.

(16) Investment as a term deposit for a fixed period of not less than five years with a scheduled bank, which is in accordance with a scheme framed and notified by the Central Government, in the Official Gazette for these purposes.

[The Central Government has since notified the Bank Term Deposit Scheme, 2006 for this purpose vide Notification S.O. No. 1220(E) dated 28.7.2006]

(17) Subscription to such bonds issued by the National Bank for Agriculture and Rural Development, as the Central Government may, by such notification in the Official Gazette, specify in this behalf.

(18) Any investment in an account under the Senior Citizens Savings Scheme Rules, 2004.

(19) Any investment as five year time deposit in an account under the Post Office Time Deposit Rules, 1981.

B. Section 80C(3) & 80C(3A) states that in case of Insurance Policy other than contract for a deferred annuity the amount of any premium or other payment made is restricted to:

Policy issued before 1st April 2012	20% of the actual capital sum assured
Policy issued on or after 1st April 2012	10% of the actual capital sum assured
Policy issued on or after 1st April 2013 * - In cases of persons with disability or person with severe disability as per Sec 80 U or suffering from disease or ailment as specified in rules made under Sec 80DDB	15% of the actual capital sum assured

*Introduced by Finance Act 2013

Actual capital sum assured in relation to a life insurance policy means the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account –

i. the value of any premium agreed to be returned, or

ii. any benefit by way of bonus or otherwise over and above the sum actually assured which may be received under the policy by any person.

5.5.2 Deduction in respect of contribution to certain pension funds (Section 80CCC)

Section 80CCC allows an employee deduction of an amount paid or deposited out of his income chargeable to tax to effect or keep in force a contract for any **annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension** from the Fund referred to in section 10(23AAB). However, the deduction shall exclude interest or bonus accrued or credited to the employee's account, if any and shall not exceed Rs. 1,50,000.

However, if any amount is standing to the credit of the employee in the fund referred to above and deduction has been allowed as stated above and the employee or his nominee receives this amount together with the interest or bonus accrued or credited to this account due to the reason of

(i) Surrender of annuity plan whether in whole or part

(ii) Pension received from the annuity plan

then the amount so received during the Financial Year shall be the income of the employee or his nominee for that Financial Year and accordingly will be charged to tax.

Where any amount paid or deposited by the employee has been taken into account for the purposes of this section, a deduction with reference to such amount shall not be allowed under section 80C.

5.5.3 Deduction in respect of contribution to pension scheme of Central Government (Section 80CCD):

Section 80CCD(1) allows an employee, being an individual employed by the Central Government on or after 01.01.2004 or being an individual employed by any other employer, or any other assessee being an individual, a deduction of an amount paid or deposited out of his income chargeable to tax under a pension scheme as notified vide Notification F. N. 5/7/2003- ECB&PR dated 22.12.2003 National Pension System-NPS or as may be notifed by the Central Government. However, the deduction shall not exceed an amount equal to 10% of his salary (includes Dearness Allowance but excludes all other allowance and perquisites).

As per section 80CCD(1B), an assessee referred to in 80CCD(1) shall be allowed an deduction in computation of his income, of the whole of the amount paid or deposited in the previous year in his account under the pension scheme notified or as may be notified by the Central Government, which shall not exceed Rs. 50,000. The deduction of Rs. 50,000 shall be allowed whether or not any deduction is allowed under sub-section(1). However, the same amount cannot be claimed both under sub-section (1) and sub-section (1B) of section 80CCD.

As per Section 80CCD(2), where any contribution in the said pension scheme is made by the Central Government or any other employer then the employee shall be allowed a deduction from his total income of the whole amount contributed by the Central Government or any other employer subject to limit of 10% of his salary of the previous year.

If any amount is standing to the credit of the employee in the pension scheme referred above and deduction has been allowed as stated above, and the employee or his nominee receives this amount together with the amount accrued thereon, due to the reason of

(i) Closure or opting out of the pension scheme or

(ii) Pension received from the annuity plan purchased and taken on such closure or opting out

then the amount so received during the FYs shall be the income of the employee or his nominee for that Financial Year and accordingly will be charged to tax.

Where any amount paid or deposited by the employee has been taken into account for the purposes of this section, a deduction with reference to such amount shall not be allowed under section 80C.

Further it has been specified that w.e.f 01.04.09 any amount received by the employee from the New Pension Scheme shall be deemed not to have been received in the previous year if such amount is used for purchasing an annuity plan in the same previous year.

It is emphasized that as per **the section 80CCE the aggregate amount of deduction under sections 80C, 80CCC and Section 80CCD(1) shall not exceed Rs.1,50,000/-. The deduction allowed under section 80 CCD(1B) is an additional deduction in respect of any amount paid in the NPS upto Rs. 50,000/-. However, the contribution made by the Central Government or any other employer to a pension scheme u/s 80CCD(2) shall be excluded from the limit of Rs.1,50,000/- provided under this section.**

5.5.4 Deduction in respect of investment made under an equity savings scheme (Section 80 CCG):

Section 80CCG provides deduction wef assessment year 2013-14 in respect of investment made under notified equity saving scheme. **Rajiv Gandhi Equity Savings Scheme** 2012 has been notified vide SO No 2777 E, dated 23.11.2012 (subsequent corrigendum SO NO. 2835E dated 05.12.2012) and amended vide notification SO No. 3693E dated 18.12.2013 as a scheme under this section. The scheme was modified in December 2013 vide notification SO 3693 dated 18.12.13 (RGESS, 2013). The deduction under this section in accordance with RGESS 2013 is available if following conditions are satisfied:

(a) The assessee is a resident individual

(b) His gross total income does not exceed Rs. 12 lakhs;

(c) He has acquired listed shares in accordance with a notified scheme or listed units of an equity oriented fund as defined in section 10(38);

(d) The assessee is a new retail investor;

(e) The investment is locked-in for a period of 3 years from the date of acquisition in accordance with the above scheme;

(f) The assessee satisfies any other condition as may be prescribed.

Amount of deduction –The amount of deduction is at 50% of the amount invested in equity shares/units. However, the amount of deduction under this provision cannot exceed Rs. 25,000.

Withdrawal of deduction – If the assessee, after claiming the aforesaid deduction, fails to satisfy the above conditions, the deduction originally allowed shall be deemed to be the income of the assessee of the year in which default is committed.

This deduction is allowed for three consecutive assessment years beginning with the AY in which the listed equity shares or units were first acquired. If any deduction is claimed by a taxpayer under this section in any year, he shall not be entitled to any deduction under this section for any other year.

5.5.5 Deduction in respect of health insurance premia paid, etc. (Section 80D)

Section 80D provides for deduction available for health insurance premia paid, etc. which is calculated as under:

Sl No	Persons for whom payment made	Nature of payment	Mode of payment	Allowable Deduction (in Rs)
1	Employee or his family*	❖ the whole of the amount paid to effect or to keep in force an insurance on the health of the employee or his family or ❖ any contribution made to the CGHS or such other scheme as may be notified by Central Government (Finance Act 2013)	any mode other than cash	Aggregate allowable is Rs 25,000/ (Rs 30000/- for senior and very senior citizen)
2		❖ any payment on account of preventive health check-up of the employee or family, [restricted to Rs 5000/-; cash payment allowed here]	any mode including cash	
3		❖ Whole of the amount paid on account of medical expenditure incurred on health of a very senior citizen and no amount has been paid to effect of keep in force an insurance on the health of such person	any mode other than cash	Aggregate allowable is Rs 30,000/

Sl No	Persons for whom payment made	Nature of payment	Mode of payment	Allowable Deduction (in Rs)
4	Parent or Parents of employee*	❖ the whole of the amount paid to effect or keep in force an insurance on the health of the parent or parents of the employee	any mode other than cash	Aggregate allowable is Rs 25,000/ (Rs 30000/- for senior and very senior citizen)
5		❖ any payment made on account of preventive health check-up of the parent or parents of the employee [restricted to Rs 5000/-; cash payment allowed here]	any mode including cash	
6		❖ Whole of the amount paid on account of medical expenditure incurred on health of a very senior citizen and no amount has been paid to effect of keep in force an insurance on the health of such person		

***Aggregate of the sum allowable as deduction under Sl No 1, 2 & 3 and 4, 5 &6 above shall not exceed Rs 30000/-**

Here

i) "**family**" means the spouse and dependent children of the employee.

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

iii) **Very senior citizen** means an individual **resident** in India who is of the age of **eighty years** or more at any time during the relevant previous year

The DDO must ensure that the medical insurance referred to above shall be in accordance with a scheme made in this behalf by

(a) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalization) Act, 1972 and approved by the Central Government in this behalf; or

(b) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999.

5.5.6 Deductions in respect of expenditure on persons or dependants with disability

5.5.6.1 Deductions in respect of maintenance including medical treatment of a dependent who is a person with disability (section 80DD):

Under **section 80DD,** where an employee, who is a resident in India, has, during the previous year-

(a) incurred any **expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability**; or

(b) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator or the specified company subject to the conditions specified in this regard and **approved by the Board** in this behalf for the maintenance of a dependant, being a person with disability, the employee shall be allowed a deduction of a sum of **Rs 75,000/-** from his gross total income of that year.

However, where such dependant is a person with **severe disability,** an amount Rs 1,25,000/- shall be allowed as deduction subject to the specified conditions.

The deduction under (b) above shall be allowed only if the following conditions are fulfilled:-

(i) the scheme referred to in (b) above provides for payment of annuity or lump sum amount for the benefit of a dependant, being a person with disability, in the event of the death of the individual in whose name subscription to the scheme has been made;

(ii) the employee nominates either the dependant, being a person with disability, or any other person or a trust to receive the payment on his behalf, for the benefit of the dependant, being a person with disability.

However, if the dependant, being a person with disability, predeceases the employee, an amount equal to the amount paid or deposited under sub-para(b) above shall be deemed to be the income of the employee of the previous year in which such amount is received by the employee and shall accordingly be chargeable to tax as the income of that previous year.

5.5.6.2 Deductions in respect of a person with disability (section 80U):

Under **section 80U**, in computing the total income of an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a **person with disability**, there shall be allowed a deduction of a sum of **Rs 75,000/-**. However, where such individual is a person with **severe disability**, a higher deduction of Rs 1,25,000/- shall be allowable.

DDOs should note that 80DD deduction is in case of the dependent of the employee whereas 80U deduction is in case of the employee himself. However, under both the sections, the employee shall furnish to the DDO the following:

1. A copy of the certificate issued by the medical authority as defined in Rule 11A(1) in the prescribed form as per Rule 11A(2) of the Rules. The DDO has to allow deduction only after seeing that the Certificate furnished is from the Medical Authority defined in this Rule and the same is in the form as mentioned therein.

2. Further in cases where the condition of disability is temporary and requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any subsequent period **unless a new certificate** is obtained from the medical authority as in 1 above and furnished before the DDO.

3. For the purposes of sections 80DD and 80 U some of the terms defined are as under:-

   (a) "Administrator" means the Administrator as referred to in clause (a) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 ;

   (b) "dependant" means—

   (i) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them;

   (ii) in the case of a Hindu undivided family, a member of the Hindu undivided family, dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance, and who has not claimed any deduction under section 80U in computing his total income for the assessment year relating to the previous year;

   (c) "disability" shall have the meaning assigned to it in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and includes "autism", "cerebral palsy"

and "multiple disability" referred to in clauses (a), (c) and (h) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;

(d) *"Life Insurance Corporation" shall have the same meaning as in clause (iii) of sub-section (8) of section 88;*

(e) *"medical authority" means the medical authority as referred to in clause (p) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in clauses (a), (c), (h), (j) and (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;*

(f) *"person with disability" means a person as referred to in clause (t) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 or clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;*

(g) *"person with severe disability" means—*

  (i) *a person with eighty per cent or more of one or more disabilities, as referred to in sub-section (4) of section 56 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; or*

  (ii) *a person with severe disability referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;*

(h) *"specified company" means a company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002.*

5.5.7. Deduction in respect of medical treatment, etc. (Section 80DDB):

Section **80DDB** allows a deduction in case of employee, who is resident in India, during the previous year, of any amount actually paid for the medical treatment of such disease or ailment as may be specified in the rules 11DD (1) for himself or a dependant. The deduction allowed is equal to the amount actually paid is in respect of the employee or his dependant or Rs. 40,000 whichever is less.

Now the deduction can be allowed on the basis of a prescription from an oncologist, a urologist, nephrologist, a haematologist, an immunologist or such other specialist, as mentioned in Rule 11DD. However, the amount of the claim shall be reduced by the amount if any received from the insurer or reimbursed by the employer. Further in case of the person against whom such claim is made is a senior citizen (60 age years or more) then the deduction upto Rs 60,000/- is allowed and in case of very senior citizen (80 age years or more) the deduction upto Rs 80,000/- is allowed.

For the purpose of this section, in the case of an employee, "dependant" means individual, the spouse, children, parents, brothers and sisters of the employee or any of them, dependant wholly or mainly on the employee for his support and maintenance.

Vide Notification SO No. 2791(E) dated 12.10.2015, Rules 11DD has been amended to do away with the requirement of furnishing a certificate in Form 10-I. A prescription from a specialist as specified in the Rules containing the name and age the patient, name of the disease/ailment along with the name, address, registration number & qualification of the specialist issuing the prescription would now be required.

5.5.8 Deduction in respect of interest on loan taken for higher education (Section 80E):

Section 80E allows deduction in respect of payment of interest on loan taken from any financial institution or any approved charitable institution for higher education for the purpose of pursuing his higher education or for the purpose of higher education of his spouse or his children or the student for whom he is the legal guardian.

The deduction shall be allowed in computing the total income for the Financial year in which the employee starts paying the interest on the loan taken and immediately succeeding seven Financial years or until the Financial year in which the interest is paid in full by the employee, whichever is earlier.

For the purpose of this section -

(a) "approved charitable institution" means an institution established for charitable purposes and approved by the prescribed authority section 10(23C), or an institution referred to in section 80G(2)(a);

(b) "financial institution" means a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act); or any other financial institution which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(c) "higher education" means any course of study pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognized by the Central Government or State Government or local authority or by any other authority authorized by the Central Government or State Government or local authority to do so;

5.5.9 Deductions on respect of donations to certain funds, charitable institutions, etc. (Section 80G):

Section 80G provides for deductions on account of donation made to various funds , charitable organizations etc. In cases where employees make donations to the Prime Minister's National Relief Fund, the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund through their respective employers, it is not possible for such funds to issue separate certificate to every such employee in respect of donations made to such funds as contributions made to these funds are in the form of a consolidated cheque. An employee who makes donations towards these funds is eligible to claim deduction under section 80G. It is, hereby, clarified that the claim in respect of such donations as indicated above will be admissible under section 80G on the basis of the certificate issued by the Drawing and Disbursing Officer (DDO)/Employer in this behalf - *Circular No. 2/2005, dated 12-1-2005.*

No deduction under this section is allowable in case the amount of donation exceeds Rs 10000/- unless the amount is paid by any mode other than cash.

5.5.10 Deductions is respect of rents paid (Section 80GG):

Section 80GG allows the employee to a deduction in respect of **house rent paid by him for his own residence**. Such deduction is permissible subject to the following conditions :-

(a) the employee has not been in receipt of any House Rent Allowance specifically granted to him which qualifies for exemption under section 10(13A) of the Act;

(b) the employee files the declaration in Form No.10BA. (**Annexure X**)

(c) The employee does not own:

  (i) any residential accommodation himself or by his spouse or minor child or where such employee is a member of a Hindu Undivided Family, by such family, at the place where he ordinarily resides or performs duties of his office or carries on his business or profession; or

  (ii) at any other place, any residential accommodation which is in the occupation of the employee, the value of which is to be determined under section 23(2)(a) or section 23(4)(a), as the case may be.

(d) He will be entitled to a deduction in respect of house rent paid by him in excess of 10% of his total income. The deduction shall be equal to 25% of total income or Rs. 2,000/- per month, whichever is less. The total income for working out these percentages will be computed before making any deduction under section 80GG.

The Drawing and Disbursing Authorities should satisfy themselves that all the conditions mentioned above are satisfied before such deduction is allowed by them to the employee. They should also satisfy themselves in this regard by insisting on production of evidence of actual payment of rent.

5.5.11 Deductions in respect of certain donations for scientific research or rural development (Section 80 GGA):

Section 80GGA allows deduction from total income of employee in respect of donations of any sum as given in the Table below:

Sl No	Donations made to persons	Approval / Notification under Section	Authority granting approval/ Notification
1	A research association which has as its object the undertaking of scientific research or to a University, college or other institution to be used for scientific research	u/s 35(1)(ii)	Central Government
2	A research association which has as its object the undertaking of research in social science or statistical research or to a University, college or other institution to be used for research in social science or statistical research	u/s 35(1)(iii)	Central Government
3	an association or institution, which has as its object the undertaking of any programme of rural development, to be used for carrying out any programme of rural development approved for the purposes of section 35CCA	furnishes the certificate u/s 35CCA (2)	Prescribed Authority under Rule 6AAA
4	an association or institution which has as its object the training of persons for implementing programmes of rural development.	furnishes the certificate u/s 35CCA (2A)	Prescribed Authority under Rule 6AAA
5	a public sector company or a local authority or to an association or institution approved by the National Committee, for carrying out any eligible project or scheme.	furnishes the certificate u/s 35AC(2)(a)	National Committee for Promotion of Social & Economic Welfare

Sl No	Donations made to persons	Approval / Notification under Section	Authority granting approval/ Notification
6	a rural development fund	notified u/s 35CCA (1)(c)	set up and notified by the Central Government
7.	National Urban Poverty Eradication Fund	notified u/s 35CCA (1)(d)	set up and notified by the Central Government

No deduction under this section is allowable in case:

i) The employee has gross total income which includes income which is chargeable under the head “Profits and gains of business or profession”.

ii) The amount of donation exceeds Rs 10000 and is paid in cash.

The Drawing and Disbursing Authorities should satisfy themselves that all the conditions mentioned above are satisfied before such deduction is allowed by them to the employee. They should also satisfy themselves in this regard by insisting on production of evidence of actual payment of donation and a receipt from the person to whom donation has been made and ensure that the approval/notification has been issued by the right authority. DDO must ensure a self-declaration from the employee that he has no income from “Profits and gains of business or profession”.

5.5.12 Deduction in respect of interest on deposits in savings account (Section 80TTA):

Section 80TTA has been introduced from the Financial Year 2012-13 and it allows to an employee from his gross total income if it includes any income by way of interest on deposits (not being time deposits) in a savings account, a deduction amounting to:

(i) in a case where the amount of such income does not exceed in the aggregate ten thousand rupees, the whole of such amount; and

(ii) in any other case, ten thousand rupees. The deduction is available if such savings account is maintained in a

(a) banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act);

(b) co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or

(c) Post Office as defined in clause (k) of section 2 of the Indian Post Office Act, 1898,

For this section, "time deposits" means the deposits repayable on expiry of fixed periods.

6. REBATE OF Rs 5000 FOR INDIVIDUALS HAVING TOTAL INCOME UPTO Rs 5 LAKH [SECTION 87A]

Finance Act 2013 provided relief in the form of rebate to individual taxpayers, resident in India, who are in lower income bracket, i. e. having total income not exceeding Rs 5,00,000/-. The amount of rebate available under section 87A is Rs 5000/- or the amount of tax payable, whichever is less from AY 2017-18.

7 TDS ON PAYMENT OF ACCUMULATED BALANCE UNDER RECOGNISED PROVIDENT FUND AND CONTRIBUTION FROM APPROVED SUPERANNUATION FUND:

7.1 The trustees of a Recognized Provident Fund, or any person authorized by the regulations of the Fund to make payment of accumulated balances due to employees, shall in cases where sub-rule(1) of Rule 9 of Part A of the Fourth Schedule to the Act applies, at the time when the accumulated balance due to an employee is paid, make therefrom the deduction specified in Rule 10 of Part A of the Fourth Schedule to the Act.

The accumulated balance is treated as income chargeable under the head "Salaries".

7.2 Where any contribution made by an employer, including interest on such contributions, if any, in an approved Superannuation Fund is paid to the employee, tax on the amount so paid shall be deducted by the trustees of the Fund to the extent provided in Rule 6 of Part B of the Fourth Schedule to the Act. TDS should be at the average rate of tax at which, the employee was liable to be taxed during the preceding three years or during the period, if that period is less than three years, when he was member of the fund.

The deductor shall remain liable to deduct tax on any sum paid on account of returned contributions (including interest, if any) even if a fund or part of a fund ceases to be an approved Superannuation fund.

7.3 As per section 192A of the Act, w. e. f. 01.06.2015 the trustees of the EPF Scheme 1952 framed under section 5 of the EPF & Misc. Provisions Act, 1952 or any person authorized under the scheme to make payment of accumulated balance due

to employees, shall, in a case where the accumulated balance due to an employee participating in a recognized provident fund is includible in his total income owing to the provisions of Rule 8 of Part A of Fourth Schedule not being applicable at the time of payment of accumulated balance due to the employee, deduct income tax thereon @ 10% if the amount of such payment or aggregate of such payment exceeds Rs 50,000/-. In case the employee does not provide his/her PAN No., then the deduction will have to be made at maximum marginal rate.

8. DDOS TO SATISFY THEMSELVES ABOUT THE GENUINENESS OF CLAIM:

The Drawing and Disbursing Officers should satisfy themselves about the actual deposits/ subscriptions / payments made by the employees, by calling for such particulars/ information as they deem necessary before allowing the aforesaid deductions. In case the DDO is not satisfied about the genuineness of the employee's claim regarding any deposit/ subscription/ payment made by the employee, he should not allow the same, and the employee would be free to claim the deduction/ rebate on such amount by filing his return of income and furnishing the necessary proof etc., therewith, to the satisfaction of the Assessing Officer.

9. CALCULATION OF INCOME-TAX TO BE DEDUCTED:

9.1 Salary income for the purpose of section 192 shall be computed as follow:-

(a) First compute the gross salary as mentioned in para 5.1 including all the incomes mentioned in para 5.2 and excluding the income mentioned in para 5.3.

(b) Allow deductions mentioned in para 5.4 from the figure arrived at (a) above and compute the amount to arrive at Net salary of the employee

(c) Add income from all other heads- 'House property', 'Profits & gains of Business or Profession', Capital gains and Income from other Sources to arrive at the Gross Total Income as shown in the form of simple statement mentioned para 3.5. However it may be remembered that no loss under any such head is allowable by DDO other than loss under the Head "Income from House property".

(d) Allow deductions mentioned in para 5.5 from the figure arrived at (c) above ensuring that the relevant conditions are satisfied. The aggregate of the deductions subject to the threshold limits mentioned in para 5.5 shall not exceed the amount at (b) above and if it exceeds, it should be restricted to that amount.

This will be the amount of total income of the employee on which income tax would be required to be deducted. This income should be rounded off to the nearest multiple of ten rupees.

9.2 Income-tax on such income shall be calculated at the rates given in para 2.1 of this Circular keeping in view the age of the employee and subject to the provisions of sec. 206AA, as discussed in para 4.8. Rebate as per Section 87A upto Rs 2000/- to eligible persons (see para 6) may be given. Surcharge shall be calculated in cases where applicable (see para 2.2).

9.3 The amount of tax payable so arrived at shall be increased by educational cess as applicable (2% for primary and 1% for secondary education) to arrive at the total tax payable.

9.4 The amount of tax as arrived at para 9.3 should be deducted every month in equal installments. Any excess or deficit arising out of any previous deduction can be adjusted by increasing or decreasing the amount of subsequent deductions during the same financial year.

10. MISCELLANEOUS:

10.1 These instructions are not exhaustive and are issued only with a view to guide the employers to understand the various provisions relating to deduction of tax from salaries. Wherever there is any doubt, reference may be made to the provisions of the Income-tax Act, 1961, the Income-tax Rules, 1962, the Finance Act 2016, the relevant circulars / notifications, etc.

10.3 These instructions may be brought to the notice of all Disbursing Officers and Undertakings including those under the control of the Central/ State Governments.

10.4 Copies of this Circular are available with the Director of Income-tax (Public Relations, Printing & Publications and Official Language), 6th Floor, Mayur Bhavan, Connaught Place, New Delhi-110 001 and at the following websites:

www.finmin.nic.in & www.incometaxindia.gov.in

Hindi version will follow.

Sd/-
(Sandeep Singh)
Under Secretary to the Govt. of India

[F. No. 275//192/2016-IT(B) dated 02-01-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

ANNEXURE-I

SOME ILLUSTRATIONS

Example 1

For Assessment Year 2017-18

(A) Calculation of Income tax in the case of an employee (Male or Female) below the age of sixty years and having gross salary income of:

i) Rs.2,50,000/- ,

ii) Rs.5,00,000/- ,

iii) Rs.10,00,000/-

iv) Rs.20,00,000/-. and

v) Rs. 1,10,00,000/-

(B) What will be the amount of TDS in case of above employees, if PAN is not submitted by them to their DDOs/Offices:

Particulars	Rupees (i)	Rupees (ii)	Rupees (iii)	Rupees (iv)	Rupees (v)
Gross Salary Income (including allowances)	2,50,000	5,00,000	10,00,000	20,00,000	1,10,00,000
Contribution of G.P.F.	45,000	50,000	1,00,000	1,00,000	1,00,000

Computation of Total Income and tax payable thereon

Particulars	Rupees (i)	Rupees (ii)	Rupees (iii)	Rupees (iv)	Rupees (v)
Gross Salary	2,50,000	5,00,000	10,00,000	20,00,000	1,10,00,000
Less: Deduction U/s 80C	45,000	50,000	1,00,000	1,00,000	1,00,000
Taxable Income	2,05,000	4,50,000	9,00,000	19,00,000	1,09,00,000
(A) Tax thereon	**Nil**	**15,000***	**1,05,000**	**3,95,000**	**30,95,000**
Surcharge					4,64,250
Add: (i) Education Cess g 2%. (ii) Secondary and Higher Education Cess @1%	 Nil Nil	 360 180	 2100 1050	 7,900 3950	 61,900 30,950
Total tax payable	**Nil**	**18,540**	**1,08,150**	**406850**	**36,52,100**
TDS under sec. 206AA in case where PAN is not furnished by the employee	Nil	38,000	1,30,000	406850	36,52,100

* include Rebate of Rs 5000 u/s 87A

Example 2

For Assessment Year 2017-18

Calculation of Income Tax in the case of an employee below the age of sixty years having a handicapped dependent (With valid PAN furnished to employer).

S.No.	Particulars	Rupees
1	Gross Salary	4,20,000
2	Amount spent on treatment of a dependant, being person with disability (but not severe	7000
3	Amount paid to LIC with regard to annuity for the maintenance of a dependant, being	60,000
4	GPF Contribution	25,000
5	LIP Paid	10,000
6	Interest Income on Savings Account	12,000

Computation of Tax

S.No.	Particulars	Rupees
1	Gross Salary	4,20,000
2	Add: Income from Other Sources Interest Income on Savings Account	Rs 12,000
3	**Gross Total Income**	4,32,000
4	**Less:** Deduction U/s 80DD (Restricted to Rs.60,000/- only)	60,000
5	**Less:** Deduction U/s 80C (i) GPF Rs.25,000/- (ii) LIP Rs. 10,000/- = Rs.35,000/-	35,000
6	Less: Deduction u/s 80TTA on Interest Income on savings account (restricted to Rs 10000/-)	10000
7	**Total Income**	**3,27,000**
8	**Income Tax thereon/payable** (includes Rebate of Rs 5000 as per Section 87A)	**2,700**
9	**Add:** (i). Education Cess @2% (ii). Secondary and Higher Education Cess @1%	 114 57
10	**Total Income Tax payable**	**2,871**
11	**Rounded off to**	**2,870**

Example 3

For Assessment Year 2017-18

Calculation of Income Tax in the case of an employee below age of sixty years where medical treatment expenditure was borne by the employer (With valid PAN furnished to employer).

S.No.	Particulars	Rupees
1	Gross Salary	5,20,000
2	Medical Reimbursement by employer on the treatment of self and dependent family member	35,000
3	Contribution of GPF	20,000
4	LIC Premium	20,000
5	Repayment of House Building Advance	25,000
6	Tuition fees for two children	60,000
7	Investment in Unit-Linked Insurance Plan	30,000
8	Interest Income on Savings Account	8,000
9	Interest Income on Time Deposit	15,000

Computation of Tax

S.No.	Particulars	Rupees
1	Gross Salary	5,20,000
2	**Add:** Perquisite in respect of reimbursement of Medical Expenses In excess of Rs. 15,000/- in view of Section 17(2)(v)	20,000
3	**Income from Other Sources** Interest Income on Savings Account Rs 8,000 Interest Income on Time Deposit Rs 15,000	23,000
4	Gross Total Income	**5,63,000**
5	**a.Less:** Deduction U/s 80C (i) GPF Rs.20,000/- (ii) LIC Rs.20,000/- (iii) Repayment of House Building Advance Rs.25,000/- (iv) Tuition fees for two children Rs.60,000/- (v) Investment in Unit-Linked Insurance Plan Rs.30,000/- **Total =Rs.1,55,000/-** **Restricted to Rs. 1,50,000/** **b. Less:** Deduction u/s 80TTA on Interest Income on savings account (restricted to Rs 8000/- - available only on Savings account interest) Rs 8000 Total deduction available Rs 1,58,000/-	**1,58,000**
6	**Total Income**	**4,05,000**
7	**Income Tax thereon/payable (after rebate u/s 87A)**	**12,800**
8	**Add:** (i). Education Cess @2% (ii). Secondary and Higher Education Cess @1%	 **276** **138**
9	**Total Income Tax payable**	**13,214**
10	**Rounded off to**	**13,214**

Example 4

For Assessment Year 2017-18

Illustrative calculation of House Rent Allowance U/s 10 (13A) in respect of residential accommodation situated in Delhi in case of an employee below the age of sixty years (With valid PAN furnished to employer).

S.No.	Particulars	Rupees
1	Salary	3,50,000
2	Dearness Allowance	2,00,000
3	House Rent Allowance	1,40,000
4	House rent paid	1,44,000
5	General Provident Fund	36,000
6	Life Insurance Premium	4,000
7	Subscription to Unit-Linked Insurance Plan	50,000

Computation of total income and tax payable thereon

S.No.	Particulars		Rupees
1	Salary + Dearness Allowance + House Rent Allowance 3,50,000+2,00,000+1,40,000 = 6,90,000		6,90,000
2		**Total Salary Income**	**6,90,000**
3	**Less:** House Rent allowance exempt U/s 10(l 3A): **Least of:** (a). Actual amount of HRA received= (b). Expenditure of rent in excess of 10% of salary (including D.A. presuming that D.A. is taken for retirement benefit) (1,44,000-55,000) (c). 50% of Salary(Basic+ DA)	 1,40,000 **89,000** 2,75,000	 89,000
		Gross Total Income	**6,01,000**
	Less: Deduction U/s 80C (i) GPF (ii) LIC (iii) Investment in Unit-Linked Insurance Plan Total	 Rs.36,000/- Rs. 4,000 Rs.50,000/- =Rs.1,14,000/-	90,000
4		**Total Income**	**5,11,000**
	Tax payable		**27,200**
	Add: (i). Education Cess @2% (ii). Secondary and Higher Education Cess @1%		 **544** **272**
		Total Income Tax payable	**28016**
		Rounded off to	**28020**

Example 5

For Assessment Year 2017-18

Illustrating valuation of perquisite and calculation of tax in the case of an employee below age of sixty years of a private company in Mumbai who was provided accommodation in a flat at concessional rate for ten months and in a hotel for two months (With valid PAN furnished to employer).

S.No.	Particulars	Rupees
1	Salary	7,00,000
2	Bonus	1,40,000
3	Free gas, electricity, water etc. (Actual bills paid by company)	40,000
4(a)	Flat at concessional rate (for ten month). Rs.36000/month	3,60, 000
4(b	Hotel rent paid by employer (for two month)	1,00,000
4(c)	Rent recovered from employee.	60,000
4(d)	Cost of furniture.	2,00,000
5	Subscription to Unit Linked Insurance Plan	50,000
6	Life Insurance Premium	10,000
7	Contribution to recognized P.F.	42,000

COMPUTATION OF TOTAL INCOME AND TAX PAID THEREON:

S.No.	Particulars	Rupees
1	Salary	7,00,000
2	Bonus	1,40,000
3	Total Salary(1+2) for Valuation of Perquisites	8,40,000
Valuation of perquisites		
4(a)	Perquisite for flat: Lower of (15% of salary for 10 months=Rs.1,05,000/-) and (actual rent paid= Rs 3,60,000) i.e. Rs. 1,05,000	
4(b)	Perquisite for hotel : Lower of (24% of salary of 2 months=Rs 33,600) and (actual payment= Rs 1,00,000) i.e. Rs. 33,600	
4(c)	Perquisites for furniture(Rs.2,00,000) g 10% of cost Rs. 20,000	
4(c)(i)	**Total of [4(a)+(b)+(c)]** (1,05,000+ 33,600+ 20,000) Rs.158,600 **Less: rent recovered** (-)Rs. 60,000 **Rs. 98,600**	
4(d)	Add Perquisite for free gas, electricity, water etc. Rs.40,000 (+) Rs 98,600 [4(c)(i)] **Rs1,38,600** Total perquisites	1,38,600
5	Gross Total Income (Rs.8,40,000+ 1,38,600)	9,78,600
6	**Gross Total Income**	**9,78,600**

7	**Less: Deduction U/s 80C:** (i). Provident Fund (80C) :42,000 (ii). LIC(80C) :10,000 (iii). Subscription to Unit Linked Insurance Plan(80C) :50,000/ Total= 1,02,000 **Restricted to Rs 1,02,000 u/s 80C**	**1,02,000**
8	**Total Income**	**8,76,600**
9	Tax Payable	**1,00,320**
10	**Add:** (i). Education Cess @2% (ii). Secondary and Higher Education Cess @1%	**2,006** **1,003**
11	**Total Income Tax payable**	**1,03,329**
12	**Rounded off to**	**1,03,330**

Example 6

For Assessment Year 2017-18

Illustrating Valuation of perquisite and calculation of tax in the case of an employee below the age of 60 years of a Private Company posted at Delhi and repaying House Building Loan (With valid PAN furnished to employer).

S.No.	Particulars	Rupees
1	Salary	4,00,000
2	Dearness Allowance	1,00,000
3	House Rent Allowance	1,80,000
4	Special Duties Allowance	12,000
5	Provident Fund	60,000
6	LIP	10,000
7	Deposit in NSC VIII issue	30,000
8	Rent Paid by the employee for house hired by her	1,20,000
9	Repayment of House Building Loan (Principal)	60,000
10	Tuition Fees for three children (Rs. 10,000 per child)	30,000

Computation of total income and tax payable thereon

S.No.	Particulars		Rupees
1	Gross Salary (Basic+DA+HRA+SDA)		6,92,000
	Less: House rent allowance exempt U/s 10 (13A) **Least of:**		
	(a). Actual amount of HRA received. (b). Expenditure on rent in excess of 10% of salary (Including D.A.)assuming D.A. is included for retirement benefits (1,20,000- 50,000) (c). 50% of salary (including D.A)	:Rs.1,80,000 :Rs. 70,000 : Rs. 2,50,000	70,000
2	Gross Total Taxable Income		6,22,000
	Less: Deduction U/s 80C (i). Provident Fund (ii). LIP: (iii). NSC VIII Issue (iv). Repayment of HBA (v). Tuition Fees (Restricted to two children) **Total** **Restricted to**	 60,000 10,000 30,000 60,000 20,000 **1,80,000** **1,50,000**	1,50,000
		Total Income	**4,72,000**
	Income Tax thereon/payable		**20,200**
	Add: (i). Education Cess @2% (ii). Secondary and Higher Education Cess @1%		 **404** **202**
		Total Income Tax payable	**20,806**
		Rounded off to	**20,810**

Example 7

For Assessment Year 2017-18

A. Calculation of Income tax in the case of a retired employee above the age of sixty years but below the age of 80 years and having gross pension of:

i) Rs.4,50,000/-,

ii) Rs.8,00,000/-,

iii) Rs. 12,50,000/-.

B What will be the amount of TDS in case of above employees, if PAN is not submitted by them to their DDOs/Offices:

Particulars	Rupees (i)	Rupees (ii)	Rupees (iii)
Gross Pension	4,50,000	8,00,000	12,50,000
Contribution of P.P.F.	70,000	1,00,000	1,50,000

Computation of Total Income and tax payable thereon

Particulars	Rupees (i)	Rupees (ii)	Rupees (iii)
Gross Pension	4,50,000	8,00,000	12,50,000
Less: Deduction U/s 80C	70,000	1,00,000	1,50,000
Taxable Income	3,80,000	7,00,000	11,00,000
Tax thereon (after rebate u/s 87A)	3,000	60,000	1,50,000
Add: (i) Education Cess g 2%. (ii) Secondary and Higher Education Cess @1%	120 60	1200 600	3000 1500
Total tax payable	**3,180**	**61,800**	**1,54,500**
TDS under sec. 206AA in case where PAN is not furnished by the employee	**24,000**	**90,000**	**1,70,000**

Example 8

For Assessment Year 2017-18

A. Calculation of Income tax in the case of a retired employee above the age of 80 years and having gross pension of:

Rs.5,00,000/-,

Rs.8,00,000/- ,

Rs. 12,50,000/-.

B What will be the amount of TDS in case of above employees, if PAN is not submitted by them to their DDOs/Offices:

Particulars	Rupees (i)	Rupees (ii)	Rupees (iii)
Gross Pension	5,00,000	8,00,000	12,50,000
Contribution of P.P.F.	80,000	1,20,000	1,50,000

Computation of Total Income and tax payable thereon

Particulars	Rupees (i)	Rupees (ii)	Rupees (iii)
Gross Pension	5,00,000	8,00,000	12,50,000
Less: Deduction U/s 80C	80,000	1,20,000	1,50,000
Taxable Income	4,20,000	6,80,000	11,00,000
Tax thereon	**Nil**	**36,000**	**1,30,000**
Add: (i) Education Cess @ 2%. (ii) Secondary and Higher Education Cess @1%		720 360	2600 1300
Total tax payable	**Nil**	**37,080**	**1,33,900**
B. TDS under sec. 206AA in case where PAN is not furnished by the employee	**Nil**	**76,000**	**1,60,000**

Example 9

Exemption u/s 10 (13A)

1. Mr. A, employed with XYZ Ltd. Up to 31.10.2016, received following emoluments

S.No.	Particulars	Rupees
1.	Basic pay p.m.	13,000
2.	Bonus for the year received in July, 2015	72,000
3.	Club facility (for private use only) Expenditure by employer p.m.	700
4.	House Rent Allowance p.m.	2,800
5.	Employer's contribution to URPF p.m. (Mr. A also made equal contribution)	1,000
W.e.f. 01.11.2015, Mr. A joined PQR Ltd., with following pay package		
I	Basic pay p.m.	18,000
2.	House Rent Allowance p.m.	1,600
3.	Club Facility (for private use only) Expenditure by employer p.m.	1,100
4.	Use of car for journey between office and residence - Employer's expenditure p.m.	600
5.	Employer's contribution to RPF p.m. (Mr. A also made equal contribution)	2,000
Other particulars of Mr. A are as under		
1.	Mr. A resides at Amritsar paying a monthly rent of	3,500
2.	Mr. A's income from other sources	95,000
3.	Mr. A contributed to LIC/PPR/NSC etc.	20,000
Compute Mr. A's taxable income and tax liability for A.Y. 2017-18.		

Computation of Tax

S.No.	Particulars		Rupees
1.	Income from Salary		
	From XYZ Ltd.		
	Basic pay (Rs. 13,000 x 7)		91,000
	Bonus		7,200
	Club facility (Rs.700 x 7)	**Rupees**	4,900
	H.R.A. (Rs.2,800 x 7)	19,600	
	Less : **Exempt u/s 10(13A)**	15,400	4,200
	Employer's Contribution to U.R.P.F.		1,07,300
	(b) From PQR Ltd.	**Rupees**	
	Basic pay (Rs. 18,000 x 5)	90,000	
	H.R.A. (Rs. 1,600 x 5)	8,000	

	Less : Exempt u/s 10(13A)	8,000	
	Club Facility (Rs. 1, 100 x 5)	5,500	
	Facility of Car (not taxable as perquisite)	15,400	
	Employer's Contribution to R.P.F.		95,500
	Gross Salary		2,02,800
	Less: Deduction		
	Net Salary		2,02,800
2.	Income from Others Sources		**95,000**
	Gross Total Income		2,97,800
	Less Deduction u/s 80C		
	Contribution to LIC/PPF/NSC	Rs. 20,000	
	Contribution to RPF (Rs.2000 x 5)	Rs. 10,000	**30,000**
	Total Income		**2,67,800**
	Computation of Tax Liability		1,780
	Tax payable on Rs.2,67,800		1,780
	Less : Rebate u/s 87A		Nil
	Net Income-tax payable		Nil
	Add : Surcharge		--
	Add : EC @ 2%		--
	Add : S&HEC @ 1%		Nil
	Total Tax Payable		

Example 10

2. One Computation of Taxable Salary and allowances, Deduction for Interest on Housing Loan and Deduction u/s 80C.

Mr. X, a Central Govt. Officers in Delhi, is receiving Basic Pay Rs.23,720, grade Pay Rs.7,600, DA at prescribed rates, transport allowances @ Rs.3200+DA thereon, and HRA 30% of basic pay + grade pay (though living in his own house). His date of increment is Ist July. The following are other particulars of his income. Compute his taxable income and tax payable, for A.Y.2015-16.

S.No.	Particulars	Rupees
1.	Honorarium for valuation of answer books of a departmental examination	3,000
2.	Fee for work done fora private body (1 /3rd of fees has been retained by Govt.)	6,000
3.	Contributions to G.P.F. p.m.	4,700
4.	Postal Life Insurance Premium financed from G.P.F. p.m.	280
5.	Contribution to Central Govt. Employees Group Insurance Scheme p.m.	500
6.	Life Insurance Premium (being a Life Insurance Policy of Rs. 1,00,000 taken in name of his wife before 1.04.2012)	10,500
7.	Contribution to Public Provident Fund	10,000
8.	Repayment of HDFC loan borrowed after 1.04.1999 EMI Rs.25,000 (Towards loan Rs.95,000, towards interest Rs.2,05,000)	3,00,000

Computation of Tax

S.No.	Particulars		Rupees
1.	Income from Salary		
	Basic Pay @ Rs 23,720 p.m		
	(March to June '16)	94,880	
	Rs 24,660 p.m * (July 2014 to Feb 2015)	1,97,280	2,92,160
			91,200
	Grade Pay @ Rs 7,600 p.m		
	Dearness Allowance		
	1.3.2014 to 30.06.2014 100% i.e., Rs 31,320 p.m	1,25,280	
	1.7.2014 to 31.12.2014 107% i.e. Rs 34,518 p.m	2,07,108	
	1.1.2015 to 28.02.2015 113% (assumed) i.e.,		
	Rs. 36,454 p.m	72,908	4,05,296
	House Rent Allowance		
	@ 30% of basic pay + grade pay		
	1.3.2014 to 30.06.2014 Rs. 9,396	33,584	

	1.07.2014 to 28.2.2015 Rs 9,678	77,424	1,15,008
	Transport Allowance		
	1.3.2014 to 30.6.2014 @ Rs 6,400 p.m	25600	
	1.7.2014 to 31.12.2014 @ Rs 6,624 p.m	39,744	
	1. 1.2015 to 28.2.2015 @ Rs 6,816 p.m	13,632	
		78,976	
	Less: Exempt u/s 10(14) @ 800 p.m	9600	69,376
			9,73,040
	Honorarium		3,000
	Fees (2/3 retained by him)		4000
	Total Salary		9,80,040
	Less: Standard Deduction		
	Net Salary		9,80,040
2.	Income from House Property		
	Self-occupied u/s 23(2)(a) deemed at nil		
	Less: Interest on HDFC Loan	2,00,000 (-)	2,00,000
	Gross Total Income		7,80,040
	Less: Deduction u/s 80 C		
	GPF @ Rs 4,700/-p.m	56,400	
	CGEGIS @ Rs 500/- p.m	6,000	
	Life Insurance Premium	10,500	
	Repayment of HDFC Loan	95,000	
	Deposit in Public Provident Fund	10,000	
		1,77,900	
			1,50,000
	Restricted to a maximum of Taxable Income		6,30, 040
	Computation of Tax Liability		
	Tax payable		51,008
	Add: Surcharge		
	Add: Education Cess		1020
	Total Tax Liability		52,538

ANNEXURE-II

FORM NO. I 2BA
{See rule 26A(2)(b)}

Statement showing particulars of perquisites, other fringe benefits or amenities and profits in lieu of salary with value thereof

1) Name and address of employer
2) TAN
3) TDS Assessment Range of the employer
4) Name, designation and PAN of employee :
5) Is the employee a director or a person with substantial interest in the company (where the employer is a company)
6) Income under the head “Salaries” of the employee (other than from perquisites)
7) Financial Year :
8) Valuation of Perquisites

S.No	Nature of perquisite (see rule 3)	Value of perquisite as per rules (Rs.)	Amount, if any recovered from the employee (Rs.)	Amount of perquisite chargeable to tax Col(3) - Col(4) (Rs.)
(1)	(2)	(3)	(4)	(5)
1	Accommodation			
2	Cars/Other automotive			
3	Sweeper, gardener, watchman or personal attendant			
4	Gas, electricity, water			
5	Interest free or concessional loans			
6	Holiday expenses			
7	Free or concessional travel			
8	Free meals			
9	Free Education			
10	Gifts, vouchers etc.			
11	Credit card expenses			
12	Club expenses			

13	Use of movable assets by employees			
14	Transfer of assets to employees			
15	Value of any other benefit/amenity/service/ privilege			
16	Stock options (non-qualified options)			
17	Other benefits or amenities			
18	Total value of perquisites			
19	Total value of Profits in lieu of salary as per 17(3)			

9. Details of tax,

(a) Tax deducted from salary of the employee u/s 192(1)

(b) Tax paid by employer on behalf of the employee u/s 192(1 A)

(c) Total tax paid

(d) Date of payment into Government treasury

DECLARATION BY EMPLOYER

1..... .... s/o .... working as ....(designation) do hereby declare on behalf of .... (name of the employer) that the information given above is based on the books of account, documents and other relevant records or information available with us and the details of value of each such perquisite are in accordance with section 17 and rules framed thereunder and that such information is true and correct.

Signature of the person responsible

for deduction of tax

Place...
Date...

Full Name ....
Designation ....

Annexure IIa

FORM NO.12BB
(See rule 26C)

1. Name and address of the employee:			
2. Permanent Account Number of the employee:			
3. Financial year:			

Details of claims and evidence thereof

Sl No.	Nature of claim		Amount (Rs.)	Evidence / particu-lars
(1)	(2)		(3)	(4)
1	House Rent Allowance:			
	(i) Rent paid to the landlord			
	(ii) Name of the landlord			
	(iii) Address of the landlord			
	(iv) Permanent Account Number of the landlord			
	Note: Permanent Account Number shall be furnished if the aggregate rent paid during the previous year exceeds one lakh rupees			
2	Leave travel concessions or assistance			
3	Deduction of interest on borrowing:			
	(i) Interest payable/paid to the lender			
	(ii) Name of the lender			
	(iii) Address of the lender			
	(iv) Permanent Account Number of the lender			
	(a) Financial Institutions(if available)			
	(b) Employer(if available)			
	(c) Others			
4	Deduction under Chapter VI-A			
	(A) Section 80C,80CCC and 80CCD			
	(i) Section 80C			
	(a)	……..		
	(b)	……..		
	(c)	……..		

	(d)	……..		
	(e)	……..		
	(f)	……..		
	(g)	……..		
	(ii) Section 80CCC			
	(iii) Section 80CCD			
	(B) Other sections (e.g. 80E, 80G, 80TTA, etc.) under Chapter VI-A.			
	(i) section…….			
	(ii) section…….			
	(iii) section…….			
	(iv) section…….			
	(v) section…….			
Verification				
I,……..,son/daughter of…….. do hereby certify that the information given above is complete and correct.				
Place……...				
Date……....				(Signature of the employee)
Designation ……..….				

ANNEXURE III

POINT NO.4.4.2.1 OF CIRCULAR OF DEDUCTION OF TAX AT SOURCE – INCOME TAX DEDUCTION FROM SALARIES U/S 192 OF THE INCOME-TAX ACT, 1961 – FINANCIAL YEAR 2015-16

Compulsory filing of Statement by PAO, Treasury Officer, etc. in case of payment of TDS by Book Entry.

1. Procedure of preparation and furnishing Form 24G at TIN-Facilitation Centres (TIN-FCs):

The Form 24G should be prepared by the PAO/DTO/CDDO (hereinafter referred to as AOs) as per the data structure (File format) prescribed by the DIT (Systems), Delhi which is available on TIN website www.tin-nsdl.com. The AOs can prepare Form 24G either by using in-house facilities, third party software or by using form 24G Return Preparation Utility (RPU) developed by NSDL e-Governance Infrastructure Limited (NSDL), which is freely downloadable from the TIN web-site www.tin-nsdl.com.

After preparation of form 24G, the AO is required to validate the same by using the Form 24G File Validation Utility (FVU) which is freely available on TIN website.

Once file is validated through FVU, '.fvu file' in CD/DVD/Pen Drive along with physical Statement Statistic Report (SSR) signed by the AO, to be furnished at TIN-FCs. On successful acceptance of Form 24G at the TIN-FC, an acknowledgement containing 15 digit Token no. is provided to the AO. The AO can view the status of Form 24G on TIN website.

Book identification Number (BIN) is generated for each 'DDO record with valid TAN' reported in Form 24G, which is further disseminated to the AOs on email ID mentioned in Form 24G. AOs need to communicate the BIN details to respective DDOs. BIN is to be quoted by the DDOs in quarterly e-TDS/TCS statements. BIN consists of receipt number of Form 24G. DDO serial number and date of transfer voucher.

The AO is required to furnish Form 24G within ten days from the end of the month in respect of tax deducted by the deductors and reported to him for that month. Only one regular Form 24G for a 'month-FY' can be submitted.

1.1 Correction in Form 24G:

AO can file a correction Form 24G for any modification or cancellation of Form 24G accepted at TIN central system. Preparation and validation of correction Form 24G is in line with regular form 24G. The validated Form 24G correction file (.fvu file) copied on a CD/pen drive is to be submitted along with the provisional receipt of original Form 24G and SSR to TIN-FC. On successful acceptance of correction Form 24G at the TIN-FC, an acknowledgement containing 15 digit Token no. is provided to the AO. The AO can view the status of Form 24G on TIN website.

2. Online upload of Form 24G at TIN websites:

For online upload of Form 24G at TIN website, the Accounts Office Identification Number (AIN) is a pre-requisite. For online AIN registration, AO need to file at least one Form 24G through TIN-FC. After AIN registration, AO can file Form 24G through AO Account at TIN website. Preparation and validation of correction Form 24G is in line with regular Form 24G (submitted at TIN-FC). The validated Form 24G correction file (.fvu file) is to be uploaded at TIN website. There is no need to submit SSR in online upload. For Form 24G accepted at TIN Central System an online acknowledgement containing a 15 digit token number is generated and displayed to the AO. The format of the acknowledgement is identical to the one issued by the TIN-FC.

No charges are applicable to AOs for online upload of Form 24G.

On login, AO can also View/Download BIN details and update demographic details.

No Digital Signature Certificate (DSC) is required for registration and online uploading of Form 24G.

2.1 Online uploading of correction Form 24G at TIN website:

AO can file a correction Form 24G for any modification or cancellation of Form 24G accepted at TIN Central System. Preparation and validation of correction form 24G is in line with regular form 24G. The validated Form 24G correction file (.fvu file) can be uploaded online through AO account at TIN website. For correction Form 24G accepted at TIN central system, an online acknowledgement containing a 15 digit token number is generated and displayed to the AO. The format of the acknowledgement is identical to the one issued by the TIN-FC. There is no need to submit SSR and provisional receipt of original form 24G in online upload.

3. For FAQs and further details, AOs are advised to log on TIN website www.tin-nsdl.com

******

ANNEXURE IV

Furnishing of Monthly Form No. 24G Statements by Pay and Accounts Officers (PAOs)/District Treasury Officers (DTOs)/Cheque Drawing and Disbursing Officers(CDDOs)

1. Under what income tax rule should Form 24G be filed?

Income-tax Department Notification no. 41/2010 dated May 31, 2010amended the Income Tax Rule 30 which mandates that in case of an office of the Government, where tax has been paid to the credit of Central Government without the production of a challan (associated with deposit of the tax in a bank), **the relevant PAO / CDDO / DTO or an equivalent office of the government (herein after called as AO in this document) is required to file Form 24G on monthly basis.**

2. Who is the relevant PAO/CDDO/DTO who is liable for filing Form 24G?

A relevant PAO/CDDO/DTO is that office to whom the Deductor/DDO (TAN holder) reports remittance of TDS/TCS through book adjustment. Generally, the Central Government DDOs report TDS through book entry to their respective Pay and Accounts Officers (PAOs) and the State Government DDOs report TDS through book entry to their respective District Treasury Officers(DTOs). Such PAOs and DTOs are required to file Form 24G on monthly basis.

There are also cases of Cheque Drawing and Disbursing Officers (CDDOs) who report TDS through book entry directly to State AG. For example, PWD, Forest Department etc. Such CDDOs are also required to file Form 24G on monthly basis. Schematic Diagram at Annexure-III clarifies the person responsible for filing Form 24G in different scenarios.

3. Can the same office/officer also act as DDO and AO?

Ordinarily, the PAO office is the one to whom the DDO reports the TDS and therefore, both should be from different offices. However, where the DDO and AO are the same, as in the case of CDDOs, the statistics report of Form 24G should be counter signed by his superior officer.

4. What is AIN and who should apply?

Accounts Office Identification Number (AIN) is a unique seven digit which is allotted by the Directorate of Income Tax (Systems), Delhi, to every AO. Each AO is uniquely identified in the system by this number. AOs are required to apply for AIN with jurisdictional TDS office. The AIN application can be downloaded from TIN site. Every AIN holder is required to file Form 24G.

Each DDO is identified in the system by a Tax Deduction and Collection Account Number (TAN). This number is allotted by Income Tax Department.

5. Where should the Accounts Office Identification Number (AIN) application be submitted ?

The duly filled and signed application for AIN allotment is to be submitted in physical form by the PAO / CDDO / DTO to the jurisdictional CIT (TDS). Complete and correct AIN application forms will be forwarded by the jurisdictional CIT (TDS) to NSDL e-Governance Infrastructure Limited (NSDL), Times Tower, 1st Floor, Kamala Mills Compound, SenapatiBapatMarg, Lower Parel, Mumbai - 400013 recommending allotment of AIN to the PAO / CDDO / DTO.

6. What information should be submitted through Form 24G?

Every AO should furnish one complete, correct and consolidated Form 24G every month having details of each type of deduction / collection separately viz. TDS-Salary / TDS-Non Salary / TDS-Non Salary Non Residents / TCS made by each DDO under his jurisdiction.

7. Where should Form 24G be submitted?

Form 24G is to be furnished only in electronic form in a CD/pen drive at TIN-FCs or online through AO Account at www.tin-nsdl.com web portal. The facility to submit Form No. 24G online is available free of cost. Provisional Receipt Number (PRN) is issued as an acknowledgement of the receipt of Form 24G.

8. How to register for online facility?

Registration for AO Account is mandatory for filing Form No. 24G online through TIN website, www.tin-nsdl.com. Registration AO Account is required once only. AO required to submit the Form No. 24G at TIN-FC at least once to comply with the Know Your Customer (KYC) norms for registration of the AO Account. After registration, it is optional for AO either to submit the Form No.24G in CD/Pen drive at TIN-FC or online.

9. What are the functionalities available with AO Account?

Through the AO Account, the AO can view the status of Form No. 24G filed, obtain BIN (Book Identification Number) details, update AO profile and upload Form No. 24G. The status tracking is based on AIN and concerned Provisional Receipt Number (PRN) of Form 24G.

10. Can the AO furnish Form No. 24G in paper form?

No. Form 24G is to be filed only in electronic form.

11. Can the AO submit the electronically prepared Form No.24G at the Income Tax Office? No. Electronically prepared Form No.24G can only be submitted at TIN-FC or online .

12. What does Form 24G contain?

Every Form 24G should be prepared in accordance with the data structure prescribed by the Income Tax Department (ITD). Form 24G contains-

- Details of the AO filing Form 24G (AIN, name, demographic information, contact details).
- Category of AO (Central / State Government) along with details of ministry / state.
- Statement details (month and year for which Form 24G is being filed).
- Payment summary; nature of deduction wise (TDS – Salary /TDS Non-salary / TDS – Non-salary Non-resident / TCS).
- DDO wise payment details (TAN of DDO, name, demographic details, total tax deducted and remitted to the Government account (A.G. / Pr.CCA).
- DDOs which are associated with the AO. If the AO wants to add/delete or update details of DDO, same should be mentioned in the statement.

13. What is the procedure to prepare the Form 24G statement?

The AOs can prepare Form 24G either by using in-house facilities, third party software or by using Form 24G Preparation Utility developed by NSDL, which is freely downloadable from the TIN web-site (**www.tin-nsdl.com**) or ITD website (**www.incometaxindia.gov.in**).

Once the statement is prepared, the AO shall validate the same by using File Validation Utility (FVU) developed by NSDL and freely available at the TIN or ITD website. The statement can be furnished in Compact Disk (CD) at any of the TINFacilitation Centres (TIN-FC) managed by NSDL along with Form 24G Statement Statistics Report (generated through File Validation Utility), duly signed by the AO. The list of TIN-FCs is available at TIN or ITD website.

Once Form 24G is accepted by the TIN-FC, it will issue a provisional receipt with a unique Provisional Receipt Number (PRN) to the AO as a proof of submission of the statement.

14. What is Form 24G Preparation Utility?

The Form 24G Preparation Utility is a Java based utility. Form 24G Preparation Utility can be freely downloaded from www.tin-nsdl.com. After downloading, it needs to be saved on the local disk of the machine.

JRE (Java Run-time Environment) [versions: SUN JRE: 1.4.2_02 or 1.4.2_03 or 1.4.2_04 or IBM JRE: 1.4.1.0] should be installed on the computer where Form 24G Preparation Utility is being installed. JRE is freely downloadable from http://java.sun.com and http://www.ibm.com/developerworks/java/jdk or you can ask your computer vendor (hardware) to install the same for you.

Form 24G Preparation Utility can be executed on Windows platform(s) Win 2K Prof. / Win 2K Server/ Win NT 4.0 Server/ Win XP Prof. To run the 'Form 24G Preparation Utility', click on the '24GRPU.bat' file.

If JRE is not installed on the computer, then on clicking '24GRPU.bat', a message will be displayed. In such cases, install JRE and try again. If appropriate version of JRE is installed, then the 'Form 24G Preparation Utility' will be displayed.

15. What are the steps to download and install Form 24G Preparation Utility?

For assistance in downloading and using Form 24G Preparation Utility, please read the instructions provided in 'Help' in the Form 24G Preparation Utility. This utility can be used for preparation of Form 24G with upto 75,000 records. Form 24G Preparation Utility (version 1.2) should be used for regular and correction statements.

16. What is File Validation Utility (FVU)?

The AO should pass the Form 24G (Regular/Correction) file generated using Preparation Utility through the File Validation Utility (FVU) to ensure format level accuracy of the file. This utility is also freely downloadable from TIN website. In case the Form 24G contains any errors, the AO should rectify the same. After rectifying the errors, user should pass the rectified Form 24G through the FVU. This process should be continued till an error-free Form 24G is generated. Form 24G (regular/correction) prepared from F.Y. 2005-06 onwards can be validated using this utility.

The Form 24G FVU is a Java based utility. JRE (Java Run-time Environment) [versions: SUN JRE: 1.4.2_02 or 1.4.2_03 or 1.4.2_04 or IBM JRE: 1.4.1.0] should be installed on the computer where the Form 24G FVU is being installed. JRE is freely downloadable from http://java.sun.com and http://www.ibm.com/developerworks/java/jdk or you can request your computer vendor (hardware) to install the same for you.

The Form 24G FVU setup comprises of two files, namely-

- Form 24G FVU.bat: This is a setup program for installation of FVU.
- Form 24G_FVU_STANDALONE.jar: This is the FVU program file.

These files are in an executable zip file (Form24GFVU.exe) (version 1.2). These files are required for installing the Form 24G FVU.

Instructions for extracting and setup are given in:

- Form 24G FVU Extract and Setup

17. After preparation of Form No. 24G statement through RPU, three files are generated when such statement passes through FVU. Is the AO required to take all three files in CD /Pen drive to TIN-FC?

When a valid file is passed through the FVU, the following three files are generated:-

(a) The upload file

(b) Form 24G statement Statistics Report and

(c) Form 24G.

Every Form 24G (upload file) mentioned at Sr. No. (a) is to be saved in CD and the same should be accompanied with the Statement Statistic Report mentioned at Sr. No. (b), in paper form duly signed by the Accounts Officer, which needs to be submitted at TIN-FCs.

Form 24G: Form 24G, at serial number (c) above, is a reader friendly format of TDS/TCS Book Adjustment form. This is like the physical form of Form 24G in html format. It contains all the details of Accounts Officer as well as Drawing and Disbursement Officer. There is no need to submit this file.

18. Can the Form 24G Statement be corrected?

Every Form 24G is to be prepared in accordance with the data structure prescribed by the Income Tax Department (ITD). If it does not confirm to the new data structure it will be rejected by TIN.

As per procedure, statements relating to Form 24G should be complete and correct. No fragmented statements are expected to be filed (i.e. separate statements giving details for deductions under different form type with respect to the same AIN, FY and month). However, any mistake made in an original accepted statement can be rectified by submitting a 'correction statement'. **For correction, the latest version of the RPU should be downloaded from TIN website.**

Form 24G corrections can also be uploaded directly at the TIN website. For direct upload at TIN Central system, AO has to first register AIN at TIN website and upload the Form 24G correction.

19. What are the different kinds of correction statements allowed?

There are two different types of correction statements that can be furnished by the AO. These are listed below.

- M (Modify) -: For any modification in the existing Form 24G statement.
- X (Cancel) -: For cancellation of an existing Form 24G statement.

For preparation of correction statement, the receipt number of the original statement and receipt number of the previous statement is mandatory.

In case of first correction, PRN of original statement should be provided in field "**Receipt number of Original Statement**" and also in the field "**Receipt number of Previous Statement** ".

In case a correction statement has already been filed earlier, PRN of original statement should be provided in field "**Receipt number of Original Statement**" and PRN of last correction to be mentioned in field "**Receipt number of Previous Statement**".

20. What is M –Type of Correction Statement?

This type of correction statement is to be furnished by AO, if it wishes to update any of its details like its name, address, Responsible person details, category, Ministry, State or deletion and addition of DDO (Drawing & Disbursing Officer) etc. **Modifications in AIN (Account office Identification Number), Financial Year and Month are not allowed.**

There are three modes by which changes can be made in the DDO details provided in original Form 24G statement:

- Add: DDO records can be added to the original Form 24G statement
- Update: details of DDO (i.e. TAN, TAN Name, demographic and contact details, amount of tax deducted and remitted, nature of deduction) can be updated for the DDO records provided in original or subsequent correction statement
- Delete: DDO records provided in original Form 24G or subsequent correction statement can be deleted

M-type correction statement will always contain AO details and details of DDO which are added and/or deleted.

21. What is X–Type of Correction Statement?

This type of correction statement is to be furnished by AO if it wishes to cancel an existing Form 24G statement. Filing of Correction type X will allow AOs to file regular Form 24G for the same primary key (AIN, Financial year and Month). This type of correction is to be filed only if the Form 24G has been filed with wrong AIN, F.Y. or Month.

22. What is BIN?

BIN stands for "Book Identification Number" for each form type mentioned in the accepted monthly form No. 24G. BIN consists of the following:

(i) Receipt Number: Receipt number is a seven digit unique number generated on successful acceptance of Form 24G.

(ii) DDO Serial Number: It is a five digit unique number generated for every DDO transaction reported in Form 24G statement.

(iii) Transfer Voucher Date: It is the last date of month for which Form 24G statement is filed.

BIN is required to be disseminated to the respective DDOs who in turn are required to report the same in the TDS/TCS Statement. The quoting of BIN has been made mandatory w.e.f 01stFebruary, 2012. BIN is a unique number to verify the claim of TDS deposited without production of challan. As it is a verification key, it is advised that valid BIN disseminated by AO to the respective DDO should be correctly filled in TDS statement.

23. When is BIN generated?

On processing of accepted Form 24G statement, BIN is generated for each DDO record (with valid TAN) present in Form 24G statement. BIN are generated at TIN Central System and intimated to the PAOs with details of TAN and Form Type.

24. What do the PAO and DDO have to do with the BIN?

PAOs have to disseminate the BINS to respective DDOs. While preparing the quarterly TDS/TCS statement, DDO has to quote the said BIN details, if tax has been paid through transfer voucher (book adjustment).

BINs generated for a particular 24G are mailed to the AO on the e-mail id provided in Form 24G. In addition, AO may also download the BIN details through AO login at TIN site.

25. Under what circumstances will BIN be generated?

- BIN will be generated for valid TAN-DDO records added in Form 24G correction statement.
- BIN will be generated for DDO records where invalid TANs/TAN not present in Income Tax Department database is updated with a valid TAN.
- New BIN will not be generated for any update made in TAN name, demographic and contact details, amount of Tax deducted and remitted or nature of deduction.
- BIN details will not be generated for deleted DDO records.

26. What is the utility of BIN?

The BIN details and amount of TDS reported in the quarterly TDS/TCS Statement filed by the DDO will be matched with the respective details filed in Form No.24G filed by the PAO for verification purpose.

27. Are there instances where BIN details and amount of TDS reported in TDS/TCS statements do not match with that reported in Form 24G? What are the consequences of such mismatch?

(i) Instances of wrong/incorrect reporting of BIN by the DDOs in the TDS/TCS Statement have been observed. Reporting of incorrect BINs and

corresponding amount in TDS statement will lead to mismatch with the respective amount as reported in the Form No. 24G. In this situation, the corresponding deductees may not get credit of the TDS/TCS. Therefore, the BIN as disseminated by the respective PAO should be reported correctly along with the corresponding amount in the TDS/TCS Statement filed by the DDOs.

(ii) In a number of cases, one distinct DDO has been found to be reported by more than one AO in the Form No. 24G for the same form type of TDS statement which is not a valid scenario. The DDOs and respective AOs are advised to reconcile the issue and one DDO should be mapped to one AO only for a particular form type for a particular month.

28. What are the duties of PAOs/DTOs/CDDOs?

i. To apply for AIN with jurisdictional TDS office. AIN application can be downloaded from TIN site.

ii. To obtain correct TAN from the reporting DDOs.

iii. To file Form No. 24G (in CD, DVD, Pen Drive), within 10 days from the end of the month, electronically either at TIN- FC or by direct online upload at TIN website.

iv. To track status of the filed Form No. 24G through TIN website.

v. To download Book Identification Number (BIN) generated on the basis of 24G statement.

vi. To disseminate BIN to the respective DDOs.

29. What are the duties of DDOs?

i. To provide correct TAN to their PAOs/DTOs/CDDOs to whom the DDO/ Deductor reports the tax so deducted & who is responsible for crediting such sum to the credit of the Central Government.

ii. To report to PAOs/DTOs/CDDOs, the details of tax deducted and credited to the Central Government account through book adjustment.

iii. To quote BIN in the quarterly TDS/TCS Statement (24Q, 26Q, etc) for the tax deducted and credited through book adjustment.

iv. Filing of TDS/TCS statement (24Q, 26Q etc) within the due date.

v. To download Form 16/26A from TRACES website (www.tdscpc.gov.in) and timely issuance of the same to the deductees.

30. What are the consequences of non-quoting of BIN details in quarterly TDS/TCS statement?

(a) BIN details and amount of TDS reported in the quarterly TDS/TCS Statement filed by the DDO will be matched with the details filed in Form No.24G filed by the PAO for verification purpose.

(b) Any wrong information reported by the DDOs in TDS/TCS Statement may lead to mismatch due to which credit to the respective deductee will not be available in the deductee's Form 26AS.

(c) Further details are available at TIN website www.tin-nsdl.com and ITD website www.incometaxindia.gov.in.

31. What is the format of Form 16/16A to be issued to the deductees?

It is mandatory to download and generate the Form 16/16A from the TRACES portal only. Deductor is allowed to issue manually only part 'B' of Form 16 for salary details.

32. Is there any scenario where the DDO is also required to obtain the AIN?

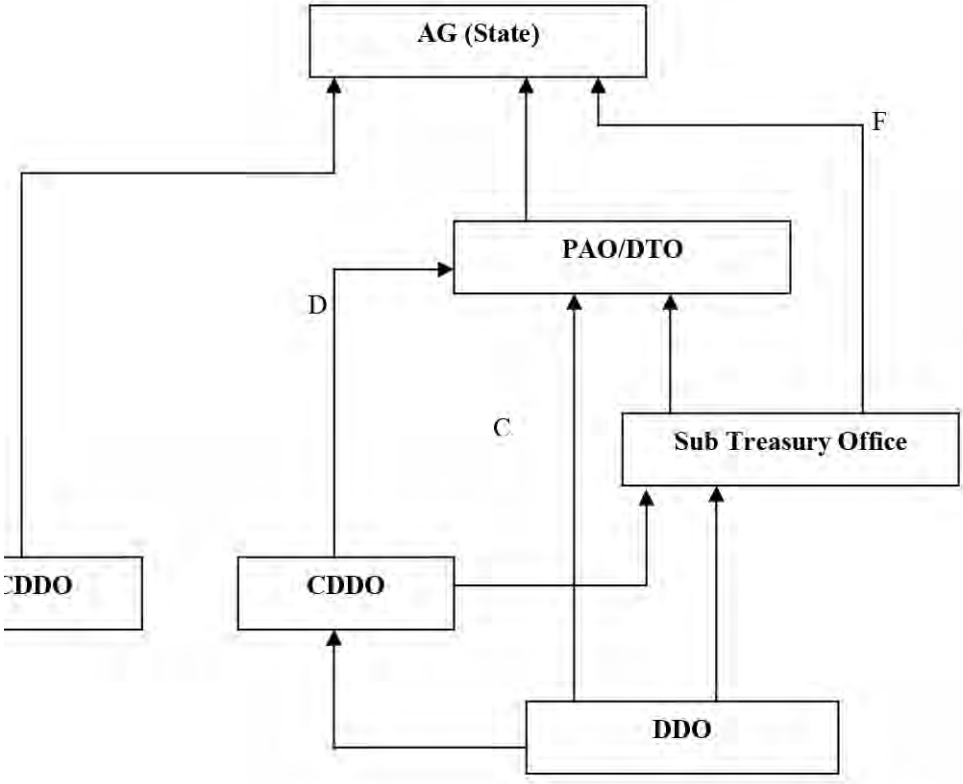
Yes, if the deductor is in the capacity of CDDO and directly reports tax deduction through transfer voucher to State AG, in that case CDDO is required to obtain the AIN and file 24G for the respective book adjustment entries and then also required to file the TDS/TCS statement as a TAN holder.

For example in the case of Executive Engineer in state Government who are making payments to the contractors after deducting the TDS/TCS through cheque are liable to file Form 26Q for reporting such TDS transactions. They will be required to obtain the AIN and file form 24G for monthly reporting of these book adjustment entries and file quarterly TDS statements as TAN holder by quoting the corresponding BINs.

***

ANN

"Person Responsible for filing Form No. 24G in case of State Govt. Departments"



Type of Reporting of Book Entry	Person Responsible (AIN holder) for filing 24G.
A	PAO / DTO
B	PAO / DTO
C	PAO / DTO
D	PAO / DTO
E	CDDO
F	STO

AG	Accountant General
PAO	Pay & Accounts Officer
DTO	District Treasury Office
STO	Sub Treasury Office
DDO	Drawing & Disbursing Officer
CDDO	Cheque Drawing & Disbursing Officer

ANNEXURE VI

POINT NO.4.9 OF DRAFT CIRCULAR OF DEDUCTION OF TAX AT SOURCE FROM SALARIES U/S 192 OF THE INCOME TAX ACT, 1961 – FINANCIAL YEAR 2015-16- PROCEDURE OF PREPARATION OF QUARTERLY STATEMENT OF DEDUCTION OF TAX UNDER SECTION 200(3) OF THE ACT

1. Quarterly e-TDS statement/return should be prepared by Deductor/DDO as per the data structure (File Format) prescribed by the DIT (Systems), Delhi which is available on TIN website www.tin-nsdl.com. Deductor/DDO can prepare e-TDS statement/return either by using in-house facilities, third party software or by using Return Preparation Utility (RPU) developed by NSDL e-Governance Infrastructure Limited (NSDL), which is freely downloadable from the TIN website.

   After preparation of e-TDS statement/return, the Deductor/DDO is required to validate the same by using the File Validation Utility (FVU) which is freely available on TIN website.

2. Procedure of furnishing of e-TDS statement/return at TIN Facilitation Centres (TIN-FCs):

Once file is validated through FVU, '.fvu file' is generated. Copy of this '.fvu file' in CD/DVD/Pen Drive along with physical Form 27A duly filled and signed by the Deductor/DDO or by the person authorized by the Deductor/DDO, to be furnished at TINFC, an acknowledgement containing a unique 15 digit token number is provided to the Deductor/DDO. Deductor/DDO can view the status of e-TDS statement/return on TIN website.

Only one regular e-TDS statement/return for a 'FY-Quarter-TAN-Form' can be submitted.

2.1 Correction in e-TDS statements/returns:

2.1.1 CPC-TDS portal (www.tdscpc.gov.in) has also introduced online correction of statements whereby personal information, PAN correction, add/update of challan information, add/update of salary detail, add/update/movement of deductee row etc. can be done in the statements filed by the deductors, with or without the digital signatures. For further details, kindly refer the matrix below:

	Default Summary View	Personal Information	Challan Correction (Unmatched, matched Deductee + Deductee Movement	PAN Correction (Annex.1)	PAN Correction (Annex.	Add Challan to statement	Interest, Levy Payment	Modify/ Add deductee rows	Delete/ Add salary deducted rows
Online Correction (with digital signature, 2013-14 onwards)	Y	Y	Y	Y	Y	Y	Y	Y	Y
Online Correction (with digital signature, prior to 2013 14 onwards)	Y	Y	Y	N	N	Y	Y	N	N
Online Correction (without digital signature, 2013-14 onwards)	Y	N	Y	N	N	Y	Y	N	N
Online Correction (without-digital signature, prior to 2013 14 onwards)	Y	N	Y	N	N	Y	Y	N	N

For more information, deductors are advised to refer to e-tutorials/FAQs available on TRACES portal. Online correction entails no charges and does away with the requirement of downloading conso file and visiting TIN-FCs.

2.1.2 With effect from 1st January, 2015, TRACES will be providing a correction window of 7 days from date of processing at CPC-TDS (generally 2 days after date of filing of statement). This facility will enable the filer to correct PAN errors and challan mismatch cases identified by CPC-

TDS and avoiding of issuance of demand notices. Therefore, deductors are advised to check the processing status promptly so as to utilize this facility.

2.1.3 Deductor/DDO can also file a correction e-TDS statement for any modification in the e-TDS statement. Correction statement can be prepared by using the TDS Consolidated file that is available at TRACES (www.tdscpc.gov.in). Validation of correction statement is in line with regular e-TDS statement, physical Form 27A duly signed and Statement Statistical Report at TIN-FC. On successful acceptance of correction e-TDS statement at the TIN-FC, an acknowledgement containing a unique 15 digit token no. is provided to the Deductor/DDO. Deductor/DDO can view the status of e-TDS statement on TRACES website.

3. Procedure of preparation and furnishing of paper TDS statement/return at TIN-Facilitation Centres (TIN-FCs):

All statement/return in Form 24Q are required to be furnished in computer media except in case where the number of deductee records are equal to or less than 20. Paper statement/return duly filled and signed by the Deductor/DDO can be furnished at TINFC. On successful acceptance of paper statement/return at the TIN-FC, an acknowledgment containing a unique 15 digit token no. is provided to the Deductor/DDO. Deductor/DDO can view the status of paper statement/ return on TIN website. No charges are applicable for paper TDS statement/ return.

3.1 Correction in paper statements/returns:

The physical TDS statement/return is to be filed again in case of any correction to a physical TDS statement/return accepted at TIN. The deductor will submit the duly filled and signed physical TDS statement/return along with a copy of provisional receipt of regular paper statement/return at TIN-FC. On successful acceptance of correction paper statement/return at the TIN-FC, an acknowledgement containing a unique 15 digit token number is provided to the Deductor/DDO. Deductor/DDO can view the status of paper statement/return on TIN website.

4. Procedure of furnishing of e-TDS statement/return online at TIN website:

Deductor/DDO is required to procure Digital Signature Certificate (DSC) for online upload of e-TDS statement/return. After registration on TIN website, an authorization letter by the Deductor/DDO should be provided on the letter head of the organisation to NSDL. Once application is approved by NSDL, user ID is created and intimated to Deductor/DDO on their registered email ID provided at the time of registration. Preparation and validation of e-TDS statement is in line with regular e-TDS statement/return (submitted at TIN-FC).Deductor/DDO can login with its user ID and DSSC and upload the validated e-TDS file (.fvu file) generated by the FVU to the TIN website. On successful acceptance of

e-TDS statement/return at TIN, an acknowledgement containing a unique 15 digit token no. and 8 digit receipt number is generated and displayed. There is no need to submit physical form 27A in online upload. Deductor/DDO can view the status of e-TDS statement/return on TIN website.

No charges are applicable for online upload of e-TDS statement/return.

4.1 **Correction of e-TDS statement/return online at TIN website:** Deductor/ DDO can file a correction e-TDS statement/return for any modification in e-TDS statement/return accepted at TIN central system. Correction statement/ return can be prepared by using the TDS consolidated file only, available at the CPC-TDS portal www.tdscpc.gov.in through TAN registration. Preparation and validation of e-TDS statement is in line with regular e-TDS statement/ return (submitted at TIN-FC) Deductor/DDO can login with its user ID and DSC and upload the validated e-TDS file (.fvu file) generated by the FVU to the TIN website. On successful acceptance of correction e-TDS statement/ return at TIN, an acknowledgement containing a unique 15 digit token number is generated and displayed. There is no need to submit copy of provisional receipt of regular e-TDS statement/return, physical Form 27A and SSR in online upload. Deductor/DDO can view the status of e-TDS statement/return on TIN website.

5. For FAQs and further details, Deductors/DDOs are advised to log on website www.tin-nsdl.com

****

ANNEXURE-VII

MINISTRY OF FINANCE
(Department of Economic Affairs)
(ECB & PR Division)
NOTIFICATION
New Delhi, the 22nd December, 2003

F.No. 5/7/2003-ECB &PR- The government approved on 23rd August, 2003 the proposal to implement the budget announcement of 2003-04 relating to introducing a new restructured defined contribution pension system for new entrants to Central Government service, except to Armed Forces, in the first stage, replacing the existing system of defined benefit pension system.

i. The system would be mandatory for all new recruits to the Central Government service from 1stof January 2004 (except the armed forces in the first stage). The monthly contribution would be 10 percent of the salary and DA to be paid by the employee and matched by the Central government. However, there will be no contribution form the Government in respect of individuals who are not Government employees. The contribution and investment returns would be deposited in a non-withdrawable pension tier-I account. The existing provisions of defined benefit pension and GPF would not be available to the new recruits in the Central Government service.

ii. In addition to the above pension account, each individual may also have a voluntary tier-II withdrawable account at his option. This option is given as GPF will be withdrawn for new recruits in Central government service. Government will make no contribution into this account. These assets would be managed through exactly the above procedures. However, the employee would be free to withdraw part or all of the 'second tier' of his money anytime. This withdrawable account does not constitute pension investment, and would attract no special tax treatment.

iii. Individuals can normally exit at or after age 60 years for tier-I of the pension system. At the exit the individual would be mandatorily required to invest 40 percent of pension wealth to purchase an annuity (from an IRDA- regulated life insurance company). In case of Government employees the annuity should provide for pension for the lifetime of the employee and his dependent parents and his spouse at the time of retirement. The individual would receive a lump-sum of the remaining pension wealth, which he would be free to utilize in any manner. Individuals would have the flexibility to leave the pension system prior to age 60. However, in this case, the mandatory annuitisation would be 80% of the pension wealth.

Architecture of the new Pension System

i. It will have a central record keeping and accounting (CRA) infrastructure, several pension fund managers (PFMs) to offer three categories of schemes viz. option A, B and C.

ii. The participating entities (PFMs and CRA) would give out easily understood information about past performance, so that the individual would be able to make informed choices about which scheme to choose.

2. The effective date for operationalization of the new pension system shall be form 1st of January, 2004.

U.K. SINHA, Jt. Secy.

ANNEXURE-VIII

MINISTRY OF FINANCE

Department of Revenue

(Central Board of Direct Taxes)

Notification

New Delhi, the 24th November, 2000

INCOME- TAX S.O.1048 (E) - In exercise of the powers conferred by sub-clause (i) of clause (18) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government, hereby specifies the gallantry awards for the purposes of the said Section, mentioned in column 2 of the table below awarded in the circumstances as mentioned in corresponding column 3 thereof:-

Table

S1. No.	Name of gallantry award	Circumstances for eligibility
(1)	(2)	(3)
1.	Ashok Chakra	When awarded to Civilians for gallantry
2.	Kirti Chakra	- do
3.	Shaurya Chakra	- do
4.	SarvottanJeevanRaksha Padak	When awarded to Civilians for bravery displayed by them in life saving acts.
5.	Uttam Jeevan Raksha Medal	- do
6.	JeevanRakshaPadak	- do

7.	President's Police Medal	When awarded for acts of exceptional for gallantry courage displayed by members of police forces, Central police or security forces and certified to this effect by the head of the department concerned
8.	Police Medal for Gallantry	- do
9.	Sena Medal	When awarded for acts of courage or conspicuous gallantry and supported certificate issued to this effect by relevant service headquarters.
10.	NaoSena Medal	- do
1 l .	VayuSena Medal	- do
12.	Fire Services Medal for Gallantry	When awarded for acts of courage or conspicuous gallantry and supported by certificate issued to this effect by the last Head of Department.
13.	President's Police & Fire Services Medal for Gallantry	-do
14.	President's Fire Services Medal for Gallantry	-do
15.	President's Home Guards and Civil Defence Medal for Gallantry	-do
16.	Home Guard and Civil Defence Medal for Gallantry	-do

(Notification no. 1156/F.No. 142/29/99-TPL)

T.K. SHAH
Director

ANNEXURE IX

MINISTRY OF FINANCE
Department of Revenue
Central Board of Direct Taxes

New Delhi,the 29th January,2001

S.O.81(E)- In exercise of the powers conferred by sub-clause (i) of clause (18) of Section 10 of the Income –tax Act, 1961 (43 of 1961)), the Central Government, hereby specifies the gallantry awards for the purposes of the said Section and for that purpose makes the following amendment in the notification of the Government of India

in the Ministry of Finance, Department of Revenue (Central Board of Direct Taxes) number S.O.1048(E), dated the 24th November 2000, namely:-

In the said notification, in the Table, against serial numbers 1,2 and 3 under column (3) relating to “Circumstances for eligibility” the **words** “to civilians” shall be omitted.

(Notification No.22/F.No.142/29/99-TPL)

T.K. SHAH
Director

ANNEXURE-X

FORM NO. 10BA
(See rule 11B)
DECLARATION TO BE FILED BY THE ASSESSEE CLAIMING DEDUCTION U/S 80 GG

I/We…… (Name of the assessee with permanent account number) do hereby certify that during the previous Year……I/We had occupied the premise……..(full address of the premise) for the purpose of my/our own residence for a period of……..months and have paid Rs. ……. In cash/through crossed cheque, bank draft towards payment of rent to Shri/Ms/M/s…….(name and complete address of the landlord).

It is further certified that no other residential accommodation is owned by

a) me/my spouse/my minor child/our family (in case the assessee is HUF), at ……where I/we ordinarily reside/perform duties of officer or employment or carry on business or profession, or

b) me/us at any other place, being accommodation in my occupation, the value of which is to be determined u/s 23(2)(a)(i) of u/s 23(2)(b).

****

CIRCULAR NO. 02/2017

Subject:- Clarifications on the Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016.

The Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (hereinafter 'the Scheme') provides an opportunity to persons having undisclosed income in the form of cash or deposit in an account maintained with a specified entity to declare such income and pay tax, surcharge and penalty totaling in all to 49.9 per cent. of such declared income and make a mandatory deposit of not less than 25% of such income in the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016.The Scheme has commenced on 17.12.2016 and shall remain open for declarations/deposit upto 31.03.2017.

Queries have been received from the stakeholders seeking further clarity on certain provisions of the Scheme. The Central Government has considered the queries and decided to clarify the same in the form of questions and answers as follows.-

Question No.1: ***Whether the amounts deposited in an account maintained with a bank or post office like Saving account, Current Account, Recurring Deposit Account, Fixed Deposit Account, PPF Account, Senior Citizen Saving Scheme Account, Monthly Income Scheme Account, Jan Dhan Yojana Account are eligible for being declared in the Scheme?***

Answer: As per section 199C(1) of the Scheme, a person can make declaration in respect of any income in the form of deposit in an account maintained by the person with a specified entity and as per Explanation to section 199C(2) the banks and post offices come under the definition of specified entity. Hence, the undisclosed income deposited in the accounts specified above can be declared under the Scheme.

Question No.2: ***Whether declaration under the Scheme can be made in respect of income which is represented in the form of investment in any asset like jewellery, stock or immovable property?***

Answer: No. Under the Scheme, only income represented in the form of cash or deposit in an account maintained with specified entity can be declared. The Scheme is hence not available for declaration of an income which is represented in the form of assets like jewellery, stock or immovable property.

Question No.3: ***In case a deposit is made by interbank transfer i.e. transfers from one account to another account, whether such deposit can be declared under the Scheme?***

Answer: Yes, a declaration under the Scheme can be filed in respect of deposits made in an account maintained with a specified entity by any mode such as cash, cheque, RTGS, NEFT, or any electronic transfer system.

Question No.4: ***Where a notice under section 142(1)/ 143(2)/ 148/ 153A/ 153C of the Income-tax Act has been issued to a person for an assessment year, will such person be eligible for making a declaration under the Scheme?***

Answer: Yes, such person is eligible to avail the Scheme subject to fulfilment of conditions specified in the Scheme.

Question No.5: ***Can a person against whom a search/ survey operation has been initiated, file declaration under the Scheme and whether the cash seized during search operation can be declared under the Scheme?***

Answer: Yes, a person against whom a search/survey operation has been initiated is eligible to file declaration under the Scheme in respect of undisclosed income represented in the form of cash or deposit in an account maintained with specified entity.

Question No.6: ***Whether credit of advance tax paid, tax deducted at source (TDS), tax collected at source (TCS), in respect of an income declared under the Scheme would be available?***

Answer: No credit for advance tax paid, TDS or TCS shall be allowed under the Scheme.

Question No.7: ***Whether undisclosed income represented in the form of deposits in foreign bank account is eligible for the Scheme?***

Answer: Clause (d) of section 199-O of the Scheme provides that the Scheme shall not apply in relation to any undisclosed foreign income and asset which is chargeable to tax under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. Hence, undisclosed income represented in the form of deposits in foreign bank account is not eligible for the Scheme.

Question No.8: ***Can a person come under the Scheme with respect to deposit made in a bank account prior to the Financial Year 2016-17?***

Answer: A person can avail the Scheme for any assessment year commencing on or before the 1st day of April, 2017. Hence, deposits made in bank account prior to financial year 2016-17 can also be declared under the Scheme.

Question No.9: ***If a person does not declare undisclosed cash deposited in an account between 01.04.2016 to 15.12.2016 under the Scheme, then whether such undisclosed deposit shall attract tax at the rate provided in the Taxation Laws (Second Amendment) Act, 2016?***

Answer: The amended provisions of section 115BBE of the Income-tax Act, 1961 shall apply to A.Y.2017-18, relating to F.Y. 2016-17. Hence, undisclosed deposits between 01.04.2016 to 15.12.2016 shall also attract tax at the rate provided in the Taxation Laws (Second Amendment) Act, 2016.

Question No.10: ***Whether undisclosed income deposited/repaid in an Overdraft Account or Cash Credit Account or any loan account maintained with a bank is eligible for being declared under the Scheme?***

Answer: Yes, the amount deposited or repaid against an overdraft account/ cash credit account/any loan account maintained with a bank or any specified entity is eligible for being declared under the Scheme.

Question No.11: ***Whether the cash seized during a search and seizure action of the Department and deposited in Public Deposit Account is allowed to be adjusted against the payments required to be made under the Scheme?***

Answer: The adjustment of cash seized by the Department and deposited in the Public Deposit Account may be allowed to be adjusted for making payment of tax, surcharge and penalty under the Scheme on the request of the person from whom the cash is seized. However, the said amount shall not be allowed to be adjusted for making deposits under the Pradhan Mantri Garib Kalyan Deposit Scheme.

Question No.12: ***Person 'A' made an advance in cash for procurement of goods (other than immovable property) or services to person 'B'. Person 'B' deposits this amount in his bank account. Person 'B' subsequently returns this amount to person 'A' in cash or through digital means as the purpose for which advance was made did not materialise. Can person 'A' declare this amount under the Scheme? Whether penalty under section 271D or 271E shall be attracted in the case of person 'B'?***

Answer: Yes, person ‘A’ is eligible to declare the said amount under the Scheme. Since the advance was made for procurement of goods (other than immovable property) or services, no penalty under section 271D or 271E of the Act shall be attracted in respect of the said transactions.

Sd/-
(Dr. T.S. Mapwal)
Under Secretary to the Government of India

[F. No. 142/33/2016-TPL(Part) dated 18-01-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

CIRCULAR NO. 03/2017

Subject:- Finance Act, 2016 – Explanatory Notes to the Provisions of the Finance Act, 2016

AMENDMENTS AT A GLANCE

Section/Schedule	Particulars / Paragraph number
	Finance Act, 2016
First Schedule	Rate Structure, 3.1 – 3.4
Chapter III	Income-tax Act, 1961
2	Levy of tax where the charitable institution ceases to exist or converts into a non-charitable organization, 11.1 – 11.4; Rationalization of tax deduction at source provisions relating to payments by Category-I and Category-II Alternate nvestment Funds to its investors, 12.1 – 12.6; Period of holding of shares of unlisted companies to be treated as long term capital assets, 15.1 – 15.3; Tax Treatment of Gold Monetization Scheme, 2015, 23.1 – 23.3; Rationalization of section 56 of the Income-tax Act, 24.1 – 24.3; Exemption of Central Government subsidy or grant or cash assistance, etc. towards corpus of fund established for specific purposes from the definition of Income, 44.1 – 44.3; Providing legal framework for automation of various processes and paperless assessment, 54.1 – 54.7.
6	Enabling provision for implementation of various provisions of the Act in case of a foreign company held to be resident in India, 4.1 – 4.8.
9	Exemption in respect of certain activity related to diamond trading in "Special Notified Zone", 6.1 – 6.5.
9A	Modification in conditions of special taxation regime for off shore funds, 7.1 – 7.6.
10	Exemption of income of Foreign Company from storage and sale of crude oil stored as part of strategic reserves, 5.1 – 5.4; Exemption from Dividend Distribution Tax (DDT) on distribution made by an SPV to Business Trust, 8.1 – 8.4; Tax Treatment of Gold Monetization Scheme, 2015, 23.1 – 23.3; Tax Incentives to International Financial Services Centre, 27.1 – 27.9; Rationalisation of tax treatment of National Pension Scheme, Recognised Provident Funds and Superannuation Funds 31.1 – 31.4
10AA	Phasing out of deductions and exemptions, 34.1 – 34.3

Section/Schedule	Particulars / Paragraph number
17	Rationalisation of tax treatment of National Pension Scheme, Recognised Provident Funds and Superannuation Funds 31.1 – 31.4
24	Increase in time period for acquisition or construction of self-occupied house property for claiming deduction of interest, 51.1 – 51.3
25A	Simplification and rationalisation of provisions relating to taxation of unrealised rent and arrears of rent, 52.1 – 52.3
28	Taxation of Non-compete fees and exclusivity rights in case of Profession, 47.1 – 47.2
32	Extending the benefit of initial additional depreciation under section 32(1)(iia) for power sector, 35.1 – 35.3; Phasing out of deductions and exemptions, 34.1 – 34.3
32AC	Rationalisation of scope of tax incentive under section 32AC, 42.1 – 42.4
35	Phasing out of deductions and exemptions, 34.1 – 34.3
35ABA	Amortisation of spectrum fee for purchase of spectrum, 36.1 – 36.4
35AC	Phasing out of deductions and exemptions, 34.1 – 34.3
35AD	Phasing out of deductions and exemptions, 34.1 – 34.3
35CCC	Phasing out of deductions and exemptions, 34.1 – 34.3
35CCD	Phasing out of deductions and exemptions, 34.1 – 34.3
36	Deduction in respect of provision for bad and doubtful debt in the case of Non-Banking Financial companies, 41.1 – 41.3
43B	Extension of scope of section 43B to include certain payments made to Railways, 45.1 – 45.3
44AB	Increase in threshold limit for audit for persons having income from profession, 39.1 – 39.3
44AD	Increase in threshold limit for presumptive taxation scheme for persons having income from business, 40.1 – 40.6
44ADA	Introduction of Presumptive taxation scheme for persons having income from profession, 38.1 – 38.5
47	Provision for Tax benefits to Sovereign Gold Bond Scheme, 2015, 19.1 – 19.3
48	Provision for Tax benefits to Sovereign Gold Bond Scheme, 2015, 19.1 – 19.3; Provisions for tax benefits to Rupee Denominated Bond, 20.1 – 20.2
50C	Rationalization of Section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property, 29.1 – 29.4

Section/Schedule	Particulars / Paragraph number
54EE	Tax incentives for start-ups, 16.1 – 16.7
54GB	Tax incentives for start-ups, 16.1 – 16.7
55	Taxation of Non-compete fees and exclusivity rights in case of Profession, 47.1 – 47.2
56	Rationalization of section 56 of the Income-tax Act, 24.1 – 24.3
80	Time limit for carry forward and set off of such loss under section 73A of the Income-tax Act, 48.1 – 48.4
80CCD	Rationalisation of tax treatment of National Pension Scheme, Recognised Provident Funds and Superannuation Funds, 31.1 – 31.4
80EE	Incentives for Promoting Housing for All, 17.1 – 17.4
80GG	Rationalization of limit of deduction allowable in respect of rents paid under Section 80GG, 22.1 – 22.3
80IA	Phasing out of deductions and exemptions, 34.1 – 34.3
80IAB	Tax incentives for start-ups, 16.1 – 16.7; Phasing out of deductions and exemptions, 34.1 – 34.3
80IAC	Tax incentives for start-ups, 16.1 – 16.7
80IB	Phasing out of deductions and exemptions, 34.1 – 34.3
80IBA	Incentives for Promoting Housing for All, 17.1 – 17.4
80JJAA	Tax incentive for employment generation, 18.1 – 18.5
87A	Rationalization of limit of rebate in income-tax allowable under Section 87A, 25.1 – 25.3
92CA	Extension of time limit to Transfer Pricing Officer in certain cases, 64.1 – 64.3
92D	BEPS action plan - Country-By-Country Report and Master file, 13.1 – 13.10
111A	Tax Incentives to International Financial Services Centre, 27.1 – 27.8
112	Clarification regarding the definition of the term 'unlisted securities' for the purpose of Section 112(1)(c), 28.1 – 28.3
115BA	Rates for deduction of income-tax at source from “Salaries”, computation of “advance tax” and charging of income-tax in special cases during the financial year 2016-17,3.3.1 – 3.3.6
115BBDA	Rationalization of taxation of income by way of dividend, 14.1 – 14.5
115BBE	Clarification regarding set off of losses against deemed undisclosed income, 46.1 – 46.3
115BBF	Taxation of Income from 'Patents', 37.1 – 37.4

Section/Schedule	Particulars / Paragraph number
115JB	Applicability of Minimum Alternate Tax (MAT) on foreign companies for the period prior to 01.04.2015, 26.1 – 26.5; Tax Incentives to International Financial Services Centre, 27.1 – 27.6
115JH	Enabling provision for implementation of various provisions of the Act in case of a foreign company held to be resident in India, 4.1 – 4.8
115-O	Tax Incentives to International Financial Services Centre, 27.1 – 27.6
115QA	Tax on distributed income to shareholder, 9.1 – 9.6
115TA	New Taxation Regime for securitisation trust and its investors, 10.1 – 10.5
115TC	New Taxation Regime for securitisation trust and its investors, 10.1 – 10.5
115TCA	New Taxation Regime for securitisation trust and its investors, 10.1 – 10.5
115TD	Levy of tax where the charitable institution ceases to exist or converts into a non-charitable organization, 11.1 – 11.4
115TE	Levy of tax where the charitable institution ceases to exist or converts into a non-charitable organization, 11.1 – 11.4
115TF	Levy of tax where the charitable institution ceases to exist or converts into a non-charitable organization, 11.1 – 11.4
115UA	Exemption from Dividend Distribution Tax (DDT) on distribution made by an SPV to Business Trust, 8.1 – 8.4
119	Rationalisation of penalty provisions, 62.1 – 62.14
124	Assumption of jurisdiction of Assessing Officer, 65.1 – 65.3
133C	Legislative framework to enable and expand the scope of electronic processing of information, 66.1 – 66.6
139	Time limit for carry forward and set off of such loss under section 73A of the Income-tax Act, 48.1 – 48.4; Filing of return of Income, 55.1 – 55.10
143	Providing legal framework for automation of various processes and paperless assessment, 54.1 – 54.7
147	Legislative framework to enable and expand the scope of electronic processing of information, 66.1 – 66.6
153	Rationalisation of time limit for assessment, reassessment and recomputation, 57.1 – 57.7
153B	Rationalisation of time limit for assessment in search cases, 58.1 – 58.3

Section/Schedule	Particulars / Paragraph number
192A	Rationalization of Tax Deduction at Source (TDS) provisions, 49.1 – 49.2
194BB	Rationalization of Tax Deduction at Source (TDS) provisions, 49.1 – 49.2
194C	Rationalization of Tax Deduction at Source (TDS) provisions, 49.1 – 49.2
194D	Rationalization of Tax Deduction at Source (TDS) provisions, 49.1 – 49.2
194DA	Rationalization of Tax Deduction at Source (TDS) provisions, 49.1 – 49.2
194EE	Rationalization of Tax Deduction at Source (TDS) provisions, 49.1 – 49.2
194G	Rationalization of Tax Deduction at Source (TDS) provisions, 49.1 – 49.2
194H	Rationalization of Tax Deduction at Source (TDS) provisions, 49.1 – 49.2
194K	Rationalization of Tax Deduction at Source (TDS) provisions, 49.1 – 49.2
194L	Rationalization of Tax Deduction at Source (TDS) provisions, 49.1 – 49.2
194LA	Rationalization of Tax Deduction at Source (TDS) provisions, 49.1 – 49.2
194LBA	Exemption from Dividend Distribution Tax (DDT) on distribution made by an SPV to Business Trust, 8.1 – 8.4
194LBB	Rationalization of tax deduction at source provisions relating to payments by Category-I and Category-II Alternate Investment Funds to its investors, 12.1 – 12.6
194LBC	New Taxation Regime for securitisation trust and its investors, 10.1 – 10.5
197	Rationalization of tax deduction at source provisions relating to payments by Category-I and Category-II Alternate Investment Funds to its investors, 12.1 – 12.6
197A	Enabling of Filing of Form 15G/15H for rental payments, 50.1 – 50.4
206AA	Exemption from requirement of furnishing PAN under section 206AA to certain non-residents, 43.1 – 43.3
206C	Tax Collection at Source (TCS) on sale of vehicles; goods or services, 33.1 – 33.6
211	Rationalisation of advance tax payment schedule under section 211 and charging of interest under section 234C, 59.1 – 59.6

Section/Schedule	Particulars / Paragraph number
220	Providing Time limit for disposing applications made by assessee under section 273A, 273AA or 220(2A), 53.1 – 53.8
234C	Rationalisation of advance tax payment schedule under section 211 and charging of interest under section 234C, 59.1 – 59.6
244A	Payment of interest on refund, 60.1 – 60.5
249	Immunity from penalty and prosecution in certain cases by inserting new section 270AA, 67.1 – 67.7
252	Rationalisation of the provisions relating to Appellate Tribunal, 61.1 – 61.13
253	Rationalisation of the provisions relating to Appellate Tribunal, 61.1 – 61.13; Rationalisation of penalty provisions, 62.1 – 62.14
254	Rationalisation of the provisions relating to Appellate Tribunal, 61.1 – 61.13
255	Rationalisation of the provisions relating to Appellate Tribunal, 61.1 – 61.13
270A	Rationalisation of penalty provisions, 62.1 – 62.15
270AA	Immunity from penalty and prosecution in certain cases by inserting new section 270AA, 67.1 – 67.7
271	Rationalisation of penalty provisions, 62.1 – 62.15
271A	Rationalisation of penalty provisions, 62.1 – 62.15
271AA	BEPS action plan - Country-By-Country Report and Master file, 13.1 – 13.10; Rationalisation of penalty provisions, 62.1 – 62.15
271AAA	Rationalisation of penalty provisions, 62.1 – 62.16.3
271GB	BEPS action plan - Country-By-Country Report and Master file, 13.1 – 13.10
272A	Rationalisation of penalty provisions, 62.1 – 62.17.5
273A	Providing Time limit for disposing applications made by assessee under section 273A, 273AA or 220(2A), 53.1 – 53.8; Rationalisation of penalty provisions, 62.1 – 62.14
273B	BEPS action plan - Country-By-Country Report and Master file, 13.1 – 13.10
273AA	Providing Time limit for disposing applications made by assessee under section 273A, 273AA or 220(2A), 53.1 – 53.8
276C	Rationalisation of penalty provisions, 62.1 – 62.14
279	Rationalisation of penalty provisions, 62.1 – 62.14
281B	Provision for bank guarantee under section 281B, 63.1 – 63.8
282A	Providing legal framework for automation of various processes and paperless assessment, 54.1 – 54.7

Section/Schedule	Particulars / Paragraph number
286	BEPS action plan – Country-By-Country Report and Master file, 13.1 – 13.10
288	Rationalisation of penalty provisions, 62.1 – 62.17.5
CHAPTER VIII	Equalisation Levy, 32.1 – 32.8
CHAPTER X	The Direct Tax Dispute Resolution Scheme, 2016, 68.1 – 68.10

1. Introduction

1.1 The Finance Act, 2016 (hereafter referred to as 'the Act') as passed by the Parliament, received the assent of the President on the 14th day of May, 2016 and has been enacted as Act No. 28 of 2016. This circular explains the substance of the provisions of the Act relating to direct taxes.

2. Changes made by the Act

2.1 The Act has-

(i) specified the rates of income-tax for the assessment year 2017-18 and the rates of income-tax on the basis of which tax has to be deducted at source and advance tax has to be paid during financial year 2016-17;

(ii) amended sections 2, 6, 9, 9A, 10, 10AA, 17, 24, 25A, 28, 32, 32AC, 35, 35AC, 35AD, 35CCC, 35CCD, 36, 43B, 44AB, 44AD, 47, 48, 50C, 54GB, 55, 56, 80, 80CCD, 80GG, 80IA, 80IAC, 80IB, 80IBA, 87A, 92CA, 92D, 111A, 112, 115BBE, 115JB, 115-O, 115QA, 115TA, 115TC, 115TD, 115TE, 115TF, 115UA, 119, 124, 133C, 139, 143, 147, 153, 153B, 192A, 194BB, 194C, 194D, 194DA,194EE, 194G, 194H, 194K, 194L, 194LA, 194LBA, 194LBB, 197, 197A, 206AA, 206C, 211, 220, 234C, 244A, 249, 252, 253, 254, 255, 271, 271A, 271AA, 271AAA, 272A, 273A, 273B, 273AA, 276C, 281B, 282A and 288 of the Income-tax Act, 1961 ('the Income-tax Act');

(iii) Substituted new sections for sections 80EE, 80JJAA and 153B the Income-tax Act;

(iv) inserted new sections 35ABA, 44ADA, 54EE, 80IAC, 80IBA, 115BA, 115BBDA, 115BBF, 115TCA, 194LBC, 270A, 270AA, 271GB and 286 in the Income-tax Act;

(v) inserted Chapter XII-BC consisting of section 115JH in the Income-tax Act.

(vi) introduced, vide Chapter VIII, Equalisation Levy on e-commerce transactions;

(vii) introduced, vide Chapter X, the Direct Tax Dispute Resolution Scheme, 2016, to reduce litigation and enable the Government to realise its dues expeditiously.

3. Rate structure

3.1 Rates of income-tax in respect of incomes liable to tax for the assessment year 2016- 17.

3.1.1 In respect of income of all categories of assessees liable to tax for the assessment year 2016-17, the rates of income-tax have been specified in Part I of the First Schedule to the Act. These rates are the same as those laid down in Part III of the First Schedule to the Finance Act, 2015 for the purposes of computation of "advance tax", deduction of tax at source from "Salaries" and charging of tax payable in certain cases during the financial year 2015-16.

The main features of the rates specified in the said Part I are as follows:

3.1.2 Individual, Hindu undivided family (HUF), association of persons, body of individuals or artificial juridical person.

Paragraph A of Part I of the First Schedule specifies the rates of income-tax in the case of every individual, Hindu undivided family, association of persons, body of individuals or artificial juridical person (other than a co-operative society, firm, local authority and company) as under:

<table>
<tr><td>Income chargeable to tax</td><td colspan="3">Rate of income- tax</td></tr>
<tr><td></td><td>Individual (other than senior and very senior citizen), HUF, association of persons, body of individuals and artificial juridical person.</td><td>Individual, resident in India who is of the age of sixty years or more but less than eighty years. (senior citizen)</td><td>Individual, resident in India who is of the age of eighty years or more (very senior citizen)</td></tr>
<tr><td>Up to Rs. 2,50,000</td><td>Nil</td><td rowspan="2">Nil</td><td rowspan="3">Nil</td></tr>
<tr><td>Rs. 2,50,001 - Rs. 3,00,000</td><td>10%</td></tr>
<tr><td>Rs. 3,00,001 - Rs. 5,00,000</td><td></td><td>10%</td></tr>
<tr><td>Rs. 5,00,001 - Rs. 10,00,000</td><td>20%</td><td>20%</td><td>20%</td></tr>
<tr><td>Exceeding Rs. 10,00,000</td><td>30%</td><td>30%</td><td>30%</td></tr>
</table>

The amount of income-tax so computed shall be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a person having a total income exceeding one crore rupees. However, marginal relief shall be available so the total amount payable as income-tax and surcharge on total income exceeding one crore

rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

The Education Cess on income-tax shall continue to be levied at the rate of two per cent. on the amount of tax computed inclusive of surcharge. In addition, the amount of tax computed shall be further increased by an additional surcharge called Secondary and Higher Education Cess on income-tax at the rate of one per cent of such income-tax inclusive of surcharge.

No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess. For instance, if the income of an individual below sixty years of age is Rs. 1,01,00,000/- and income-tax computed is Rs. 28,55,000/-. Surcharge on the income-tax at the rate of twelve per cent of such tax is Rs. 3,42,600/-. Thus the total income-tax inclusive of surcharge is Rs. 31,97,600/- without providing marginal relief. On providing marginal relief, the income-tax inclusive of surcharge shall be limited to Rs. 29,55,000/-. Then the education cess of two per cent is to be computed on Rs. 29,55,000/- which works out to Rs. 59,100/-. In addition, the amount of tax computed shall also be increased by an additional cess called Secondary and Higher Education Cess on income-tax at the rate of one per cent of such income-tax which for the present case of income-tax of Rs. 29,55,000/- works out to be Rs. 29,550/-. Thus, where the amount of tax computed is Rs. 29,55,000/-, the Education Cess of two per cent is Rs. 59,100, the Secondary and Higher is Rs. 29,550/-. The total cess in this case will amount to Rs. 88,650 (i.e., Rs. 59,100/- + Rs. 29,550/-). No marginal relief shall be available in respect of such Cess.

3.1.3 Co-operative Societies.

In the case of every co-operative society, the rates of income-tax have been specified in Paragraph B of Part I of the First Schedule to the Act. The rates are as follows:-

Income chargeable to tax	Rate
Up to Rs. 10,000	10%
Rs. 10,001 - Rs. 20,000	20%
Exceeding Rs. 20,000	30%

The amount of income-tax so computed shall be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a co-operative society having a total income exceeding one crore rupees. However, marginal relief shall be available so that the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

The Education Cess on income-tax shall continue to be levied at the rate of two per cent on the amount of tax computed inclusive of surcharge. In addition, the amount of tax computed shall be further increased by an additional surcharge called Secondary

and Higher Education Cess on income-tax at the rate of one per cent of such income-tax inclusive of surcharge.

No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess.

3.1.4 Firms

In the case of every firm, the rate of income-tax of thirty per cent has been specified in Paragraph C of Part I of the First Schedule to the Act.

The amount of income-tax so computed shall be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a firm having a total income exceeding one crore rupees. However, marginal relief shall be available so that the total amount payable as income- tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

The Education Cess on income-tax shall continue to be levied at the rate of two per cent on the amount of tax computed inclusive of surcharge. In addition, the amount of tax computed shall be further increased by an additional surcharge called Secondary and Higher Education Cess on income-tax at the rate of one per cent of such income-tax inclusive of surcharge.

No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess.

3.1.5 Local Authorities

In the case of every local authority, the rate of income-tax has been specified at thirty per cent in Paragraph D of Part I of the First Schedule to the Act.

The amount of income-tax so computed shall be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a local authority having a total income exceeding one crore rupees. However, marginal relief shall be available so that the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

The Education Cess on income-tax shall continue to be levied at the rate of two per cent on the amount of tax computed inclusive of surcharge. In addition, the amount of tax computed shall be further increased by an additional surcharge called Secondary and Higher Education Cess on income-tax at the rate of one per cent of such income-tax inclusive of surcharge.

No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess.

3.1.6 Companies

In the case of a company, the rate of income-tax has been specified in Paragraph E of Part I of the First Schedule to the Act.

In case of a domestic company, the rate of income-tax is thirty per cent of the total income. The tax computed shall be enhanced by a surcharge of seven per cent where such domestic company has total income exceeding one crore rupees but not exceeding ten crore rupees. Surcharge at the rate of twelve per cent shall be levied if the total income of the company exceeds ten crore rupees.

In the case of a company other than a domestic company, royalties received from Government or an Indian concern under an approved agreement made after 31-3-1961 but before 1-4-1976 shall be taxed at fifty per cent. Similarly, fees for technical services received by such company from Government or an Indian concern under an approved agreement made after 29-2-1964 but before 1-4-1976 shall be taxed at fifty per cent. On the balance of the total income of such company, the tax rate shall be forty per cent. The tax computed shall be enhanced by a surcharge of two per cent where such company has total income exceeding one crore rupees but not exceeding ten crore rupees. Surcharge at the rate of five per cent shall be levied if the total income of the company other than domestic company exceeds ten crore rupees.

However, marginal relief shall be allowed in the case of every company to ensure that

(i) the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees, and

(ii) the total amount payable as income-tax and surcharge on total income exceeding ten crore rupees shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

Education Cess on income-tax shall continue to be levied at the rate of two per cent on the amount of tax computed, inclusive of surcharge in the case of every company. Also, such amount of tax and surcharge shall be further increased by an additional surcharge called Secondary and Higher Education Cess on income-tax at the rate of one per cent of the amount of tax computed, inclusive of surcharge. No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess.

3.2 Rates for deduction of income-tax at source from certain incomes during the financial year 2016-17.

3.2.1 In every case in which tax is to be deducted at the rates in force under the provisions of Sections 193, 194, 194A, 194B, 194BB, 194D, 194LBA, 194LBB, 194LBC and 195 of the Income-tax Act, the rates for deduction of income-

tax at source during the financial year 2016-17 have been specified in Part II of the First Schedule to the Act. The rates for deduction of income-tax at source during the financial year 2016-17 will continue to be the same as those specified in Part II of the First Schedule to the Finance Act, 2015 except that in case of payments in the nature of income by way of insurance commission made to a resident (other than a company), the rate shall be five per cent of such income instead of ten per cent..

3.2.2 Surcharge.

The tax deducted at source in the following cases shall be increased by a surcharge for purposes of the Union indicated below:

(i) In case of every non-resident person (other than a company), the rate of surcharge is,

(a) fifteen per cent of such tax, in case of an individual, HUF, association of person, body of individual or artificial juridical person;

(b) twelve per cent of such tax, in case of a firm or cooperative society; where the income or aggregate of such income paid or likely to be paid and subject to the deduction exceeds one crore rupees.

(ii) In case of payments made to foreign company, the rate of surcharge is two per cent of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees. In case where such income or the aggregate of such incomes paid or likely to be paid to a foreign company and subject to the deduction exceeds ten crore rupees, the rate of surcharge is five per cent.

(iii) No surcharge on tax deducted at source shall be levied in the case of an individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person, co-operative society, local authority, firm, being a resident or a domestic company.

3.2.3 Education Cess.

Education Cess on income-tax shall continue to be levied for the purposes of the Union at the rate of two per cent of income-tax and surcharge, if any. For instance, if the amount of income of a foreign company is Rs. 1,20,00,000/- and tax is deducted from such foreign company is Rs. 12,00,000/- at the rate of 10 per cent, then the surcharge at the rate of two per cent on such tax deducted shall be Rs. 24,000/-. Education cess on such amount of tax deducted and surcharge (Rs. 12,00,000/- + Rs. 24,000/- = Rs. 12,24,000/-) shall be Rs. 24,480/-.

In addition, the amount of tax deducted and surcharge shall be further increased by an additional surcharge called Secondary and Higher Education Cess on income-tax at the rate of one per cent in all such cases. Thus in the

above illustration, where the amount of tax deducted is Rs. 12,00,000/-, the surcharge is Rs. 24,000/-, the said Secondary and Higher Education Cess will be computed at the rate of one per cent on Rs. 12,24,000/- which works out to be Rs. 12,240/-. The total cess in this case will, therefore, amount to Rs. 36,720/- (i.e., Rs. 24,480/- + Rs. 12,240/-).

3.3 Rates for deduction of income-tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2016- 17.

3.3.1 The rates for deducting income-tax at source from 'Salaries' and computing advance tax during the financial year 2016-17 have been specified in Part III of the First Schedule to the Act. These rates are also applicable for charging income-tax during the financial year 2016-17 on current incomes in cases where accelerated assessments have to be made, e.g., provisional assessment of shipping profits arising in India to non-residents, assessment of persons leaving India for good during that financial year, assessment of persons who are likely to transfer property to avoid tax, assessment of bodies formed for short duration, etc. The rates are as follows:-

3.3.2 Individual, Hindu undivided family, association of persons, body of individuals or artificial juridical person.

Paragraph A of Part III of the First Schedule specifies the rates of income-tax in the case of every individual, Hindu undivided family, association of persons, body of individuals or artificial juridical person (other than a co-operative society, firm, local authority and company). The basic exemption limit, rates of tax and slabs of income for various categories remain the same as in financial year 2015-16. The rates of tax during the financial year 2016-17 are as follows:-

<table>
<tr><th>Income chargeable to tax</th><th colspan="3">Rate of income- tax</th></tr>
<tr><td></td><td>Individual (other than senior and very senior citizen), HUF, association of persons, body of individuals and artificial juridical person.</td><td>Individual, resident in India who is of the age of sixty years or more but less than eighty years. (senior citizen)</td><td>Individual, resident in India who is of the age of eighty years or more (very senior citizen)</td></tr>
<tr><td>Up to Rs. 2,50,000</td><td>Nil</td><td rowspan="2">Nil</td><td rowspan="3">Nil</td></tr>
<tr><td>Rs. 2,50,001 - Rs. 3,00,000</td><td rowspan="2">10%</td></tr>
<tr><td>Rs. 3,00,001 - Rs. 5,00,000</td><td>10%</td></tr>
</table>

Rs. 5,00,001 - Rs. 10,00,000	20%	20%	20%
Exceeding Rs. 10,00,000	30%	30%	30%

The amount of income-tax so computed shall be increased by a surcharge at the rate of fifteen per cent of such income-tax in case of a person having a total income exceeding one crore rupees as against the rate of twelve per cent for the financial year 2015-16.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

The Education Cess on income-tax shall continue to be levied at the rate of two per cent on the amount of tax computed inclusive of surcharge. In addition, the amount of tax computed shall be further increased by an additional surcharge called Secondary and Higher Education Cess on income-tax at the rate of one per cent of such income-tax inclusive of surcharge. No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess.

3.3.3 Co-operative Societies.

In the case of every co-operative society, the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Act. The rates are as follows-

Income chargeable to tax	Rate
Up to Rs. 10,000	10%
Rs. 10,001 - Rs. 20,000	20%
Exceeding Rs. 20,000	30%

The amount of income-tax so computed shall continue to be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a co-operative society having a total income exceeding one crore rupees.

However, marginal relief shall be available. Accordingly, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Education Cess on income-tax and Secondary and Higher Education Cess on income-tax shall be levied at the rate of two per cent and one per cent respectively of the amount of income-tax computed inclusive of surcharge. No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess.

3.3.4 Firms.

In the case of every firm, the rate of income-tax of thirty per cent has been specified in Paragraph C of Part III of the First Schedule to the Act.

The amount of income-tax so computed shall continue to be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a firm having a total income exceeding one crore rupees.

However, marginal relief shall be available. Accordingly, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

The Education Cess on income-tax shall continue to be levied at the rate of two per cent. on the amount of tax computed inclusive of surcharge. In addition, the amount of tax computed shall be further increased by an additional surcharge called Secondary and Higher Education Cess on income-tax at the rate of one per cent of such income-tax inclusive of surcharge. No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess.

3.3.5 Local Authorities.

In the case of every local authority, the rate of income-tax has been specified at thirty per cent in Paragraph D of Part III of the First Schedule to the Act.

The amount of income-tax so computed shall continue to be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a local authority having a total income exceeding one crore rupees.

However, marginal relief shall be available. Accordingly, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Education Cess on Income-tax and Secondary and Higher Education Cess on income-tax shall be levied at the rate of two per cent and one per cent respectively of the amount of income tax and surcharge. No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess.

3.3.6 Companies.

In the case of a company, the rate of income-tax has been specified in Paragraph E of Part III of the First Schedule to the Act. In case of a domestic company, the rate of income-tax is twenty nine per cent of the total income, if the total turnover or gross receipts of the company in the previous year 2014-15 does not exceed five crore rupees, and in all other cases, the rate of income tax is thirty per cent of total income.

In order to provide relief to newly setup domestic companies engaged solely in the business of manufacture or production of article or thing, a new section 115BA has been inserted in the Income-tax Act, to provide that the income-tax payable in respect of the total income of a domestic company for any previous year relevant to the assessment year beginning on or after the 1st of April, 2017 shall be computed @ 25% at the option of the company, if, -

(i) the company has been setup and registered on or after 1st day of March, 2016;

(ii) the company is engaged in the business of manufacture or production of any article or thing and is not engaged in any other business;

(iii) the company while computing its total income has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JJAA; and

(iv) the option is furnished in the prescribed manner before the due date of furnishing of return of income.

The tax computed shall continue to be enhanced by a surcharge of seven per cent where such domestic company has total income exceeding one crore rupees but not exceeding ten crore rupees. Surcharge at the rate of twelve per cent shall continue to be levied if the total income of the company exceeds ten crore rupees.

In the case of a company other than a domestic company, royalties received from Government or an Indian concern under an approved agreement made after 31-3-1961 but before 1-4-1976 shall be taxed at fifty per cent. Similarly, fees for technical services received by such company from Government or Indian concern under an approved agreement made after 29-2-1964 but before 1-4-1976 shall be taxed at fifty per cent. On the balance of the total income of such company, the tax rate shall be forty per cent. The tax computed shall continue to be enhanced by a surcharge of two per cent where such company has total income exceeding one crore rupees but not exceeding ten crore rupees. Surcharge at the rate of five per cent shall continue to be levied if the total income of the company other than domestic company exceeds ten crore rupees.

However, marginal relief shall be allowed in the case of every company to ensure that,

(i) the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees, and

(ii) the total amount payable as income-tax and surcharge on total income exceeding ten crore rupees shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

Education Cess on Income-tax and Secondary and Higher Education Cess on income-tax shall be levied at the rate of two per cent and one per cent respectively of the amount of income-tax computed including surcharge. No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess.

3.4 Surcharge on Additional Income-tax.

Where additional income-tax has to be paid under Section 115-O or Section 115-QA or Sub-section (2) of Section 115R or Section 115TA or Section 115TD of the Income-tax Act, that is to say, on distribution of dividend by domestic companies or distribution of income by a company on buy-back of shares from shareholders or on distribution of income by a mutual fund to its unit holders or on distribution of income by a securitization trust to its investors or on accreted income of certain trusts and institutions, the additional tax so payable shall be increased by a surcharge of twelve per cent of such tax.

4. Enabling provision for implementation of various provisions of the Act in case of a foreign company held to be resident in India.

4.1 Section 6 of the Income-tax Act provides for conditions in which residence in India is determined in case of different category of persons. Section 6(3) deals with conditions to be satisfied for a company to be treated as resident in India in any previous year. Prior to amendment of Section 6(3) by the Finance Act 2015, a company was said to be resident in India in any previous year if it was an Indian company or during that year the control and management of its affairs was situated wholly in India.

4.2 The Finance Act, 2015 amended the above provision so as to provide that a company would be resident in India in any previous year if it is an Indian company or its Place of Effective Management (POEM) in that year is in India. The POEM was defined to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are in substance made.

4.3 In the context of implementation of POEM based residence rule, certain issues, relating to the applicability of current provisions of the Income-tax Act to a company which is incorporated outside India and has not earlier been assessed to tax in India, have arisen. In particular, the issues relate to applicability of specific provisions of the Income-tax Act relating to Advance tax payment, applicability of TDS provisions, computation of total income, set off of losses and manner of application of transfer pricing regime. These provisions have compliance requirements which would not have been undertaken by the company at relevant time due to absence of any such requirement under tax laws of country of incorporation of such company. Similarly, issues of computation of depreciation also arise when in earlier years it has not been subject to computation under the Income-tax Act.

4.4 Problems highlighted also arise due to the fact that a company may be claiming to be a foreign company not resident in India but in the course of assessment, it is held to be resident based on POEM being in fact in India. This determination would be well after closure of the previous year and it may not be possible for company to undertake many of procedural requirements. Representations have also been made by stakeholders that the implementation of POEM be deferred by a year, by which time clarity regarding guidelines and applicability of other provisions of the Income-tax Act would be in place.

4.5 In order to provide clarity in respect of implementation of POEM based rule of residence and also to address concerns of the stakeholders, amendments to Section 6 of the Income-tax Act and Section 4 of the Finance Act, 2015 have been made. These amendments have been made so as to defer the applicability of POEM based residence test by one year and the determination of residence based on POEM shall be applicable from 1st of April 2017. Further, a new Chapter XII-BC consisting of Section 115JH has been inserted in the Income- tax Act. The provisions of Section 115JH of Income-tax Act,-

(a) provide a transition mechanism for a company which is incorporated outside India and has not earlier been assessed to tax in India. The Central Government has been empowered to notify exception, modification and adaptation subject to which, the provisions of the Income-tax Act relating to computation of income, treatment of unabsorbed depreciation, set off or carry forward and setoff of losses, special provision relating to avoidance of tax and the collection and recovery of taxes shall apply in a case where a foreign company is said to be resident in India due to its POEM being in India for the first time and the said company has never been resident in India before.

(b) provide that these transition provisions would also cover any subsequent previous year upto the date of determination of POEM in an assessment proceedings. However, once the transition is complete, then normal provision of the Income-tax Act would apply.

(c) provide that in the notification, certain conditions including procedural conditions subject to which these adaptations shall apply can be provided for and in case of failure to comply with the conditions, the benefit of such notification would not be available to the foreign company.

(d) provide that every notification issued in exercise of this power by the Central Government shall be laid before each house of the Parliament.

4.6 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply in relation to assessment year 2017-18 and subsequent assessment years.

5. Exemption of income of Foreign Company from storage and sale of crude oil stored as part of strategic reserves.

5.1 Section 5 of the Income-tax Act provides for the scope of total income. In the case of a non-resident, the taxation of income takes place only if the income accrues or arises in India or is deemed to accrue or arise in India or is received in India. Section 9 of the Income-tax Act provides for circumstances in which the income is deemed to accrue or arise in India. One of the circumstances providing for income to be deemed to accrue or arise in India is if any income is directly or indirectly derived through or from a business connection in India.

5.2 The setting up and maintenance of underground storage facility for storage of crude oil as part of strategic reserves is in India's national interest and ensures price stability for Indian oil companies. The filling cost of such facility entails huge financial burden. The Government has explored the possibility of meeting a substantial part of the financial burden through participation of private players including foreign national oil companies (NOCs) and multinational companies (MNCs) storing and selling crude oil from outside India. However, the storage of crude oil by NOCs/ MNCs and its sale in India would create tax liability for these entities.

5.3 In order to achieve neutrality in terms of taxation to encourage the NOCs and MNCs to store their crude oil in India and to build up strategic oil reserves, the provisions of Section 10 of the Income-tax Act have been amended to provide that any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India shall not be included in the total income, if, -

(i) such storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and

(ii) having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf.

5.4 **Applicability:** This amendment takes effect retrospectively from 1st of April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent assessment years.

6. Exemption in respect of certain activity related to diamond trading in "Special Notified Zone".

6.1 Section 5 of the Income-tax Act provides for the scope of total income. In case of non- resident person, the taxation of income in India happens only if the income accrues or arises in India or is deemed to accrue or arise in India or is received in India. Section 9 of the Income- tax Act provides circumstances under which income is deemed to accrue or arise in India. One of the circumstances providing for income to be deemed to accrue or arise in India is if any income is directly or indirectly derived through or from a business connection in India.

6.2 A “Special Notified Zone” (SNZ) had been created to facilitate shifting of operations by foreign mining companies (FMC) to India and to permit the trading of rough diamonds in India by the leading diamond mining companies of the world. The activity of FMC of mere display of rough diamonds even with no actual sale taking place in India may lead to creation of business connection in India of the FMC. This potential tax exposure has been an area of concern for the mining companies willing to undertake these activities in India.

6.3 In order to facilitate the FMCs to undertake activity of display of uncut diamond (without any sorting or sale) in the special notified zone, Section 9 of the Income-tax Act has been amended to provide that in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unassorted diamonds in a Special Zone notified by the Central Government in the Official Gazette in this behalf.

6.4 **Applicability:** This amendment takes effect retrospectively from 1st of April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent assessment years.

7. Modification in conditions of special taxation regime for off shore funds Section 9A.

7.1 Section 9A of the Income-tax Act provides for a special regime in respect of offshore funds. It provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund. Further, an eligible investment fund shall not be said to be resident in India merely because the eligible fund manager undertaking fund management activities on its behalf is located in India. The benefit under Section 9A is available subject to the conditions provided in sub-sections (3), (4) and (5) of this section.

7.2 Sub-section (3) of section 9A provides for the conditions for the eligibility of the fund. These conditions, inter-alia, are related to residence of fund, corpus size, investor base, investment diversification and payment of remuneration to fund manager at arm’s length. In respect of residence of the fund, the condition is that the fund has to be resident of a country or territory with which India has entered into a Double Taxation Avoidance Agreement (DTAA) or Tax Information Exchange Agreement (TIEA).

7.3 In respect of activities of fund, there is a restriction that the fund shall not carry on or control and manage, directly or indirectly, any business in India or from India and shall neither engage in any activity which constitutes a business connection in India nor have any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf.

7.4 It was pointed out by stakeholders that there are many instances where a fund may not qualify as a tax resident of a country on account of domestic tax laws or legal framework of the country. The global structure of these funds had been based on applicable legal and regulatory framework of their country of incorporation and cannot be modified in respect of any investment made in a particular country. Examples of large pension funds or mutual funds from USA or SICAVs (open-ended collective investment schemes) from Luxembourg had been cited. It has been stated that India would still be able to collect information regarding fund under the applicable DTAA or TIEA as under the agreements with many of the countries, information can be exchanged in respect of persons who may not be resident of the country. It had been further mentioned that the conditions relating to restriction on fund carrying on business or controlling fund managing business in India or from India restricts the flexibility of operation for funds and focus should be on nature of activities undertaken in India.

7.5 In order to rationalise the regime and to address the concerns of the industry, Section 9A of the Income-tax Act has been amended to provide that the eligible investment fund for the purposes of Section 9A, shall also mean a fund established or incorporated or registered outside India in a country or a specified territory notified by the Central Government in this behalf. It has also been provided that the condition of fund not controlling and managing any business in India or from India shall be restricted only in the context of activities in India.

7.6 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply in relation to assessment year 2017-18 and subsequent assessment years.

8. Exemption from Dividend Distribution Tax (DDT) on distribution made by an SPV to Business Trust.

8.1 The Income-tax Act contains a specific taxation regime in respect of taxation of business trusts comprising of Real Estate Investment Trust (REITs) and Infrastructure Investment Trust (Invits) regulated by SEBI. Under this regime, multiple taxation due to interposition of business trusts is avoided. Under the SEBI regulation, these business trusts can hold the income generating asset either directly or through a Special Purpose Vehicle (SPV). The SPV can be a company or an LLP. Under SEBI Regulation, SPV is defined to mean any company or LLP in which REIT holds or proposes to hold controlling interest which is not less than fifty per cent of the equity share capital or interest. The SPV should hold at least 80% of the assets in properties and not invest in other SPV. The existing tax regime provides that in case of REITs, the income by way of interest paid by SPV being a company to REIT is given pass through i.e. it is not taxed at the level of REIT but in the hands of respective investors of REIT. The rental income from directly held assets by REIT is also allowed a pass through. In respect of assets held through an SPV, if SPV is a company

then the company pays normal corporate tax and thereafter when the income is distributed to the REIT being a shareholder, it suffers Dividend Distribution Tax (DDT) under Section 115-O of the Income-tax Act which is paid by the SPV and thereafter the income is exempt both in the hands of REIT and also its investors. In case of Invits, there is a similar regime with only exception being that there is no pass through for Invits holding income generating assets directly as normally such large infrastructure projects are not held directly in the trust but are held through an SPV. As an incentive in the case of sponsor (the person setting up trust), capital gain arising at time of swap of its shareholding in SPV for units of business trust is deferred both under normal provisions and from applicability of MAT. Such gains get taxed only after actual sale of units.

8.2 It has been pointed out by the stakeholders that levy of dividend distribution tax at the level of SPV when it distributes its current income to the business trust makes the business trust structure tax inefficient and adversely impacts the rate of return for the investor. This is more so, as under SEBI regulations both the SPV and business trust are obligated to distribute 90% of their operating income to the investors, whereas in case of normal real estate company, there is no requirement of such annual distribution of dividends. It has been mentioned that because of the additional levy of DDT and associated tax inefficiency, these initiatives have not yet taken off.

8.3 In order to further rationalise the taxation regime for business trusts (REITs and Invits) and their investors, provisions of Sections 10, 115-O, 115UA and 194LBA of the Income-tax Act have been amended to provide a special dispensation and exemption from levy of Dividend Distribution Tax. The salient features of the said special dispensation are:

(a) exemption from levy of DDT in respect of distributions made by SPV to the business trust;

(b) such dividend received by the business trust and its investor shall not be taxable in the hands of trust or investors;

(c) the exemption from levy of DDT shall only be in the cases where the business trust either holds 100% of the share capital of the SPV or holds all of the share capital other than that which is required to be held by any other entity as part of any direction of any Government or specific requirement of any law to this effect or which is held by Government or Government bodies; and

(d) the exemption from the levy of DDT shall only be in respect of dividends paid out of current income after the date when the business trust acquires the shareholding referred in (c) above in the SPV. The dividends paid out of accumulated and current profits up to this date shall be liable for levy of DDT as and when any dividend out of these profits is distributed by the company either to the business trust or any other shareholder.

8.4 **Applicability:** The amendments to Sections 115-O and 194LBA take effect from 1st June, 2016. The amendments to Sections 10 and 115UA take effect from 1st of April, 2017 and will, accordingly apply in relation to assessment year 2017-18 and subsequent assessment years.

9. Tax on distributed income to shareholder.

9.1 Section 115QA of the Income-tax Act provides for the levy of additional Income-tax at the rate of 20 per cent of the distributed income on account of buy back of unlisted shares by a company. The distributed income as defined in the Section prior to its amendment by the Act meant the consideration paid by the company on buy back of shares as reduced by the amount which was received by the company for issue of such shares. Buyback had also been defined to mean the purchase of a company of its own shares in accordance with the provisions of Section 77A of the Companies Act, 1956.

9.2 Doubts have arisen regarding the effect of buybacks undertaken by the company under different provisions of the Companies Act, 1956 or the Companies Act, 2013 and applicability of provisions of Section 115QA to such transactions. An issue of lack of clarity had also arisen in respect of determination of consideration received by the company at the time of issue of shares being bought back by the company. There are situations where shares may have been issued by the company in tranches, for different considerations, at different point of time or may have been issued in lieu of existing shares of another company under amalgamation, merger or demerger.

9.3 For the purposes of Section 115QA, it is the effect of buyback being in the nature of distribution of income which is relevant rather than particular provision of the law relating to companies under which it has been undertaken. Further, lack of clarity in the manner of determination of consideration received by the company would lead to avoidable disputes and also presented a tax arbitrage opportunity of scaling up of consideration particularly under a tax neutral business reorganisation followed by buyback of shares.

9.4 In order to provide clarity and remove any ambiguity on the above issues, Section 115QA of the Income-tax Act has been amended to provide that the provisions of this Section shall apply to any buy back of unlisted share undertaken by the company in accordance with the provisions of the law relating to the Companies and not necessarily restricted to Section 77A of the Companies Act, 1956. It has been further provided that for the purpose of computing distributed income, the amount received by the Company in respect of the shares being bought back shall be determined in the prescribed manner.

9.5 Applicability: This amendment takes effect from 1st June, 2016.

10. New Taxation Regime for securitisation trust and its investors.

10.1 A special taxation regime in respect of income of the securitisation trusts and the investors of such trusts was contained in Chapter-XII-EA of the Income-tax

Act consisting of Sections 115TA, 115TB and 115TC. The regime provided that income distributed by the securitisation trust to its investors shall be subject to a levy of additional tax to be paid by the securitisation trust within 14 days of distribution of income. The distribution tax was to be paid @ 25% if the distribution was made to an individual or a HUF and @ 30% if the distribution was to others. Further, no distribution tax was to be levied if the distribution was made to an exempt entity. Consequent to the levy of distribution tax, the income of the investor, received from the securitisation trust, was exempt under Section 10(35A) of the Income-tax Act and the income of securitisation trust itself is exempt under Section 10(23DA) of the Income-tax Act.

10.2 The existing regime did not cover the trusts set up by reconstruction companies or the securitisation companies are not covered although such trusts were also engaged in securitisation activity. These companies are established for the purposes of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) and their activities are regulated by the Reserve Bank of India (RBI). Further, the final levy in the form of distribution tax was tax inefficient for the investors specially the banks and financial institutions. Disallowance of expenditure in respect of income received from securitisation trust increased the effective rate of taxation. The non-resident and resident investors were also unable to take benefits of their specific tax status.

10.3 In order to rationalise the tax regime for securitisation trust and its investors, and to provide tax pass through treatment, the provisions of Section 2, Section 10, Section 115TA, Explanation in Section 115TC and Section 197 of the Income-tax Act have been amended and Sections 115TCA and 194LBC have been inserted in the Income-tax Act to substitute the existing special regime for securitisation trusts by a new regime having the following elements:

(i) The new regime shall apply to securitisation trust being an SPV defined under SEBI (Public Offer and Listing of Securitised Debt Instrument) Regulations, 2008 or SPV as defined in the guidelines on securitisation of standard assets issued by RBI or being setup by a securitisation company or a reconstruction company in accordance with the SARFAESI Act;

(ii) The income of securitisation trust shall continue to be exempt. However, exemption in respect of income of investor from securitisation trust would not be available and any income from securitisation trust would be taxable in the hands of investors;

(iii) The income accrued or received from the securitisation trust shall be taxable in the hands of investor in the same manner and to the same extent as it would have happened had investor made investment directly in the underlying assets and not through the trust;

(iv) Tax deduction at source under a newly inserted section 194LBC shall be effected by the securitisation trust at the rate of 25% in case of payment to resident investors which are individual or HUF and @ 30% in case of others. In case of payments to non-resident investors, the deduction shall be at rates in force;

(v) The facility for the investors to obtain low or nil deduction of tax certificate would be available; and

(vi) The trust shall provide breakup regarding nature and proportion of its income to the investors and also to the prescribed income-tax authority.

10.4 Further, it has also been provided that the regime of distribution tax existing prior to above amendments by the Act shall cease to apply in case of distribution made by securitisation trusts with effect from 1st June, 2016.

10.5 **Applicability:** The amendments to Sections 2, 115TA and 197, and the insertion of Section 194LBC take effect from 1st June, 2016. The amendment to Section 115TCA takes effect from 1st of April, 2017 and will, accordingly apply in relation to assessment year 2017- 18 and subsequent assessment years.

11. Levy of tax where the charitable institution ceases to exist or converts into a non- charitable organization.

11.1 Section 2(24) of the Income-tax Act defines “Income” in an inclusive manner. Any voluntary contribution received by a charitable trust or institution or a fund is included in the definition of income. Sections 11 and 12 of the Income-tax Act provide for exemption to trusts or institutions in respect of income derived from property held under trust and voluntary contributions, subject to various conditions contained in the said sections. The primary condition for grant of exemption is that the income derived from property held under trust should be applied for the charitable purposes, and where such income cannot be applied during the previous year, it has to be accumulated and invested in the modes prescribed and applied for such purposes in accordance with various conditions provided in the section. If the accumulated income is not applied in accordance with the conditions provided in the said section within a specified time, then such income is deemed to be taxable income of the trust or the institution. Section 12AA provides for registration of the trust or institution which entitles them to be able to get the benefit of Sections 11 and 12. It also provides the circumstances under which the registration can be cancelled. Section 13 of the Income-tax Act provides for the circumstances under which exemption under Section 11 or 12 in respect of whole or part of income would not be available to a trust or institution.

11.2 A society or a company or a trust or an institution carrying on charitable activity may voluntarily wind up its activities and dissolve or may also merge with any other charitable or non-charitable institution, or it may convert into a non-charitable organization. In such a situation, the existing law does not provide

any clarity as to how the assets of such a charitable institution shall be dealt with. Under provisions of Section 11, certain amount of income of prior period can be brought to tax on failure of certain conditions. However, there was no provision in the Income-tax Act which ensured that the corpus and asset base of the trust accreted over period of time, with promise of it being used for charitable purpose, continues to be utilised for charitable purposes and is not used for any other purpose. In the absence of a clear provision, it was always possible for charitable institutions to transfer assets to a non- charitable institution. Therefore, there was a need to ensure that the benefit conferred over the years by way of exemption is not misused and to plug the gap in law that allowed the charitable trusts having built up corpus/wealth through exemptions being converted into non-charitable organisation with no tax consequences.

11.3 In order to ensure that the intended purpose of exemption availed by trust or institution is achieved, a specific provision in the Act is required for imposing a levy in the nature of an exit tax which is attracted when the organisation is converted into a non-charitable organisation or gets merged with a non-charitable organisation or a charitable organisation with dissimilar objects or does not transfer the assets to another charitable organisation.

11.4 Accordingly, a new Chapter XII-EB consisting of Sections 115TD, 115TE and 115TF has been inserted in the Income-tax Act. This chapter contains specific provisions for levy of additional income-tax in case of conversion into, or merger with, any non-charitable form or on transfer of assets of a charitable organisation on its dissolution to a non-charitable institution. The main elements of this regime are:

(i) The accretion in income (accreted income) of the trust or institution shall be taxable on conversion of trust or institution into a form not eligible for registration u/s 12 AA or on merger into an entity not having similar objects and registered under Section 12AA or on non-distribution of assets on dissolution to any charitable institution registered u/s 12AA or approved under Section 10(23C) within a period of twelve months from the end of the month of dissolution.

(ii) Accreted income shall be amount of aggregate of Fair Market Value (FMV) of total assets as reduced by the liability as on the specified date. The method of valuation is to be prescribed in rules. However, for the purposes of computation of accreted income, the following asset and related liability, if any, shall be excluded:

(a) any asset which is established to have been directly acquired from agricultural income;

(b) any asset acquired during the period from the date of creation or establishment of the trust or institution to the date of registration under Section 12AA, if benefit of Sections 11 and 12 were not

allowed during said period. However, where the trust or institution has been allowed benefit under Section 11 and 12 for any previous year on the basis of registration under Section 12AA, then, asset to be excluded shall be those which trust or institution had at the beginning of the earliest of such previous years;

(c) any assets which have been transferred to another charitable organisation within specified time.

(iii) The taxation of accreted income shall be at the maximum marginal rate.

(iv) This levy shall be in addition to any income chargeable to tax in the hands of the entity.

(v) This tax shall be final tax for which no credit can be taken by the trust or institution or any other person, and like any other additional tax, it shall be leviable even if the trust or institution does not have any other income chargeable to tax in the relevant previous year.

(vi) The tax has to be paid within the specified period. In case of failure of payment of tax within the specified period, a simple interest at the rate of one per cent. per month or part of it shall be applicable for the period of non-payment.

(vii) For the purpose of recovery of tax and interest, the principal officer or the trustee and the trust or the institution shall be deemed to be assessee in default and all provisions related to the recovery of taxes shall apply. Further, the recipient of assets of the trust, which is not a charitable organisation, shall also be liable to be held as assessee in default in case of non-payment of tax and interest. However, the recipient's liability shall be limited to the extent of the assets received.

11.4 **Applicability:** This amendment takes effect from 1st June, 2016.

12. Rationalization of tax deduction at source provisions relating to payments by Category-I and Category-II Alternate Investment Funds to its investors.

12.1 A special taxation regime in respect of Category-I and II Alternative Investment Funds (investment fund) registered with SEBI was inserted by the Finance Act, 2015. The special taxation regime is intended to ensure tax pass through status in respect of these investment funds which are collective investment vehicles. The special regime is contained in Sections 10(23FBA), 10 (23FBB), 115UB and 194LBB of the Income-tax Act. Under this regime, the income of the investment fund (not being in the nature of business income) is exempt in the hands of investment fund but income received by the investor from the investment fund (other than income which is taxed at the level of investment fund) is taxable in the hands of investor. The taxation in the hands of investors is in the same manner and in the same proportion as it would have been, had the investor received such income directly and not through the investment fund.

12.2 Section 194LBB of the Income-tax Act prior to its amendment by the Act provided that in respect of any income credited or paid by the investment fund to its investor, a tax deduction at source (TDS) shall be made by the investment fund at the rate of 10 per cent of the income. Under Section 197 of the Income-tax Act, facility for certificate for deduction of tax at lower rate or no deduction was available in respect of sections enumerated therein, if the Assessing Officer is satisfied that total income of the recipient justifies issue of such certificate, Section 194LBB was not included in this provision.

12.3 The existing TDS regime had created certain difficulties. The non-resident investor is not able to claim benefit of lower or NIL rate of taxation which is available to him under the relevant Double Taxation Avoidance Agreement (DTAA), and deduction of tax at the rate of 10 per cent was to be undertaken mandatorily even if under DTAA or the Income-tax Act, the income is not taxable in India. There was no facility for any investor to approach the Assessing Officer for seeking certificate for TDS at a lower or NIL rate in respect of deductions made under Section 194LBB.

12.4 In order to rationalise the TDS regime in respect of payments made by the investment funds to its investors, Section 194LBB of the Income-tax Act has been amended to provide that the person responsible for making the payment to the investor shall deduct income-tax under Section 194LBB, at the rate of ten per cent where the payee is a resident; and at the rates in force where the payee is a non-resident (not being a company) or a foreign company. However, it has also been provided that where the payee is a non-resident (other than a company) or a foreign company, no deduction shall be made in respect of income not chargeable to tax under the provisions of the Income-tax Act.

12.5 Further, Section 197 of the Income-tax Act has also been amended to include Section 194LBB in the list of sections for which a certificate for deduction of tax at lower rate or no deduction of tax can be obtained. Consequential amendment has also been made to the definition of “rates in force” contained in Section 2(37A) of the Income-tax Act, so as to include Section 194LBB in it.

12.6 **Applicability:** These amendments take effect from 1st June, 2016.

13. BEPS action plan - Country-By-Country Report and Master file.

13.1 Sections 92 to 92F of the Income-tax Act contain provisions relating to transfer pricing regime. Under provision of Section 92D, there is requirement for maintenance of prescribed information and document relating to the international transaction and specified domestic transaction.

13.2 The OECD report on Action 13 of BEPS Action plan provides for revised standards for transfer pricing documentation and a template for country-by-country reporting of income, earnings, taxes paid and certain measure of economic activity. India has been one of the active members of BEPS initiative and part of international consensus. It is recommended in the BEPS report

that the countries should adopt a standardised approach to transfer pricing documentation. A three-tiered structure has been mandated consisting of:

(i) a master file containing standardised information relevant for all multinational enterprises (MNE) group members;

(ii) a local file referring specifically to material transactions of the local taxpayer; and

(iii) a country-by-country (CbC) report containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group.

13.3 The report mentioned that taken together, these three documents (country-by- country report, master file and local file) will require taxpayers to articulate consistent transfer pricing positions and will provide tax administrations with useful information to assess transfer pricing risks. It will facilitate tax administrations to make determinations about where their resources can most effectively be deployed, and, in the event audits are called for, provide information to commence and target audit enquiries.

13.4 The country-by-country report requires MNEs to report annually and for each tax jurisdiction in which they do business; the amount of revenue, profit before income tax and income tax paid and accrued. It also requires MNEs to report their total employment, capital, accumulated earnings and tangible assets in each tax jurisdiction. Finally, it requires MNEs to identify each entity within the group doing business in a particular tax jurisdiction and to provide an indication of the business activities each entity engages in. The CbC report has to be submitted by parent entity of an international group to the prescribed authority in its country of residence. This report is to be based on consolidated financial statement of the group.

13.5 The master file is intended to provide an overview of the MNE group's business, including the nature of its global business operations, its overall transfer pricing policies, and its global allocation of income and economic activity in order to assist tax administrations in evaluating the presence of significant transfer pricing risk. In general, the master file is intended to provide a high-level overview in order to place the MNE group's transfer pricing practices in their global economic, legal, financial and tax context. The master file shall contain information which may not be restricted to transaction undertaken by a particular entity situated in particular country. In that aspect, information in master file would be more comprehensive than the existing regular transfer pricing documentation. The master file shall be furnished by each entity to the tax authority of the country in which it operates.

13.6 In order to implement the international consensus, a specific reporting regime in respect of CbC reporting and also the master file has been provided. The

essential elements of this regime that have been included in the Income-tax Act by amending sections 92D, 271AA and 273B and inserting new sections 271GB and 286. The remaining aspects shall be prescribed through rules. The elements relating to CbC reporting requirement and matters related to it included through amendment of the Income-tax Act are:

(i) the reporting provision shall apply in respect of an international group having consolidated revenue above a threshold to be prescribed.

(ii) the parent entity of an international group, if it is resident in India shall be required to furnish the report in respect of the group to the prescribed authority on or before the due date of furnishing of return of income for the Assessment Year relevant to the Financial Year (previous year) for which the report is being furnished;

(iii) the parent entity shall be an entity which is required to prepare consolidated financial statement under the applicable laws or would have been required to prepare such a statement, had equity share of any entity of the group been listed on a recognized stock exchange in India;

(iv) every constituent entity in India, of an international group having parent entity that is not resident in India, shall provide information regarding the country or territory of residence of the parent of the international group to which it belongs. This information shall be furnished to the prescribed authority on or before the prescribed date;

(v) the report shall be furnished in prescribed manner and in the prescribed form and would contain aggregate information in respect of revenue, profit & loss before Income-tax, amount of Income-tax paid and accrued, details of capital, accumulated earnings, number of employees, tangible assets other than cash or cash equivalent in respect of each country or territory along with details of each constituent's residential status, nature and detail of main business activity and any other information as may be prescribed. This shall be based on the template provided in the OECD BEPS report on Action Plan 13;

(vi) an entity in India belonging to an international group shall be required to furnish CbC report to the prescribed authority if the parent entity of the group is resident:-

  (a) in a country with which India does not have an arrangement for exchange of the CbC report; or

  (b) such country is not exchanging information with India even though there is an agreement; and

  (c) this fact has been intimated to the entity by the prescribed authority;

(vii) If there are more than one entities of the same group in India, then the group can nominate (under intimation in writing to the prescribed authority) the entity that shall furnish the report on behalf of the group. This entity would then furnish the report;

(viii) If an international group, having parent entity which is not resident in India, had designated an alternate entity for filing its report with the tax jurisdiction in which the alternate entity is resident, then the entities of such group operating in India would not be obliged to furnish report if the report can be obtained under the agreement of exchange of such reports by Indian tax authorities;

(ix) The prescribed authority may call for such document and information from the entity furnishing the report for the purpose of verifying the accuracy as it may specify in notice. The entity shall be required to make submission within thirty days of receipt of notice or further period if extended by the prescribed authority, but extension shall not be beyond 30 days;

(x) For non-furnishing of the report by an entity which is obligated to furnish it, the following graded penalty structure shall apply:

(a) if default is not more than a month, penalty of Rs 5,000/- per day;

(b) if default is beyond one month, penalty of Rs 15,000/- per day for the period exceeding one month;

(c) for any default that continues even after service of order levying penalty either under (a) or under (b), then the penalty for any continuing default beyond the date of service of order shall be Rs 50,000/- per day;

(xi) In case of non-submission of information within the time-limits before prescribed authority when called for, a penalty of Rs 5,000/- per day shall apply. Similar to the above, if default continues even after service of penalty order, then penalty of Rs 50,000/- per day shall apply for default beyond date of service of penalty order;

(xii) If the entity has provided any inaccurate information in the report and,-

(a) the entity knows of the inaccuracy at the time of furnishing the report but does not inform the prescribed authority; or

(b) the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within a period of fifteen days of such discovery; or

(c) the entity furnishes inaccurate information or document in response to notice of the prescribed authority, then penalty of Rs 5,00,000/- applies under Section 271GB of the Income-tax Act;

(xiii) The entity can offer reasonable cause defence for non-levy of penalties mentioned above. The remaining aspects shall be prescribed through rules.

13.7 The amendments made in respect of maintenance of master file and furnishing it are:

(a) the entities being constituent of an international group shall, in addition to the information related to the international transactions, also maintain such information and document as is prescribed in the rules;

(b) the information and document shall also be furnished to the prescribed authority within such period as may be prescribed and the manner of furnishing will also be provided for in the rules;

(c) for non-furnishing of the information and document to the prescribed authority, a penalty of Rs 5,00,000/- shall be leviable. However, reasonable cause defence against levy of penalty shall be available to the entity.

13.8 **Applicability:** These amendments take effect from 1st of April, 2017 and will, accordingly apply in relation to assessment year 2017-18 and subsequent assessment years.

14. Rationalisation of taxation of income by way of dividend

14.1 The provisions contained in clause (34) of Section 10 of the Income-tax Act, before its amendment by the Act, provided that dividend which suffers dividend DDT under Section 115-O is exempt in the hands of the shareholder. Section 115-O specifies that dividends are taxed only at the rate of fifteen per cent. at the time of distribution in the hands of company declaring dividends. This created vertical inequity amongst the tax payers as those who have high dividend income are subjected to tax only at the rate of 15% whereas such income in their hands would have been chargeable to tax at the rate of 30%.

14.2 With a view to rationalise the tax treatment provided to income by way of dividend, Section 115BBDA has been inserted in the Income-tax Act to provide that any income by way of dividend in excess of ten lakh rupees shall be chargeable to tax in the case of an individual, HUF or a firm who is resident in India, at the rate of ten per cent The taxation of dividend income shall be on gross basis and no deduction of any expenditure or allowance or set off of loss shall be allowed in computing said income.

14.3 The taxation of dividend income shall be on gross basis and no deduction for any expenditure or allowance or set off of loss shall be allowed in computing the income by way of dividend.

14.4 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply in relation to assessment year 2017-18 and subsequent assessment years.

15. Period of holding of shares of unlisted companies to be treated as long term capital assets

15.1 Clause (29A) of section 2 of the Income-tax Act defines “long-term capital asset” to mean a capital asset which is not a short-term capital asset. Clause (42A) of section 2 defines short-term capital asset to mean a capital asset held by an assessee for not more than thirty-six months immediately preceding the date of its transfer. The first proviso to the clause (42A), inter alia, provides for a reduced period of holding of twelve months for certain securities including listed shares of a company.

15.2 In order to reduce the holding period of unlisted shares of a company, section 2 of the Income-tax Act has been amended to provide that in case of unlisted shares of a company, period of holding shall be twenty-four months instead of thirty-six month for these shares to be treated as long-term capital asset.

15.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent assessment years.

16. Tax incentives for start-ups

16.1 With a view to provide an impetus to start-ups and facilitate their growth in the initial phase of their business, a new section 80-IAC has been inserted in the Income-tax Act to provide a deduction of one hundred per cent of the profits and gains derived by an eligible start-up from a business involving innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property. The benefit of hundred per cent deduction of the profits derived from such business shall be available to an eligible start-up, being a company or Limited Liability Partnership (L.L.P), setup before 01.04.2019, subject of fulfilment of certain condition,.

16.2 In order to promote the start-up ecosystem in the country, it was envisaged in ‘Start-up India Action Plan’ to establish a Fund of Funds. With a view to provide tax incentive for investment in Fund of Funds, section 54EE has been inserted in the Income-tax Act so as to provide exemption from capital gains if the long term capital proceeds are invested by an assessee in units of notified fund subject to condition that the amount remains invested for three years failing which the exemption shall be withdrawn. The investment in the units of the notified funds shall be allowed up to Rs.50 lakh.

16.3 The provisions contained in section 54GB of the Income-tax Act, before its amendment by the Act, inter alia, provided exemption from tax on long term capital gains in respect of the gains arising on account of transfer of a residential property, if such capital gains are invested in subscription of shares of a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006 subject to other conditions specified therein.

16.4 With an objective to provide relief to an individual or HUF willing to setup a start-up company by selling a residential property to invest in the shares of such company, section 54GB of the Income-tax Act has been amended so as to provide that long term capital gains arising on account of transfer of a residential property shall not be charged to tax if such capital gains are invested in subscription of shares of a company which qualifies to be an eligible start-up subject to the condition that the individual or HUF holds more than fifty per cent shares of the company and such company utilises the amount invested in shares to purchase new asset before due date of filing of return by the investor.

16.5 Further, section 54GB before its amendment by the Act required that the company should invest the proceeds in the purchase of new asset being new plant and machinery but does not include, inter alia, computers or computer software.

16.6 With a view to avoid incidence of the aforesaid condition on start-up where computers or computer software form the core asset base owing to nature of business activity, section 54GB of the Income-tax Act has further been amended so as to provide that the expression “new asset” includes computers or computer software in case of technology driven start-ups so certified by the Inter-Ministerial Board of Certification notified by the Central Government in the official Gazette.

16.7 **Applicability:** These amendments take effect from 1st of April, 2017 and will, accordingly apply in relation to assessment year 2017-18 and subsequent assessment years.

17. Incentives for Promoting Housing for All

17.1 With a view to incentivise affordable housing sector as a part of larger objective of ‘Housing for All’, a new section 80-IBA has been introduced to provide for hundred per cent deduction of the profits of an assessee developing and building housing project if the housing project is approved by the competent authority before the 31st March, 2019 subject to certain conditions which inter alia, include:

(i) The project is completed within a period of three years from the date of approval,

(ii) The project is on a plot of land measuring not less than 1000 sq. metres where the project is located within the cities of Delhi, Mumbai, Chennai & Kolkata or within 25 kms measured aerially; from the municipal limits of these four metros and in any other area, it is measuring not less than 2000 sq. metres and where the built-up area of the residential unit in the said areas is not more than thirty sq. metres and sixty sq. metres, respectively and also the project is only housing project on such plot of land,

(iii) Where residential unit is allotted to an individual, no such unit shall be allotted to him or any member of his family, etc.

17.2 The provisions contained in section 80EE of the Income-tax Act, before its substitution by the Act, inter alia, provided a deduction of up to one lakh rupees in respect of interest paid on loan by an individual for acquisition of a residential house property. This benefit was available for the two assessment years beginning on the 1st day of April, 2014 and on the 1st day of April, 2015.

17.3 In furtherance of the goal of the Government of providing 'Housing For All', section 80EE of the Income-tax Act has been substituted to incentivise first-home buyers availing home loans, by providing additional deduction of Rs 50,000 in respect of interest on loan taken for acquisition of a residential house property from any financial institution. This incentive has been extended to a house property of a value less than fifty lakhs rupees in respect of which a loan of an amount not exceeding thirty five lakh rupees has been sanctioned during the period from the 1st day of April, 2016 to the 31st day of March, 2017.Further, this benefit of deduction is extended till the repayment of loan continues. This deduction under section 80EE shall be over and above the deduction of two lakh rupees available under section 24 of the Income tax Act for interest payable on loan taken for self-occupied property.

17.4 **Applicability:** These amendments take effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

18. Tax incentive for employment generation

18.1 The provisions of section 80JJAA of the Income tax Act, before its substitution by the Act provided for a deduction of thirty per cent of additional wages paid to new regular workmen in a factory for three years. The provisions apply to the business of manufacture of goods in a factory where 'workmen' are employed for not less than three hundred days in a previous year. Further, benefits are allowed only if there is an increase of at least ten per cent in total number of workmen employed on the last day of the preceding year.

18.2 With a view to encourage employment generation and provide incentive to all sectors, section 80JJAA has been substituted to provide that the deduction under the said provisions shall be available in respect of cost incurred on any employee whose total emoluments are less than or equal to twenty five thousand rupees per month. No deduction, however, shall be allowed in respect of cost incurred on those employees, for whom the entire contribution under Employees' Pension Scheme notified in accordance with Employees' Provident Fund and Miscellaneous Provisions Act, 1952, is paid by the Government.

18.3 Further, the norms for minimum number of days of employment in a financial year has been relaxed from 300 days to 240 days .In this connection it may be

noted that the norms for minimum number of days of employment has further been relaxed to 150 days for an assessee who is engaged in the business of manufacturing of apparel by The Taxation Laws (Amendment) Act 2016.The existing condition of ten per cent increase in number of employees every year has been done away with so that any increase in the number of employees will be eligible for deduction under the new provisions.

18.4 It is also provided that in the first year of a new business, thirty per cent of all emoluments paid or payable to the employees employed during the previous year shall be allowed as deduction.

18.5 **Applicability:** This amendment takes effect from 1st of April, 2017 and will accordingly apply in relation to assessment year 2017-18 and subsequent assessment years.

19. Provision for Tax benefits to Sovereign Gold Bond Scheme, 2015.

19.1 The Government of India has introduced the Sovereign Gold Bond Scheme with the aim of reducing the demand for physical gold so as to reduce the outflow of foreign exchange on account of import of gold. The Gold Bond is a mode for substitution of physical gold and also provides security to the individual investor who invests in Gold for meeting their social obligation. Accordingly, with a view to provide parity in tax treatment between physical gold and Sovereign Gold Bond, section 47 of the Income-tax Act has been amended so as to provide that any redemption of Sovereign Gold Bond under the Scheme, by an individual shall not be treated as transfer and therefore shall be exempt from tax on capital gains.

19.2 Further, Section 48 of the Income-tax Act has also been amended so as to provide indexation benefits to long term capital gains arising on transfer of Sovereign Gold Bond to all assessees.

19.3 **Applicability:** These amendments take effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

20. Provisions for tax benefits to Rupee Denominated Bond

20.1 The Reserve Bank of India permitted Indian corporates to issue rupee denominated bonds outside India as a measure to enable the Indian corporates to raise funds from outside India. Accordingly, with a view to provide relief to non-resident investor who bears the risk of currency fluctuation, section 48 of the Income-tax Act has been amended to provide that the capital gains, arising in case of appreciation of rupee between the date of issue and the date of redemption against the foreign currency in which the investment is made shall be exempt from tax on capital gains.

20.2 **Applicability:** This amendment takes effect from 1st of April, 2017 and will accordingly apply in relation to assessment year 2017-18 and subsequent assessment years.

21. Consolidation of 'plans' within a 'scheme' of mutual fund

21.1 Under the provisions of clause (xviii) of section 47 of the Income-tax Act, any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund is not chargeable to tax.

21.2 Security Exchange Board of India (SEBI) has issued guidelines for consolidation of mutual fund plans within a scheme. To extend the tax exemption, available on merger or consolidation of mutual fund schemes, to the merger or consolidation of different plans in a mutual fund scheme, section 47 of the Income-tax Act has been amended so as to provide that any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund, shall not be considered transfer for the purposes of tax on capital gains and thereby shall not be chargeable to tax.

21.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years. 22. Rationalization of limit of deduction allowable in respect of rents paid under Section 80GG 22.1 The provision contained in Section 80GG of the Income-tax Act before the amendment by the Act provided for a deduction of any expenditure incurred by an individual in excess of ten per cent of his total income towards payment of rent in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence if he is not granted house rent allowance by his employer, to the extent such excess expenditure does not exceed two thousand rupees per month or twenty-five per cent of his total income for the year, whichever is less, subject to other conditions as specified therein.

22.2 With a view to provide relief to the individual tax payers, section 80GG of the Income-tax Act has been amended to increase the maximum limit of deduction from two thousand rupees per month to five thousand rupees per month.

22.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

23. Tax Treatment of Gold Monetization Scheme, 2015

23.1 Under the existing provisions of section 10, interest on Gold Deposit Bonds issued under Gold Deposit Scheme, 1999 is exempt. Further, these bonds are

excluded from the definition of capital asset and therefore exempt from tax on capital gains on their transfer.

23.2 The Gold Monetization Scheme, 2015 has since been introduced by the Government of India. With a view to extend the same tax benefits to the scheme as were available to the Gold Deposit Scheme, 1999, clause (14) of section 2 of the Income-tax Act has been amended so as to exclude Deposit Certificates issued under Gold Monetisation Scheme, 2015 notified by the Central Government, from the definition of capital asset and thereby to exempt it from tax on capital gains. Further, clause (15) of section 10 of the Income-tax Act has also been amended so as to provide that the interest on Deposit Certificates issued under the Scheme, shall be exempt from tax.

23.3 **Applicability:** These amendments take effect retrospectively from 1st of April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent assessment years.

24. Rationalization of section 56 of the Income-tax Act

24.1 The provision contained in clause (vii) of sub-section (2) of section 56 of the Income-tax Act before amendment by the Act provided for chargeability of income from other sources in case any money, immovable property or other property with or without consideration in excess of Rs 50,000 is received by an assessee being an individual or an HUF. The provisions also apply where shares of a company are received as a consequence of demerger or amalgamation of a company. Such a transaction is not chargeable where the recipient is a firm or a company.

24.2 With a view to bring uniformity in tax treatment between different categories of assessees, clause (vii) of sub-section 2 of section 56 of the Income-tax Act has been amended to provide that any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of clause (vii) of sub-section (2) of section 56.

24.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

25. Rationalization of limit of rebate in income-tax allowable under Section 87A

25.1 The provisions contained in section 87A of the Income-tax Act before amendment by the Act provided for a rebate of an amount equal to hundred per cent of income- tax or an amount of two thousand rupees, whichever is less, from the amount of income-tax to an individual resident in India whose total income does not exceed five hundred thousand rupees.

25.2 With a view to provide relief to resident individuals in the lower income slab, section 87A of the Income-tax Act has been amended so as to increase the maximum amount of rebate available under this provision from existing two thousand rupees to five thousand rupees.

25.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

26. Applicability of Minimum Alternate Tax (MAT) on foreign companies for the period prior to 01.04.2015.

26.1 The existing provision of sub-section (1) of section 115JB of the Income-tax Act provide that in case of a company, if the tax payable on the total income as computed under the Income-tax Act, is less than eighteen and one-half per cent of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee for the relevant previous year shall be eighteen and one-half per cent of its book profit.

26.2 Issues were raised in the past regarding applicability of this provision to Foreign Institutional Investors (FIIs) who do not have a permanent establishment (PE) in India. With a view to address this issue, vide Finance Act, 2015, the provisions of section 115JB were amended to provide that in case of a foreign company any income chargeable at a rate lower than the rate specified in section 115JB of the Income-tax Act shall be reduced from the book profits and the corresponding expenditure will be added back. However, since this amendment was prospective w.e.f assessment year 2016-17, the issue for assessment year prior to 2016-17 remained to be addressed.

26.3 A Committee on Direct Tax matters headed by Justice A.P. Shah, set up by the Government to look into the matter, recommended for an amendment of section 115JB to clarify the applicability of Minimum Alternate Tax (MAT) provisions to Foreign Institutional Investors/Foreign Portfolio Investors (FIIs/FPIs) in view of the fact that FIIs and FPIs normally do not have a place of business in India.

26.4 In view of the recommendations of the committee and with a view to provide certainty in taxation of foreign companies, section 115JB of the Income-tax Act has been amended to provide that with effect from 01.04.2001, the provisions of section 115JB shall not be applicable to a foreign company if –

(i) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (1) of section 90 or the Central Government has adopted any agreement under sub-section (1) of section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such Agreement; or

(ii) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (i) above and the assessee

is not required to seek registration under any law for the time being in force relating to companies.

26.5 Applicability: This amendment takes effect retrospectively from the 1st of April, 2001 and will, accordingly, apply in relation to assessment year 2001-02 and subsequent years.

27. Tax Incentives to International Financial Services Centre

27.1 Under the existing provisions of clause (38) of section 10 of the Income-tax Act, income by way of long term capital gains arising from equity shares or units of an equity oriented fund or business trust is exempt where securities transaction tax is paid.

27.2 With a view to incentivise the growth of International Financial Services Centre into a world class financial services hub, section 10 of the Income-tax Act has been amended so as to provide for exemption from tax on capital gains to the income arising from transaction undertaken in foreign currency on a recognised stock exchange located in an International Financial Services Centre even when securities transaction tax is not paid in respect of such transactions. Similar amendment has been made to section 111A of the Income-tax Act to provide for the reduced rate of tax on short-term capital gain.

27.3 Under the existing provisions of section 115JB of the Income-tax Act, in case of a company, if the tax payable on the total income as computed under the Income-tax Act, is less than eighteen and one-half per cent of its book profit, such book profit shall be deemed to be the total income of the assessee and the MAT payable by the assessee for the relevant previous year shall be eighteen and one-half per cent of such book profit.

27.4 With a view to provide a competitive tax regime to International Financial Services Centre, section 115JB of the Income-tax Act has been amended so as to provide that in case of a company, being a unit located in International Financial Services Centre and deriving its income solely in convertible foreign exchange, MAT shall be chargeable at the rate of nine per cent.

27.5 Section 115-O of the Income-tax Act has also been amended so as to provide that no tax on distributed profits shall be chargeable in respect of the total income of a company being a unit located in International Financial Services Centre, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2017 out of its current income, either in the hands of the company or the person receiving such dividend.

27.6 The existing provisions relating to securities transaction tax and commodities transaction tax provide for levy of tax on transactions in taxable securities and commodities respectively. Section 113A of the Finance (No.2) Act, 2004

has been substituted so as to provide that the provisions of Chapter VII shall not apply to taxable securities transactions entered into by any person on a recognized stock exchange located in International Financial Services Centre where the consideration for such transaction is paid or payable in foreign currency, thereby exempting such transaction from securities transaction tax.

27.7 Further, section 132A in Chapter VII of the Finance Act, 2013 has been inserted so as to provide that the provisions of Chapter VII shall also not apply to taxable commodities transactions entered into by any person on a recognized association located in unit of International Financial Services Centre where the consideration for such transaction is paid or payable in foreign currency, thereby exempting such transaction from commodities transaction tax.

27.8 **Applicability:** The insertion of Section 113A to Finance (No.2) Act, 2004 and section 132A to the Finance Act, 2013 take effect from 1st June, 2016. The amendments to Sections 10, 111A, 115JB and 115-O take effect from 1st of April, 2017 and will, accordingly apply in relation to assessment year 2017-18 and subsequent assessment years.

28. Clarification regarding the definition of the term 'unlisted securities' for the purpose of Section 112(1)(c)

28.1 The existing provision of clause (c) of sub-section (1) of section 112 of the Income-tax Act provides for tax rate of ten per cent for long-term capital gain arising from transfer of securities, whether listed or unlisted. The expression "securities" for the purpose of the said provision has the same meaning as in clause (h) of section 2 of the Securities Contracts (Regulations) Act, 1956 (32 of 1956)('SCRA'). A view has been taken by the courts that shares of a private company are not "securities".

28.2 With a view to clarify the position in so far as taxability is concerned, the provisions of clause (c) of sub-section (1) of section 112 of the Income-tax Act have been amended so as to provide that long-term capital gains arising from the transfer of a capital asset being shares of a company not being a company in which the public are substantially interested, shall be chargeable to tax at the rate of 10 per cent.

28.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

29. Rationalization of Section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property

29.1 Section 50C of the Income-tax Act provides that in case of transfer of a capital asset being land or building or both, the value adopted or assessed by the stamp valuation authority for the purpose of payment of stamp duty shall be taken as the full value of consideration for the purposes of computation of

capital gains. This provision does not provide any relief where the seller has entered into an agreement to sell the property much before the actual date of transfer of the immovable property and the sale consideration is fixed in such agreement, whereas similar provision exists in section 43CA of the Income-tax Act i.e. when an immovable property is sold as stock-in-trade.

29.2 Section 50C of the Income-tax Act has been amended so as to provide that where the date of the 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 the agreement may be taken for the purposes of computing the full value of consideration. It has been further provided that this provision 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 account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property.

29.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

30. Rationalization of conversion of a company into Limited Liability Partnership (LLP)

30.1 Clause (xiiib) of Section 47 of the Income-tax Act before amendment by the Act provided that conversion of a private limited or unlisted public company into Limited Liability Partnership (LLP) shall not be regarded as transfer, if certain conditions are fulfilled, which, inter alia, included a condition that the company's gross receipts, turnover or total sales in any of the preceding three years did not exceed sixty lakh rupees.

30.2 Clause (xiiib) of Section 47 of the Income-tax Act has been amended so as to provide that, for availing tax-neutral conversion, in addition to the existing conditions, the value of the total assets in the books of accounts of the company in any of the three previous years preceding the previous year in which the conversion takes place, should not exceed five crore rupees.

30.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

31. Rationalisation of tax treatment of National Pension Scheme, Recognised Provident Funds and Superannuation Funds

31.1 The provisions of 80CCD of the Income-tax Act before its amendment by the Act provided that any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme shall be chargeable to tax.

31.2 A new clause (12A) has been inserted in section 10 of the Income-tax Act and section 80CCD of the Income-tax Act has also been amended so as to provide that any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme referred to in Section 80CCD, to the extent it does not exceed forty per cent of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax. However, the whole amount received by the nominee, on death of the assessee shall be exempt from tax.

31.3 Recognised provident funds and Superannuation funds are alternate options for social security provided by employer. Under the Part A of Fourth Schedule to the Act contributions made by employer to the credit of an employee participating in a recognised provident fund, which are in excess of twelve per cent of the salary of the employee, are liable to tax in the hands of the employee. However, there is no monetary limit for the contribution made by the employer. Part A of Fourth schedule was amended to provide a monetary cap of rupees one lakh and fifty thousand on tax-free contribution by an employer in employee's account in a recognised provident fund. Further, under section 17, perquisite in the hands of the assessee includes the amount of any contribution exceeding one lakh rupees to an approved superannuation fund by the employer. In order to bring parity between the tax-free employer's contribution to both approved superannuation fund and recognised provident fund, section 17 has been amended to increase the limit of employer contribution to one lakh and fifty thousand rupees without attracting tax.

31.4 Applicability: These amendments take effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

32. Equalisation Levy

32.1 If permanent establishment (PE) principles are to remain effective in the new economy operating in the digital domain, the fundamental PE rules developed for the old economy i.e. place of business, location, and permanency must be reconciled with the new digital reality.

32.2 In this regard, the Organization for Economic Cooperation and Development (OECD) under Action plan 1 of Base Erosion and Profit Shifting (BEPS) project has suggested several options to tackle the direct tax challenges. The options inter-alia include option to impose a final withholding tax on certain payments for digital goods or services provided by a foreign e-commerce provider. The committee on taxation of e-commerce formed by the CBDT, after deliberating on all the options provided by OECD recommended equalisation levy in the form of final withholding tax option for taxation of digital transactions in India.

32.3 In view of the above, a Chapter titled "Equalisation Levy" was inserted through the Act, so as to provide that an equalisation levy of 6% of the amount of

consideration for specified services received or receivable by a non-resident not having permanent establishment ('PE') in India, from a resident in India who carries out business or profession, or from a non- resident having permanent establishment in India.

32.4 Further, in order to reduce burden of small players in the digital domain, it is also provided that no such levy shall be made if the aggregate amount of consideration for specified services received or receivable by a non-resident from a person resident in India or from a non-resident having a permanent establishment in India does not exceed one lakh rupees in any previous year.

32.5 In order to avoid double taxation, it is also further provided that exemption under section 10 of the Income-tax Act for any income arising from providing specified services on which equalisation levy is chargeable.

32.6 In order to ensure compliance with the provisions of this Chapter, it is further provided that the expenses incurred by the assessee towards specified services chargeable under this Chapter shall not be allowed as deduction in case of failure of the assessee to deduct and deposit the equalisation levy to the credit of Central government.

32.7 **Applicability:** It was provided that this chapter shall come in to force from a date to be appointed by the Central Government through notification in Official Gazette. Subsequently, the Central Government vide Notification. No 37(SO 1904E), dated 27th May 2016 appointed 1st of June, 2016 as the date from which the provisions of this Chapter will come into force.

33. Tax Collection at Source (TCS) on sale of vehicles; goods or services

33.1 The existing provision of section 206C of the Income-tax Act, inter alia, provides that the seller shall collect tax at source at specified rate from the buyer at the time of sale of specified items such as alcoholic liquor for human consumption, tendu leaves, scrap, mineral being coal or lignite or iron ore, bullion etc. in cash exceeding two lakh rupees.

33.2 In order to reduce the cash transactions in sale of goods and services, and for curbing the flow of unaccounted money in to the trading system and to bring high value transactions into tax net, sub-section (1D) of section 206C of the Income-tax Act has been amended by the Act to provide that the seller shall collect tax at the rate of one per cent from the purchaser on sale in cash of any goods (other than bullion and jewellery) or providing of any services (other than payment on which tax is deducted at source under chapter XVII-B) exceeding two lakh rupees and new sub-section (1F) was inserted in section 206C of the Income-tax Act to provide that the seller who receives consideration for sale of a motor vehicle exceeding ten lakh rupees, shall collect one per cent of the sale consideration as tax from the buyer.

33.3 Further new sub-section (1E) was inserted in section 206C of the Income-tax Act to provide that the provisions of sub-section (1D) of section 206C relating to TCS in relation to sale of any goods (other than bullion and jewellery) or services shall not apply to certain class of buyers who fulfil such conditions as may be prescribed.

33.4 Moreover, the Board has issued Circular No 22/2016 dated 8th June, 2016 and Circular No. 24/2016 dated 24th June, 2016 to clarify the scope, applicability and the procedure to be followed in case of the amended provisions of section 206C. 33.5 Applicability: This amendment takes effect from 1st of June, 2016.

34. Phasing out of deductions and exemptions

34.1 The Finance Minister in his Budget Speech, 2015 has indicated that the rate of corporate tax will be reduced from 30% to 25% over the next four years along with corresponding phasing out of exemptions and deductions. Accordingly, the Government implemented this decision in a phased manner based on certain guiding principles and proposed phasing out plan. Subsequently, taking into account the response of the stakeholders on the proposed phasing out plan, the following incentives under the Income-tax Act are phased out in the manner as tabulated below in Table 1 and Table 2 by amending the relevant provisions of the Income tax Act: Table-1

Sl. No	Section	Incentive available in the Income-tax Act before amendment	Phase out of incentive vide Amendment of Income-tax Act by Act 2016
1	10AA- Special provision in respect of newly established units in Special economic zones (SEZ).	Profit linked deductions for units in SEZ for profit derived from export of articles or things or services.	No deduction shall be available to units commencing manufacture or production of article or thing or start providing services on or after 1st day April, 2020. (from previous year 2020-21 onwards).
2	35AC-Expenditure on eligible projects or schemes	Deduction for expenditure incurred by way of payment of any sum to a public sector company or a local authority or to an approved association or institution, etc. on certain eligible social development project or a scheme.	No deduction shall be available with effect from 1.4.2017 (i.e from previous year 2017-18 and subsequent years).

3	35CCD-Expenditure project on skill development	Weighted deduction of 150 per cent on any expenditure incurred (not being expenditure in the nature of cost of any land or building) on any notified skill development project by a company.	Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
4	35CCC- Expenditure on notified agricultural extension project.	Weighted deduction of 150 per cent of expenditure incurred on notified agricultural extension project.	Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
5	Section 80IA; 80IAB, and 80IB - Deduction in respect of profits derive from a) development, operation and maintenance of an infrastructure b) facility (80-IA) development of special economic zone (80- IAB) c) production of mineral oil and natural gas [80-IB(9)]	100 per cent profit linked deductions for specified period on eligible business carried on by industrial undertakings or enterprises referred in section 80IA; 80IAB, and 80IB.	No deduction shall be available if the specified activity commences on or after 1st day April, 2017. (i.e from previous year 2017-18 and subsequent years).

34.2 **Applicability:** These amendments mentioned in Table 1 take effect from 1st of April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

Table-2

S l . No	Section	Incentive available in the Income-tax Act before amendment by Act,2016	Phase out of incentive vide Amendment of Income-tax Act by Act 2016
1	32 read with rule 5 of Income-tax Rules, 1962 – Accelerated Depreciation.	Accelerated depreciation is provided to certain Industrial sectors in order to give impetus for investment. The depreciation under the Income-tax Act is available up to 100% in respect of certain block of assets.	The New Appendix I read with rule 5 of Income-tax Rules, 1962 is amended to provide that highest rate of depreciation under the Income-tax Act shall be restricted to 40% w.e.f 01.4.2017. (i.e from previous year 2017-18 and subsequent years). The new rate shall be made Pa1g3e4 46 of 79 applicable to all the assets (whether old or new) falling in the relevant block of assets.
2	35(1)(ii) – Expenditure on scientific research.	Weighted deduction from the business income to the extent of 175 per cent of any sum paid to an approved scientific research association which has the object of undertaking scientific research. Similar deduction is also available if a sum is paid to an approved university, college or other institution and if such sum is used for scientific research.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20) and deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
3	35(1)(iia) – Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of any sum paid as contribution to an approved scientific research company.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).

4	35(1)(iii) – Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of contribution to an approved research association or university or college or other institution to be used for research in social science or statistical research.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
5	35(2AA) – Expenditure on scientific research.	Weighted deduction from the business income to the extent of 200 per cent of any sum paid to a National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of approved scientific research programme.	Weighted deduction shall be restricted to 150 per cent with effect from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
6	35(2AB) – Expenditure on scientific research.	Weighted deduction of 200 per cent of the expenditure (not being expenditure in the nature of cost of any land or building) incurred by a company, engaged in the business of bio-technology or in the business of manufacture or production of any article or thing except some items appearing in the negative list specified in Schedule-XI, on scientific research on approved in-house research and development facility.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).

7	35AD – Deduction in respect of specified business.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, an affordable housing project, production of fertiliser and hospital weighted deduction of 150 per cent of capital expenditure (other than expenditure on land, goodwill and financial assets) is allowed.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, hospital, an affordable housing project, production of fertilizer, deduction shall be restricted to 100 per cent of capital expenditure w.e.f. 01.4.2017 (i.e. from previous year 2017-18 onwards).

34.3 **Applicability:** These amendments mentioned in Table 2 take effect from 1st of April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

35. Extending the benefit of initial additional depreciation under section 32(1)(iia) for power sector

35.1 Under the existing provisions of section 32(1)(iia) of the Income-tax Act, 1961, additional depreciation of 20% is allowed in respect of the cost of new plant or machinery acquired and installed by certain assessees engaged in the business of generation and distribution of power. This depreciation allowance is over and above the deduction allowed for general depreciation under section 32(1)(ii) of the Act. This benefit of additional depreciation is not available on the new machinery or plant installed by an assessee engaged in the business of transmission of power. In case of a cold chain facility, warehousing facility for storage of agricultural produce, an affordable housing project, production of fertiliser and hospital weighted deduction of 150 per cent of capital expenditure (other than expenditure on land, goodwill and financial assets) is allowed.

35.2 In order to rationalise the incentive of power sector, section 32(1)(iia) of the Act has been amended so as to provide that an assessee engaged in the business of transmission of power shall also be allowed additional depreciation at the rate of 20% of actual cost of new machinery or plant acquired and installed in a previous year.

35.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

36. Amortisation of spectrum fee for purchase of spectrum

36.1 Government has newly introduced spectrum fee for auction of airwaves and has allowed the payment for acquiring right to spectrum to be paid either lump sum

or over instalments along with interest. There is uncertainty in tax treatment of above mentioned payments (lump sum or instalments) in respect of Spectrum i.e. whether spectrum is an intangible asset and the spectrum fees paid is eligible for depreciation under section 32 of the Income-tax Act or whether it is in the nature of a 'license to operate telecommunication business' and eligible for deduction under section 35ABB of the Income-tax Act.

36.2 In order to provide clarity and avoid any future litigation and controversy, the Act, inserted a new section 35ABA in the Income-tax Act to provide that the fees paid for obtaining right to use the spectrum is to be amortized over the period for which the right to use the spectrum has been granted. The following detailed tax treatment of spectrum fee is provided,-

(i) any capital expenditure incurred and actually paid by an assessee or payable by an assessee in such manner as may be prescribed for the acquisition of any right to use spectrum for telecommunication services by paying spectrum fee will be allowed as a deduction in equal instalments over the period for which the right to use spectrum remains in force.

(ii) where the spectrum is transferred and proceeds of the transfer are less than the expenditure remaining unallowed, a deduction equal to the expenditure remaining unallowed as reduced by the proceeds of transfer, shall be allowed in the previous year in which the spectrum has been transferred.

(iii) if the spectrum is transferred and proceeds of the transfer exceed the amount of expenditure remaining unallowed, the excess amount shall be chargeable to tax as profits and gains of business in the previous year in which the spectrum has been transferred.

(iv) unallowed expenses in a case where a part of the spectrum is transferred would be amortised.

(v) under the scheme of amalgamation, if the amalgamating company sells or transfer the spectrum to an amalgamated company, being an Indian company, then the provisions of this section will apply to amalgamated company as they would have applied to amalgamating company if later has not transferred the spectrum.

36.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

37. Taxation of Income from 'Patents'

37.1 In order to encourage indigenous research & development activities and to make India a global R & D hub, the Government has decided to put in place a concessional taxation regime for income from patents. The aim of the

concessional taxation regime is to provide an additional incentive for companies to retain and commercialise existing patents and to develop new innovative patented products. This will encourage companies to locate the high-value jobs associated with the development, manufacture and exploitation of patents in India. The Organization for Economic Cooperation and Development (OECD) has recommended, in Base Erosion and Profit Shifting (BEPS) project under Action Plan 5, the nexus approach which prescribes that income arising from exploitation of Intellectual property (IP) should be attributed and taxed in the jurisdiction where substantial research & development (R&D) activities are undertaken rather than the jurisdiction of legal ownership only.

37.2 Accordingly, a new section 115BBF has been inserted in the Income-tax Act to provide for concessional tax regime. It has been provided that where the total income of the eligible assessee income includes any income by way of royalty in respect of a patent developed and registered in India, such royalty shall be taxable at the rate of ten per cent (plus applicable surcharge and cess) on the gross amount of royalty. No expenditure or allowance in respect of such royalty income shall be allowed under the Income-tax Act. It is further provided that this concessional tax regime is optional and the eligible assesse may exercise the option for taxation under this section in prescribed manner on or before the due date of furnishing the return of income under section 139(1) of the Income-tax Act. It has been also provided that where an eligible assessee declares income by way of royalty for any previous year in accordance with the provisions of this section but he does not declares such income for any of the five consecutive assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of this section, he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of this section.

37.3 For the purpose of this concessional tax regime an eligible assessee means a person resident in India, who is the true and first inventor of the invention and whose name is entered on the patent register as the patentee in accordance with Patents Act, 1970 and includes every such person, being the true and the first inventor of the invention, where more than one person is registered as patentee under Patents Act, 1970 in respect of that patent. Further amendments has also been made to section 115JB of the Income-tax act to provide that the amount of income by way of royalty chargeable to tax under section 115BBF and related expenditure shall not be taken in to account for computation of book profit under section 115JB of the Income-tax Act.

37.4 **Applicability:** These amendments take effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

38. Introduction of Presumptive taxation scheme for persons having income from profession

38.1 The existing scheme of taxation provides for a simplified presumptive taxation scheme for certain eligible persons engaged in certain eligible business only and not for persons earning professional income. In order to rationalize the presumptive taxation scheme and to reduce the compliance burden of the small tax payers having income from profession and to facilitate the ease of doing business, the Income-tax Act has been amended to provide for presumptive taxation regime for professionals.

38.2 Accordingly, a new section 44ADA has been inserted in the Income-tax Act to provide for estimating the income of an assessee who is engaged in any profession referred to in sub-section (1) of section 44AA such as legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette and whose total gross receipts does not exceed fifty lakh rupees in a previous year, at a sum equal to fifty per cent. of the total gross receipts, or, as the case may be , a sum higher than the aforesaid sum earned by the assessee. The scheme will apply to such resident assessee who is an individual, Hindu undivided family or partnership firm but not Limited Liability partnership firm.

38.3 Under the scheme, the assessee will be deemed to have been allowed the deductions under section 30 to 38 of the Income-tax Act. Accordingly, the written down value of any asset used for the purpose of the profession of the assessee will be deemed to have been calculated as if the assessee had claimed and had actually been allowed the deduction in respect of depreciation for the relevant assessment years.

38.4 It has also been provided that the assessee will not be required to maintain books of account under sub-section (1) of section 44AA and get the accounts audited under section 44AB in respect of such income unless the assessee claims that the profits and gains from the aforesaid profession are lower than the profits and gains deemed to be his income under sub-section (1) of section 44ADA and his income exceeds the maximum amount which is not chargeable to income-tax.

38.5 **Applicability:** These amendments take effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

39. Increase in threshold limit for audit for persons having income from profession

39.1 The existing provisions of section 44AB of the Income-tax Act provides that every person carrying on a profession is required to get his accounts audited if the total gross receipts in a previous year exceed twenty five lakh rupees.

39.2 In order to reduce the compliance burden section 44AB has been amended to increase the threshold limit of gross receipts for getting the accounts audited from twenty five lakh rupees to fifty lakh rupees for persons carrying on profession.

39.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

40. Increase in threshold limit for presumptive taxation scheme for persons having income from business.

40.1 The existing provisions of section 44AD of the Income-tax Act provide for a presumptive taxation scheme for an eligible business. Where in case of an eligible assessee engaged in eligible business having total turnover or gross receipts not exceeding rupees one crore, a sum equal to eight per cent of the total turnover or gross receipts, or as the case may be, a sum higher than the aforesaid sum shall be deemed to be profits and gains of such business chargeable to tax under the head “Profits and gains of business or profession”. Under the scheme, the assessee will be deemed to have been allowed the deduction under sections 30 to 38 of the Income-tax Act. Further, the eligible assessee can report income less than the deemed income of eight per cent of the total turnover or gross receipts not exceeding rupees one crore provided he maintains books of accounts as per section 44AA of the Income-tax Act.

40.2 In order to reduce the compliance burden of the small tax payers and facilitate the ease of doing business, section 44AD of the Income-tax Act has been amended to increase the threshold limit of one crore rupees specified in the definition of “eligible business” to two crore rupees.

40.3 It has also been provided that the expenditure in the nature of salary, remuneration, interest etc. paid to the partner as per clause (b) of section 40 shall not be deductible while computing the income under section 44AD as the said section 40 does not mandate for allowance of any expenditure but puts restriction on deduction of amounts, otherwise allowable under section 30 to 38.

40.4 It has been further provided that where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and he declares profit for any of the five consecutive assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of this section, he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of this section. For example, an eligible assessee claims to be taxed on presumptive basis under section 44AD for Assessment Year 2017-18 and offers income of Rs. 8 lakh on the turnover of Rs. 1 crore. For Assessment Year 2018-19 and Assessment Year 2019-20 also he offers income in accordance with the provisions of section 44AD.

However, for Assessment Year 2020-21, he offers income of Rs.4 lakh on turnover of Rs. 1 crore. In this case since he has not offered income in accordance with the provisions of section 44AD for five consecutive assessment years, after Assessment Year 2017-18, he will not be eligible to claim the benefit of section 44AD for next five assessment years i.e. from Assessment Year 2021-22 to 2025-26.

40.5 Further as the turnover limit of presumptive taxation scheme has been enhanced to rupees two crore, It has been further provided eligible assessee shall be require to pay advance tax. However, in order to keep the compliance minimum in his case, it is proposed that he may pay advance tax by 15th March of the financial year. The applicability of section 44AB has also been clarified vide Press release dated 20th June, 2016.

40.6 **Applicability:** These amendments take effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

41. Deduction in respect of provision for bad and doubtful debt in the case of Non- Banking Financial companies.

41.1 Under the existing provisions of sub-clause (c) of clause (viia) of sub-section (1) of section 36 of the Income-tax Act, in computing the profits of a public financial institutions, State financial corporations and State industrial investment corporations a deduction, limited to an amount not exceeding five per cent of the gross total income, computed, before making any deduction under the aforesaid clause and Chapter VI-A, is allowed in respect of any provision for bad and doubtful debt.

41.2 Considering the fact that Non-Banking Financial companies (NBFCs) are also engaged in financial lending to different sectors of society, the provision of clause (viia) of sub-section (1) of section 36 has been amended so as to provide that deduction from total income (computed before making any deduction under this clause and Chapter-VIA) on account of provision for bad and doubtful debts to the extent of five per cent of the total income shall be available to NBFCs.

41.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

42. Rationalisation of scope of tax incentive under section 32AC

42.1 The existing provision of sub-section (1A) in section 32AC of the Income-tax Act provides for investment allowance at the rate of 15% on investment made in new assets (plant and machinery) exceeding Rs.25 crore in a previous year by a company engaged in manufacturing or production of any article or thing subject to the condition that the acquisition and installation has to be done in the same previous year. This tax incentive is available up to 31.03.2017.

42.2 The dual condition of acquisition and installation causes genuine hardship in cases in which assets having been acquired could not be installed in same previous year.

42.3 The provision of sub-section (1A) of section 32AC of the Income-tax Act has been amended so as to provide that the acquisition of the plant & machinery of the specified value has to be made in the previous year. However, installation may be made by 31.03.2017 in order to avail the benefit of investment allowance of 15%. It has been further provided that where the installation of the new asset is in a year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new asset is installed.

42.4 **Applicability:** This amendment takes effect retrospectively from 1st of April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent assessment years.

43. Exemption from requirement of furnishing PAN under section 206AA to certain non-resident.

43.1 The existing provision of section 206AA of the Income-tax Act, inter alia, provides that any person who is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVIIB of the Income-tax Act shall furnish his Permanent Account Number to the person responsible for deducting such tax, failing which tax shall be deducted at the rate mentioned in the relevant provisions of the Income-tax Act or at the rate in force or at the rate of twenty per cent., whichever is higher. The provisions of section 206AA also apply to non-residents with an exception in respect of payment of interest on long-term bonds as referred to in section 194LC.

43.2 In order to reduce compliance burden, the said section 206AA of the Income-tax Act has been amended to provide that the provisions of this section shall also not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed.

43.3 **Applicability:** This amendment takes effect from 1st of June, 2016.

44. Exemption of Central Government subsidy or grant or cash assistance, etc. towards corpus of fund established for specific purposes from the definition of Income

44.1 The Finance Act, 2015 had amended the definition of income under clause (24) of section 2 of the Income-tax Act so as to provide that the income shall include assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in

accordance with the provisions of Explanation 10 to clause (1) of section 43 of the Income-tax Act.

44.2 As a result grant or cash assistance or subsidy etc. provided by the Central Government for budgetary support of a trust or any other entity formed specifically for operationalizing certain government schemes will be taxed in the hands of trust or any other entity. Therefore, the provision of clause (xviii) of sub-section (2) of section 24 of the Income- tax Act has been amended so as to provide that subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or State government shall not form part of income.

44.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

45. Extension of scope of section 43B to include certain payments made to Railways

45.1 The existing provisions of section 43B of the Income-tax Act, inter alia, provide that any sum payable by the assessee by way of tax, cess, duty or fee, employer contribution to Provident Fund, etc., is allowable as deduction of the previous year in which the liability to pay such sum was incurred (relevant previous year) if the same is actually paid on or before the due date of furnishing of the return of income irrespective of method of accounting followed by a person.

45.2 With a view to ensure the prompt payment of dues to Railways for use of the Railway assets, the provision of section 43B of the Income-tax Act has been amended so as to expand its scope to include payments made to Indian Railways for use of Railway assets within its ambit.

45.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and would accordingly apply to assessment year 2017-18 and subsequent assessment years.

46. Clarification regarding set off of losses against deemed undisclosed income

46.1 Section 115BBE of the Income-tax Act inter alia provides that the income relating to section 68 or section 69 or section 69A or section 69B or section 69C or section 69D is taxable at the rate of thirty per cent and further provides that no deduction in respect of any expenditure or allowances in relation to income referred to in the said sections shall be allowable

46.2 Currently, there is uncertainty on the issue of set-off of losses against income referred to in section 115BBE of the Income-tax Act. The matter has been carried to judicial forums and courts in some cases has taken a view that losses shall not be allowed to be set-off against income referred to in section 115BBE.

However, the current language of section 115BBE of the Income-tax Act does not convey the desired intention and as a result the matter is litigated. In order to avoid unnecessary litigation, the provision of the sub-section (2) of section 115BBE of the Income-tax Act has been amended as to expressly provide that no set off of any loss shall be allowable in respect of income under the sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.

46.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

47. Taxation of Non-compete fees and exclusivity rights in case of Profession

47.1 The existing provision of clause (va) of section 28 of the Income-tax Act includes within the scope of "Profit and gains of business or profession" any sum received or receivable in cash or in kind under an agreement for not carrying out activity in relation to any business; or not to share any know how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services and is chargeable to tax as business income. Further, the provisions clarify that receipts for transfer of right to manufacture, produce or process any article or thing or right to carry on any business, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession. Under section 45 of the Income-tax Act, any capital receipt arising out of transfer of any business or commercial rights is taxable under the head "Capital gains". The amount of "Capital gains" is computed according to section 48 of the Income-tax Act. For this purpose, 'cost of acquisition' and 'cost of improvement' are defined under section 55. However, non-compete fee received/receivable in relation to carrying out of profession are not covered under these provisions. Clause (va) of section 28 of the Income-tax Act has been amended so as to bring the non-compete fee received/receivable(which are recurring in nature) in relation to not carrying out any profession, within the scope of section 28 of the Income-tax Act i.e. the charging section of profits and gains of business or profession. Further, the proviso to clause (va) of section 28 of the Income-tax Act has also been amended to clarify that receipts for transfer of right to carry on any profession, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession. Consequentially, the provision of section 55 has been amended so as to provide that the 'cost of acquisition' and 'cost of improvement' for working out "Capital gains" on capital receipts arising out of transfer of right to carry on any profession shall also be taken as 'nil'.

47.2 **Applicability:** These amendments take effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

48. Time limit for carry forward and set off of such loss under section 73A of the Income-tax Act

48.1 The existing provisions of section 73A of the Income-tax Act provide that any loss, computed in respect of any specified business referred to in section 35AD shall not be set off except against profits and gains, if any, of any other specified business. Further, section 80 of the Income-tax Act inter-alia provides that a loss which has not been determined in pursuance of return filed in accordance with the provisions of sub-section (3) of section 130, shall not be carried forward and set-off under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) or sub-section (3) or section 74 or sub-section 74A.

48.2 In accordance with the scheme of the Income-tax Act, this loss is to be allowed if the return is filed within the specified time i.e. by the due date of filing of the return of the income as provided in section 80 for other losses determined under the Income-tax Act.

48.3 Accordingly, section 80 of the Income-tax Act has been amended so as to provide that the loss determined as per section 73A of the income-tax Act shall not be allowed to be carried forward and set off if such loss has not been determined in pursuance of a return filed in accordance with the provisions of sub-section (3) of section 139. Consequential amendment has also been made in section 139 so as to give reference of sub-section (2) of section 73A in that sub-section.

48.4 **Applicability:** These amendments take effect retrospectively from 1st of April, 2016 and will, accordingly, apply from assessment year 2016-17 and subsequent assessment years.

49. Rationalization of Tax Deduction at Source (TDS) provisions

49.1 Under the scheme of deduction of tax at source as provided in the Income-tax Act every person responsible for payment of any specified sum to any person is required to deduct tax at source at the prescribed rate and deposit it with the Central Government within specified time. However, no deduction is required to be made if the payments do not exceed prescribed threshold limit. In order to rationalise the rates and base for TDS provisions, the existing threshold limit for deduction of tax at source and the rates of deduction of tax at source are rationalised by amending the respective sections of the Income-tax Act through the Act as mentioned in Table 3 and Table 4 respectively.

Table – 3

Present Section	Heads	Threshold Limit prior to Amendment by Finance Act, 2016 (in Rs.)	Revised Threshold Limit as per amendments made in the Finance Act, 2016 (in Rs.)
192A	Payment of accumulated balance due to an employee	30,000	50,000
194BB	Winnings from Horse Race	5,000	10,000
194C	Payments to Contractors	Aggregate annual limit of75,000	Aggregate annual limit of1,00,000
194LA	Payment of Compensation on acquisition of certain Immovable Property	2,00,000	2,50,000
194D	Insurance commission	20,000	15,000
194G	Commission on sale of lottery tickets	1,000	15,000
194H	Commission or brokerage	5,000	15,000

Table – 4

Present Section	Heads	Rateof TDS (%) prior to amendment by Finance Act, 2016	Revised Rate ofTDS (%) as per amendments made vide Finance Act, 2016
194DA	Payment in respect of Life Insurance Policy	2%	1%
194EE	Payments in respect of NSS Deposits	20%	10%
194D	Insurance commission in case of persons other than a company	Rate in force (10%)	5%*
194G	Commission on sale of lottery tickets	10%	5%
194H	Commission or brokerage	10%	5%

49.2 The Following provisions of the Income-tax act which are not in operation are omitted in the Income-tax Act as detailed in Table 5.

Table – 5

Present Section	Heads	Amendment made vide Finance Act, 2016
194K	Income in respect of Units	Omitted w.e.f 01.06.2016
194L	Payment of Compensation on acquisition of Capital Asset	Omitted w.e.f 01.06.2016

49.3 **Applicability**: These amendments take effect from 1st of June, 2016.

50. Enabling of Filing of Form 15G/15H for rental payments

50.1 The provisions of section 194-I of the Income-tax Act provide inter alia for tax deduction at source (TDS) for payments in the nature of rent beyond a threshold limit. The existing provisions provide threshold of Rs. 1,80,000/- per financial year for deduction of tax under this section. In spite of providing higher threshold for deduction of tax under this section, there may be cases where the tax payable on recipient's total income, including rental payments, will be nil.

50.2 The existing provisions of section 197A of the Income-tax Act inter alia provide that tax shall not be deducted, if the recipient of certain payments on which tax is deductible furnishes to the payer a self- declaration in prescribed Form No. 15G/15H declaring that the tax on his estimated total income of the relevant previous year would be nil.

50.3 In order to reduce compliance burden in such cases, the provisions of section 197A of the Income-tax Act have been amended so as to provide that the recipients of payments referred to in section 194-I of the Income-tax Act shall also be eligible for filing self- declaration in Form no. 15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A of the Income-tax Act.

50.4 **Applicability:** This amendment takes effect from 1st of June, 2016.

51. Increase in time period for acquisition or construction of self-occupied house property for claiming deduction of interest

51.1 The existing provision of clause (b) of section 24 of the Income-tax Act provides that interest payable on capital borrowed for acquisition or construction of a house property shall be deducted while computing income from house property. The second proviso to the said clause provides that a deduction of an amount of two lakh rupees shall be allowed where a house property referred to in sub-section (2) of section 23 of the Income-tax Act (self- occupied house property) has been acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed within three years from the end of the financial year in which capital was borrowed.

51.2 In view of the fact that housing projects often take longer time for completion, the second proviso to clause (b) of section 24 of the Income-tax Act has been amended to provide that the deduction under the said proviso on account of interest paid on capital borrowed for acquisition or construction of a self-occupied house property shall be available if the acquisition or construction is completed within five years from the end of the financial year in which capital was borrowed.

51.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

52. Simplification and rationalisation of provisions relating to taxation of unrealised rent and arrears of rent

52.1 Existing provisions of sections 25A, 25AA and 25B of the Income-tax Act relate to special provisions on taxation of unrealised rent allowed as deduction when realised subsequently, unrealised rent received subsequently and arrears of rent received respectively. Certain deductions are available thereon.

52.2 In order to rationalise the above provisions and bring uniformity in tax treatment of arrears of rent and unrealised rent, these provisions have been merged under a single new section 25A of the Income-tax Act and it has been provided that the amount of rent received in arrears or the amount of unrealised rent realised subsequently by an assessee shall be charged to income-tax in the financial year in which such rent is received or realised, whether the assessee is the owner of the property or not in that financial year. It is also provided that thirty per cent of the arrears of rent or the unrealised rent realised subsequently by the assessee shall be allowed as deduction.

52.3 **Applicability:** This amendment takes effect from 1st of April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

53. Providing Time limit for disposing applications made by assessee under section 273A, 273AA or 220(2A) of the Income-tax Act

53.1 Sub-section (2) of section 220 of the Income-tax Act provides for levy of interest at the rate of 1 per cent for every month or part of month for the period during which the default continues. Sub-section (2A) of said section inter alia empowers the Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner to reduce or waive the amount of interest paid or payable under sub-section (2) of the said section.

53.2 Sub-section (4) of section 273A of the Income-tax Act inter alia provides that the Principal Commissioner or the Commissioner may, on an application made by an assessee, reduce or waive the amount of any penalty payable by the assessee or stay or compound any proceeding for recovery of the penalty amount in certain circumstances.

53.3 Section 273AA of the Income-tax Act provides inter alia that the Principal Commissioner or the Commissioner may grant immunity from penalty, if penalty proceedings have been initiated in case of a person who has made application for settlement before the Settlement Commission and the proceedings for settlement had abated under the circumstances contained in section 245HA of the Income-tax Act.

53.4 Under the existing provisions no time limit has been provided regarding the passing of orders either under section 220 or sections 273A or 273AA of the Income-tax Act. Further, these provisions do not specifically mandate that assessee be given an opportunity of being heard in case such application is rejected by an authority. Therefore, in order to rationalise the provisions and provide for specific time-line, amendment to the existing provisions have been made.

53.5 In view of the above, section 220 of the Income-tax Act has been amended to provide that an order accepting or rejecting application of an assessee shall be passed by the concerned Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner within a period of twelve months from the end of the month in which such application is received.

53.6 On the same line, section 273A and section 273AA of the Income-tax Act have been amended to provide that an order accepting or rejecting the application of an assessee shall be passed by the Principal Commissioner or Commissioner within a period of twelve months from the end of the month in which such application is received.

53.7 Further, it is also provided that no order rejecting the application of the assessee under section 220 or 273A, 273AA of the Income-tax Act shall be passed without giving the assessee an opportunity of being heard. However, in respect of applications pending as on 1st day of June, 2016, the order under said sections shall be passed on or before 31st May, 2017.

53.8 **Applicability:** These amendments take effect from 1st June, 2016.

54. Providing legal framework for automation of various processes and paperless assessment

54.1 In order to enhance efficiency and reduce the burden of compliance, a series of legislative measures have been taken to provide adequate legal framework for paperless assessment.

54.2 Existing sub-section (1) of section 282A of the Income-tax Act provides that where a notice or other document is required to be issued by any income-tax authority under the Act, such notice or document should be signed by that authority in manuscript.

54.3 Sub-section (1) of section 282A of the Income-tax Act has been amended to provide that notices and documents required to be issued by income-tax authority under the Income-tax Act shall be issued by such authority either in paper form or in electronic form in accordance with such procedure as may be prescribed.

54.4 Existing sub-section (2) of section 143 of the Income-tax Act provides that if the Assessing Officer considers it necessary and expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, he shall serve on the assessee a notice requiring him to produce, or cause to be produced on a specified date, any evidence on which the assessee may rely in support of the return.

54.5 In order to ensure timely service of notice issued under sub-section (2) of section 143 of the Income-tax Act, the said sub-section has been substituted to provide that notice under the said sub-section may be served on the assessee by the Assessing Officer or the prescribed income-tax authority, either to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return.

54.6 The existing provision of section 2 of the Income-tax Act has also been amended by inserting new clause (23C) to define the term “hearing” to include communication of data and documents through electronic mode.

54.7 **Applicability:** These amendments effect from 1st June, 2016.

55. Filing of return of Income

55.1 Existing provisions of sub – section (1) of section 139 of the Income-tax Act provide that every person referred to therein shall file a return of income on or before the due date. The sixth proviso to the said section provides that every person, being an individual or Hindu undivided family or an association of person or a body of individual, whether incorporated or not or any artificial juridical person, if his total income or of any other person in respect of which he is assessable under this Act during the previous year, without giving effect to provisions of section 10A or section 10B or section 10BA or Chapter VI-A of the Income-tax Act, exceeds the maximum amount which is not chargeable to income tax shall be liable to furnish return on or before the due date.

55.2 Existing provision of sub-section (4) of section 139 of the Income-tax Act provides that a person who has not furnished a return within the time allowed to him under sub- section (1), or within the time allowed under a notice issued under sub -section (1) of section 142 of the Income-tax Act, may furnish the return for any previous year at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

55.3 Sub-section (5) of the section 139 of the Income-tax Act provides that if any person, having furnished the return under sub-section (1), or in pursuance of a notice issued under sub-section (1) of section 142 of the Income-tax Act discovers any omission or any wrong statement therein, he may furnish a revised return at any time before one year from the end of the relevant assessment year or completion of assessment, whichever is earlier. 55.4 Clause (aa) of Explanation to sub-section (9) of the section 139 of the Income-tax Act provides that a return of income shall be regarded as defective unless the self- assessment tax together with interest, if any, payable in accordance with the provisions of section 140A of the Income-tax Act, has been paid on or before the date of furnishing of return.

55.5 In order to rationalise the time allowed for filing of returns, completion of proceedings, and realization of revenue without undue compliance burden on the taxpayer, and to promote the culture of compliance, the above provisions of the Income-tax Act have been amended.

55.6 The sixth proviso to sub-section (1) of the section 139 of the Income-tax Act has been amended to include that if a person during the previous year earns income which is exempt under clause (38) of section 10 of the Income-tax Act and income of such person without giving effect to the said clause of section 10 of the Income-tax Act exceeds the maximum amount which is not chargeable to tax, shall also be liable to file return of income for the previous year within the due date.

55.7 Sub-section (4) of the aforesaid section has been substituted to provide that any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

55.8 Sub-section (5) of the aforesaid section has been substituted so as to provide that if any person, having furnished a return under sub-section (1) or under sub-section (4), or in a return furnished in response to notice issued under sub-section (1) of section 142, discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

55.9 Clause (aa) of the Explanation to sub-section (9) of aforesaid section has been omitted to provide that a return which is otherwise valid would not be treated defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A of the Income-tax Act has not been paid on or before the date of furnishing of the return.

55.10 **Applicability:** The amendment to sub-section (3) of section 139 takes effect retrospectively from 1st of April, 2016 and will, accordingly, apply in relation to

assessment year 2016-17 and subsequent assessment years. The amendments to sub-sections (1), (4), (5) and (9) of section 139 will take effect from 1st of April, 2017 and will, accordingly apply in relation to assessment year 2017-18 and subsequent years.

56. Processing under section 143(1) of the Income-tax Act be mandated before assessment

56.1 Under the existing provision of sub-section (1D) of section 143 of the Income-tax Act, processing of a return is not necessary where a notice has been issued to the assessee under sub-section (2) of the said section.

56.2 The said sub-section (1D) of the aforesaid section has been amended to provide that in cases where a notice has been issued under sub-section (2) of section 143 of the Income- tax Act the processing of return shall not be necessary before the expiry of one year from the end of the financial year in which the return is furnished. However, it is mandated to process the return before the issuance of order under sub-section (3) of section 143 of the Income-tax Act.

56.3 **Applicability:** This amendment takes effect from the 1st of April, 2017 and will, accordingly apply in relation to assessment year 2017-18 and subsequent years.

57. Rationalisation of time limit for assessment, reassessment and recomputation

57.1 The existing statutory time limit for completion of assessment proceedings is two years from the end of the assessment year in which the income was first assessable. It is desirable that proceedings under the Act are finalised more expeditiously as digitisation of processes within the Department has enhanced its efficiency in handling workload. In order to simplify the provisions of existing section 153 of the Income-tax Act by retaining only those provisions that are relevant to the current provisions of the Income-tax Act, section 153 of the Income-tax Act has been amended by substituting the existing section with the following changes in time limit from the existing time limits:

(i) the period, for completion of assessment under section 143 or section 144 has been changed from existing two years to twenty-one months from the end of the assessment year in which the income was first assessable;

(ii) the period for completion of assessment under section 147 has been changed from existing one year to nine months from the end of the financial year in which the notice under section 148 was served;

(iii) the period for completion of fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment has been changed from existing one year to nine months from the end of the financial year in which the order under section 254 is received

by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, or the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner

57.2 It is further provided that the period for giving effect to an order, under sections 250 or 254 or 260 or 262 or 263 or 264 of the Income-tax Act or an order of the Settlement Commission under sub-section (4) of section 245D of the Income-tax Act, where effect can be given wholly or partly otherwise than by making a fresh assessment or reassessment shall be three months from the end of the month in which order is received or passed, as the case may be, by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. It is also provided that in a case where it is not possible for the Assessing Officer to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or Commissioner on receipt of such reasons in writing from the Assessing Officer, if satisfied, may allow additional time of six months to give effect to the said order. However, in respect of cases pending as on 1st June 2016, the time limit for passing such order has been extended to 31.3.2017.

57.3 It is also provided that where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, 254, 260, 262, 263, or section 264 of the Income-tax Act or in an order of any court in a proceeding otherwise than by way of appeal or reference under the Income-tax Act, then such assessment, reassessment or recomputation shall be made on or before the expiry of twelve months from the end of the month in which such order is received by the Principal Commissioner or Commissioner. However, for cases pending as on 1.6.2016, the time limit for taking requisite action is 31.3.2017 or twelve months from the end of the month in which such order is received, whichever is later.

57.4 Where an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147 of the Income-tax Act, such assessment shall be made on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed. However, for cases pending as on 1.6.2016, the time limit for taking requisite action shall be 31.3.2017 or twelve months from the end of the month in which order in case of firm is passed, whichever is later.

57.5 Similarly, consequential changes in time limit for completion of assessment or reassessment by the Assessing Officer have been made in accordance with the extension of time limit provided to the Transfer Pricing Officer in certain cases by amendment in sub- section (3A) to section 92CA of the Income-tax Act.

57.6 The provisions of section 153 of the Income-tax Act as they stood immediately before their amendment by the Act shall apply to and in relation to any order of assessment, reassessment or recomputation made before the 1st of June, 2016.

57.7 **Applicability:** These amendments take effect retrospectively from 1st of June, 2016.

58. Rationalisation of time limit for assessment in search cases

58.1 The time limit for completion of assessments made under section 153A or section 153C of the Income-tax Act has been amended to bring it in sync with the new time limits provided for other cases. In order to simplify the provisions of existing section 153B of the Income-tax Act by retaining only those provisions that are relevant to the current provisions of the Act, section 153B of the Income-tax Act has been substituted with the following changes in time limit from the existing time limits as under:

(i) The limitation for completion of assessment under section 153A of the Income-tax Act, in respect of each assessment year falling within six assessment years referred to in clause (b) of sub-section (1) of section 153A of the Income-tax Act and in respect of the assessment year relevant to the previous year in which search is conducted under section 132 of the Income-tax Act or requisition is made under section 132A of the Income-tax Act has been changed from existing two years to twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 of the Income-tax Act or for requisition under section 132A of the Income-tax Act was executed.

(ii) The limitation for completion of assessment in case of other person referred to in section 153C of the Income-tax Act has been changed from existing two years to twenty-one months from the end of the financial year in which the last of the authorisation for search under Section 132 of the Income-tax Act or requisition under section 132A of the Income-tax Act was executed or nine months (changed from the existing one year) from the end of the financial year in which the books of account or documents or assets seized or requisition are handed over under section 153C of the Income-tax Act to the Assessing Officer having jurisdiction over such other person, whichever is later.

58.2 The provisions of section 153B of the Income-tax Act as they stood immediately before their amendment by the Act shall apply to and in relation to any order of assessment, reassessment or recomputation made before the 1st of June, 2016.

58.3 **Applicability:** This amendment takes effect retrospectively from 1st of June, 2016.

59. Rationalisation of advance tax payment schedule under section 211 and charging of interest under section 234C of the Income-tax Act

59.1 As per the existing provisions of sub-section (1) of section 211 of the Income-tax Act, the advance tax payment schedule for a company is fifteen per cent,

forty-five per cent, seventy-five per cent and hundred per cent of tax payable on the current income to be paid by 15th June, 15th September, 15th December and 15th March respectively. For other assessees, the advance tax payment schedule is thirty per cent, sixty per cent and hundred per cent of tax payable on current income to be paid by 15th September, 15th December and 15th March respectively.

59.2 Based on the recommendations of Expenditure Management Commission clubbed with the fact that most of the advance tax is now paid electronically the schedule for advance tax payment has been rationalised by amending the provisions of section 211 of the Income-tax Act and same advance tax schedule has been prescribed for all assessees other than an eligible assessee in respect of eligible business as referred to in section 44AD of the Income-tax Act. The modification in payment schedule will facilitate forecasting of revenue collections during a financial year with greater accuracy.

59.3 It is further provided that an eligible assessee in respect of eligible business referred to in section 44AD of the Income-tax Act opting for computation of profits or gains of business on presumptive basis shall be required to pay advance tax of the whole amount in one instalment on or before the 15th March of the financial year.

59.4 Consequential amendments have also been made to section 234C of the Income- tax Act which provides for chargeability of interest for deferment of advance tax to bring it in sync with the amendments made in section 211 of the Income-tax Act.

59.5 It is also provided that interest under section 234C of the Income-tax Act shall not be chargeable in case of an assessee having income under the head “Profits and gains of business or profession” for the first time, subject to fulfilment of conditions specified therein.

59.6 **Applicability:** These amendments take effect from 1st of June, 2016.

60. Payment of interest on refund

60.1 Section 244A of the Income-tax Act inter alia provides that an assessee is entitled to interest on refund arising out of excess payment of advance tax, tax deducted or collected at source. It also provides that the period for which the interest is paid on such excess payment of tax begins from the 1st of April of the assessment year and ends on the date on which refund is granted.

60.2 In order to ensure filing of return within the due date section 244A of the Income-tax Act has been amended to provide that in cases where the return is filed after the due date, the period for grant of interest on refund may begin from the date of filing of return.

60.3 In the interest of fairness and equity, it is further provided that an assessee shall

be eligible to interest on refund of self-assessment tax for the period beginning from the date of payment of tax or filing of return, whichever is later, to the date on which the refund is granted. For the purpose of determining the order of adjustment of payments received against the taxes due, the prepaid taxes i.e. the TDS, TCS and advance tax shall be adjusted first.

60.4 It is also provided that where a refund arises out of appeal effect being delayed beyond the time prescribed under sub-section (5) of section 153 of the Income-tax Act, the assessee shall be entitled to receive, in addition to the interest payable under sub-section (1) of section 244A of the Income-tax Act, an additional interest on such refund amount calculated at the rate of three per cent per annum, for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of section 153 of the Income-tax Act to the date on which the refund is granted. It is clarified that in cases where extension is granted by the Principal Commissioner or Commissioner by invoking proviso to sub-section (5) of section 153 of the Income-tax Act, the period of additional interest, if any, shall begin from the expiry of such extended period.

60.5 **Applicability:** This amendment takes effect from 1st of June, 2016.

61. Rationalisation of the provisions relating to Appellate Tribunal

61.1 Existing clause (b) of sub-section (3), sub-section (4A) and sub-section (5) of section 252 of the Income-tax Act provide for the appointment and powers of Senior Vice- President of the Appellate Tribunal.

61.2 In view of the fact that there are no extra-judicial or administrative duties or difference in the pay scale attached with the post of Senior Vice-president in the Tribunal, the reference of “Senior Vice-President” has been omitted from the above provisions of section 252 of the Income-tax Act.

61.3 Sub-section (2A) of section 253 of the Income-tax Act provides that the Principal Commissioner or Commissioner may, if he objects to any direction issued by the Dispute Resolution Panel (DRP) under sub-section (5) of section 144C of the Income-tax Act in pursuance of which the Assessing Officer has passed an order completing the assessment or reassessment, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

61.4 Further, sub-section (3A) of section 253 of the Income-tax Act provides that every appeal under sub-section (2A) shall be filed within sixty days of the date on which the order sought to be appealed against is passed by the Assessing Officer in pursuance of the directions of the DRP under sub-section (5) of section 144C of the Income-tax Act.

61.5 In line with the decision of the Government to minimise litigation, sub-sections (2A) and (3A) of section 253 of the Income-tax Act have been omitted in order to do away with the filing of appeal by the Assessing Officer against the order

of the DRP. Consequent amendments have been made in sub-section (3A) and (4) of the said provision.

61.6 **Applicability:** This amendment takes effect from 1st of June, 2016.

61.7 It is also provided that in cases where Department is already in appeal against the directions of DRP under sub-section (2A) of the section 253 of the Income-tax Act (as it stood before the amendment brought by the Act), no fee shall be payable.

61.8 Applicability: This amendment takes effect from 1st July, 2016.

61.9 The existing provisions of sub-section (2) of section 254 of the Income-tax Act provide that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within four years from the date of the order.

61.10 In order to bring certainty to the order of ITAT, the provisions of sub-section (2) of section 254 of the Income-tax Act have been amended to provide that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within six months from the end of the month in which the order was passed.

61.11 The existing provision of sub-section (3) of section 255 of the Income-tax Act inter alia provides that a single member bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed fifteen lakh rupees.

61.12 In view of the recent increase in monetary limit for filing appeal before ITAT and to expedite the process of dispute resolution at the level of ITAT, the provision of sub- section (3) of section 255 of the Income-tax Act has been amended so as to provide that a single member bench may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifty lakh rupees.

61.13 Applicability: These amendments to sections 254 and 255 take effect from 1st June, 2016.

62. Rationalisation of penalty provisions

62.1 Under the existing provisions, penalty on account of concealment of particulars of income or furnishing inaccurate particulars of income is leviable under section 271(1)(c) of the Income-tax Act. In order to rationalize and bring objectivity, certainty and clarity in the penalty provisions, section 271 of the Income-tax Act has been made non- applicable in relation to any assessment for the assessment year commencing on or after the 1st of April, 2017 and subsequent assessment years and penalty shall be levied under the newly inserted section 270A of the Income-tax Act with effect from 1st of April, 2017. The new section 270A of the Income-tax Act provides for levy of penalty in cases of under reporting and misreporting of income.

62.2 Sub-section (1) of section 270A of the Income-tax Act provides that the Assessing Officer, Commissioner (Appeals) or the Principal Commissioner or Commissioner during the course of any proceedings under the Act may levy penalty if a person has under reported his income.

62.3 It provides that a person shall be considered to have under reported his income if,–

(a) the income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143 of the Income-tax Act;

(b) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished;

(c) the income reassessed is greater than the income assessed or reassessed immediately before such re-assessment;

(d) the amount of deemed total income assessed or reassessed as per the provisions of section 115JB or 115JC of the Income-tax Act, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub- section (1) of section 143 of the Income-tax Act;

(e) the amount of deemed total income assessed as per the provisions of section 115JB or 115JC of the Income-tax Act is greater than the maximum amount not chargeable to tax, where no return of income has been filed;

(f) the amount of deemed total income reassessed as per the provisions of section 115JB or 115JC of the Income-tax Act is greater than the deemed total income assessed or reassessed immediately before such reassessment;

(g) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

62.4 The amount of under-reported income shall be calculated in different scenarios as discussed herein. In a case where return is furnished and assessment is made for the first time the amount of under reported income in case of all persons shall be the difference between the assessed income and the income determined under section 143(1)(a) of the Income-tax Act. In a case where no return has been furnished and the return is furnished for the first time, the amount of under-reported income shall be:

(i) for a company, firm or local authority, the assessed income;

(ii) for a person other than company, firm or local authority, the difference between the assessed income and the maximum amount not chargeable to tax.

62.5 In case of any person, where income is not assessed for the first time, the amount of under reported income shall be the difference between the income assessed or determined in such order and the income assessed or determined in the order immediately preceding such order.

62.6 It is further provided that in a case where under reported income arises out of determination of deemed total income in accordance with the provisions of section 115JB or section 115JC of the Income-tax Act, the amount of total under reported income shall be determined in accordance with the following formula-

(A - B) + (C - D)

where,

A = the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC of the Income-tax Act (herein called general provisions);

B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under reported income;

C = the total income assessed as per the provisions contained in section 115JB or section 115JC of the Income-tax Act;

D = the total income that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC of the Income-tax Act been reduced by the amount of under reported income.

However, where the amount of under reported income on any issue is considered both under the provisions contained in section 115JB of the Income-tax Act or and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D.

62.7 It is clarified that in a case where an assessment or reassessment has the effect of reducing the loss declared in the return or converting that loss into income, the amount of under reported income shall be the difference between the loss claimed and the income or loss, as the case may be, assessed or reassessed.

62.8 Calculation of under-reported income in a case where the source of any receipt, deposit or investment is linked to earlier year shall be provided based on the existing Explanation 2 to sub-section (1) of section 271 of the Income-tax Act.

62.9 It is also provided that the under-reported income under this section shall not include the following cases:

(i) where the assessee offers an explanation and the income-tax authority is satisfied that the explanation is bona fide and all the material facts have been disclosed;

(ii) where such under-reported income is determined on the basis of an estimate, if the accounts are correct and complete but the method employed is such that the income cannot properly be deduced therefrom;

(iii) where the assessee has, on his own, estimated a lower amount of addition or disallowance on the issue and has included such amount in the computation of his income and disclosed all the facts material to the addition or disallowance;

(iv) where the assessee had maintained information and documents as prescribed under section 92D of the Income-tax Act, declared the international transaction under Chapter X of the Income-tax Act and disclosed all the material facts relating to the transaction;

(v) where the undisclosed income is on account of a search operation and penalty is leviable under section 271AAB of the Income-tax Act.

62.10 The rate of penalty shall be fifty per cent of the tax payable on under-reported income. However in a case where under reporting of income results from misreporting of income by the assessee, the person shall be liable for penalty at the rate of two hundred per cent of the tax payable on such misreported income. The cases of misreporting of income have been specified as under:

(i) misrepresentation or suppression of facts;

(ii) non-recording of investments in books of account;

(iii) claiming of expenditure not substantiated by evidence;

(iv) recording of false entry in books of account;

(v) failure to record any receipt in books of account having a bearing on total income;

(vi) failure to report any international transaction or deemed international transaction under Chapter X of the Income-tax Act.

62.11 The tax payable on under reported income in different circumstances has been provided as under:

(a) Where no return has been furnished and income is assessed for first time, the amount of tax calculated on under reported income as increased by maximum amount not chargeable to tax as if it was the total income.

(b) In case of loss determined in processing or in an immediately preceding order, as the case may be, the amount of tax calculated on under reported income as if it was the total income.

(c) In any other case, difference between the tax calculated on the under reported income as increased by the total income determined under section 143(1)(a) of the Income-tax Act or total income assessed/reassessed/recomputed in the immediately preceding order as if it was the total income and the tax calculated under section 143(1)(a) of the Income-tax Act or total income assessed/ reassessed/recomputed in the immediately preceding order as if it was the total income.

62.12 It is also provided that no addition or disallowance of an amount shall form the basis for imposition of penalty, if such addition or disallowance has formed the basis of imposition of penalty in the case of the person for the same or any other assessment year.

62.13 Consequential amendments have been made in sections 119, 253, 271A, 271AA, 271AAB, 273A, 276C and 279 of the Income-tax Act to provide reference to newly inserted section 270A of the Income-tax Act.

62.14 Applicability: These amendments take effect from 1st of April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years.

62.15 The provisions of section 270A of the Income-tax Act are illustrated through examples as below:

Example 1. Case is of a firm liable to tax at the rate of 30 per cent.

	(Figures in Rs. lakh)
Returned total Income	100
Total Income determined under section 143(1)(a) of the Income-tax Act	110
Total Income assessed under section 143(3) of the Income-tax Act	150
Total Income reassessed under section 147 of the Income-tax Act	180

Considering that none of the additions or disallowances made in assessment or reassessment as above qualifies under sub-section (6) of section 270A of the Income-tax Act, the penalty would be calculated as under:

	Assessment under section 143 (3) of the Income-tax Act	Re-assessment under section 147 of the Income-tax Act
Under-reported Income	(150-110) = 40	(180-150) = 30
Tax Payable on underreported Income	30 % of 40 = 12	30 % of 30 = 9
Penalty Leviable*	50 % of 12 = 6	50 % of 9 = 4.5

* Considering under-reported income is not on account of misreporting

Example 2. Case is of an individual below 60 years of age and no return of income has been furnished liable to tax at slab rates as: *income up to 2,50,000- Nil; 2,50,000-5,00,000-10%; 5,00,000-10,00,000-20%; income > 10,00,000- 30%:*

	(Figures in Rs)
Total Income assessed under section 143(3) of the Income-tax Act	10,00,000
Under-reported Income	10,00,000-2,50,000* =7,50,000
Under-reported Income as increased by maximum amount not chargeable to tax	7,50,000+2,50,000=10,00,000
Tax payable	10% of 2,50,000 + 20% of 5,00,000 = 1,25,000
Penalty Leviable**	50 % of 1,25,000 = 62,500

* Being maximum amount not chargeable to tax

** Considering under-reported income is not on account of misreporting

Example 3. Case is of a company liable to tax at the rate of 30 per cent.:

	(Figures in Rs lakh)
Returned total Income (loss)	(-)100
Total Income (loss) determined under section 143(1)(a) of the Income-tax Act	(-)90
Total Income (loss) assessed under section 143(3) of the Income-tax Act	(-)40
Total Income reassessed under section 147 of the Income-tax Act	20

Considering that none of the additions or disallowances made in assessment or reassessment as above qualifies under sub-section (6) of section 270A of the Income-tax Act, the penalty would be calculated as under:

	Assessment under section 143 (3) of the Income-tax Act	Re-assessment under section 147 of the Income-tax Act
Under-reported Income	(-)40 minus (-)90 = 50	20 minus (-)40 = 60
Tax Payable on under-reported Income	30 % of 50 = 15	30 % of 60 = 18
Penalty Leviable*	50 % of 15 = 7.5	50 % of 18 = 9

* Considering under-reported income is not on account of misreporting

62.16 Amendment of section 271AAB of the Income-tax Act

62.16.1 Existing provision of clause (c) of sub-section (1) of section 271AAB of the Income-tax Act provides that in a case not covered under the provisions of clauses (a) and (b) of the said sub-section of section 271AAB of the Income-tax Act, a penalty of a sum which shall not be less than thirty per cent but which shall not exceed ninety per cent of the undisclosed income of the specified previous year shall be levied in case where search has been initiated under section 132 of the Income-tax Act on or after the 1st of July, 2012.

62.16.2 In order to rationalise the rate of penalty and to reduce discretion, clause (c) of sub-section (1) of section 271AAB of the Income-tax Act has been amended to provide for levy of penalty on such undisclosed income at a flat rate of sixty per cent of such income.

62.16.3 **Applicability:** This amendment will take effect from the 1st of April, 2017 and will accordingly apply in relation to assessment year 2017-18 and subsequent years.

62.17 Amendment of Section 272A of the Income-tax Act

62.17.1 The existing provision of sub-section (1) of section 272A of the Income-tax Act provides for levy of penalty of ten thousand rupees for each failure or default to answer the questions raised by an income-tax authority under the Income-tax Act, refusal to sign any statement legally required during the proceedings under the Income-tax Act or failure to attend to give evidence or produce books or documents as required under sub-section (1) of section 131 of the Income-tax Act.

62.17.2 The said provisions of sub-section (1) of section 272A of the Income-tax Act have been amended to further include levy of penalty of ten thousand rupees for each default or failure to comply with a notice issued under sub-section (1) of section 142 of the Income-tax Act or sub-section (2) of section 143 of the Income-tax Act or failure to comply with a direction issued under sub-section (2A) of section 142 of the Income-tax Act.

62.17.3 Further, sub-section (3) of section 272A of the Income-tax Act has been amended to provide that penalty in case of failure referred above shall be levied by the income tax authority issuing such notice or direction.

62.17.4 Consequential amendments to section 288 of the Income-tax Act have been made by making reference of newly inserted clause (d) in sub- section (1) of section 272A of the Income-tax Act to clause (b) of sub-section (4) of section 288.

62.17.5 **Applicability:** These amendments will take effect from the 1st of April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

63. Provision for bank guarantee under section 281B of the Income-tax Act

63.1 Under the existing provisions of section 281B of the Income-tax Act the Assessing Officer may provisionally attach any property of the assessee during the pendency of assessment or reassessment proceedings, for a period of six months with the prior approval of the income- tax authorities specified therein, if he is of the opinion that it is necessary to do so for the purpose of protecting the interests of the revenue. Such attachment of property is extendable to a maximum period of two years or sixty days after the date of assessment order, whichever is later.

63.2 The Income Tax Simplification Committee (Easwar Committee) had recommended that provisional attachment of property could be substituted by a bank guarantee subject to fulfilment of certain conditions. Having considered this recommendation, section 281B of the Income-tax Act has been amended provided that the Assessing Officer shall revoke provisional attachment of property made under sub – section (1) of the aforesaid section in a case where the assessee furnishes a bank guarantee from a scheduled bank, for an amount not less than the fair market value of such provisionally attached property or for an amount which is sufficient to protect the interests of the revenue.

63.3 It is also provided that to determine the fair market value of the property, the Assessing Officer may, make a reference to the Valuation Officer, who shall be required to submit the report of the estimate of the property to the Assessing Officer within a period of thirty days from the date of receipt of such reference.

63.4 In order to ensure the revocation of attachment of property in lieu of bank guarantee in a time bound manner, it has been provided that an order revoking the attachment shall be made by the Assessing Officer within fifteen days of receipt of such guarantee, and in a case where a reference is made to the Valuation Officer, within forty-five days from the date of receipt of such guarantee.

63.5 It is further provided that where a notice of demand specifying a sum payable is served upon the assessee and the assessee fails to pay such sum within the time specified in the notice; the Assessing Officer may invoke the bank guarantee, wholly or partly, to recover the said amount.

63.6 In a case where the assessee fails to renew the bank guarantee or fails to furnish a new guarantee from a scheduled bank for an equal amount fifteen days before the expiry of such guarantee, the Assessing Officer may in the interest of the revenue, invoke the bank guarantee. The amount realised by invoking the bank guarantee shall be adjusted against the existing demand which is payable and the balance amount, if any, shall be deposited in the Personal Deposit Account of the Principal Commissioner or Commissioner in the branch of Reserve Bank of India or the State Bank of India or of its subsidiaries or any bank as may be appointed by the Reserve Bank of India as its agent under the provisions of sub

– section (1) of section 45 of the Reserve Bank of India Act, 1934 at the place where the office of the Principal Commissioner or Commissioner is situated.

63.7 In a case where the Assessing Officer is satisfied that the bank guarantee is not required anymore to protect the interests of the revenue, he shall release that guarantee forthwith.

63.8 **Applicability**: This amendment takes effect from 1st June, 2016.

64. Extension of time limit to Transfer Pricing Officer in certain cases

64.1 As per the existing provisions of sub-section (3A) of section 92CA of the Income-tax Act, the Transfer Pricing Officer (TPO) has to pass his order sixty days prior to the date on which the limitation for making assessment expires. It is noted that at times seeking information from foreign jurisdictions becomes necessary for determination of arm's length price by the TPO and at times proceedings before the TPO may also be stayed by a court order.

64.2 Therefore, provisions of sub-section (3A) of section 92CA of the Income-tax Act have been amended to provide that where assessment proceedings are stayed by any court or where a reference for exchange of information has been made by the competent authority, the time available to the Transfer Pricing Officer for making an order after excluding the time for which assessment proceedings were stayed or the time taken for receipt of information, as the case may be, is less than sixty days, then such remaining period shall be extended to sixty days.

64.3 **Applicability:** This amendment takes effect from 1st June, 2016.

65. Assumption of jurisdiction of Assessing Officer

65.1 The existing sub-section (3) of the section 124 of the Income-tax Act provides inter alia that no person shall be entitled to call in question the jurisdiction of an Assessing Officer in a case where return is filed under section 139 of the Income-tax Act, after the expiry of one month from the date on which he was served with a notice issued under sub-section (1) of section 142 of the Income-tax Act or sub-section (2) of section 143 of the Income-tax Act or after the completion of the assessment, whichever is earlier. Currently, this provision does not specifically refer to notices issued under section 153A of the Income-tax Act or section 153C of the Income-tax Act which relate to assessment in cases where a search and seizure action has been taken or cases connected to such cases.

65.2 Instances have come to notice wherein the jurisdiction of an Assessing Officer in such cases have been called into question at the appellate stages, despite the fact that order passed under section 153A or 153C of the Income-tax Act is read with section 143(3) of the Income-tax Act. In order to remove any ambiguity in such cases, the provisions of sub-section (3) of section 124 of the Income-

tax Act have been amended to specifically provide that cases where search is initiated under section 132 of the Income-tax Act or books of accounts, other documents or any assets are requisitioned under section 132A of the Income-tax Act, no person shall be entitled to call into question the jurisdiction of an Assessing Officer after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 153A of the Income-tax Act or sub-section (2) of section 153C of the Income-tax Act or after the completion of the assessment, whichever is earlier.

65.3 **Applicability**: This amendment takes effect from 1st June, 2016.

66. Legislative framework to enable and expand the scope of electronic processing of information

66.1 The existing provisions of section 133C of the Income-tax Act empower the prescribed income-tax authority to issue notice calling for information and documents for the purpose of verification of information in its possession.

66.2 In order to expedite verification and analysis of the information and documents so received, provisions of section 133C of the Income-tax Act have been amended to provide adequate legislative backing for processing of information and documents so obtained and making the outcome thereof available to the Assessing Officer for necessary action, if any.

66.3 Explanation 2 to section 147 of the Income-tax Act has also been amended to provide for reopening of cases by the AO on the basis of the information so received.

66.4 Clause (a) of sub-section (1) of section 143 of the Income-tax Act provides that a return filed is to be processed and total income or loss is to be computed after making the adjustments on account of any arithmetical error in the return or on account of an incorrect claim, if such incorrect claim is apparent from any information in the return.

66.5 In order to expeditiously remove the mismatch between the return and the information available with the Department, the scope of adjustments that can be made at the time of processing of returns under sub-section (1) of section 143 of the Income-tax Act has been expanded. It has been provided that such adjustments can be made based on the data available with the Department in the form of audit report filed by the assessee, returns of earlier years of the assessee, 26AS statement, Form 16, and Form 16A. However, before making any such adjustments, in the interest of natural justice, intimation shall be given to the assessee either in writing or through electronic mode requiring him to respond to such adjustments. The response received, if any, will be duly considered before making any adjustment. However, if no response is received within thirty days of issue of such intimation, the processing shall be carried out incorporating the adjustments.

66.6 **Applicability:** The amendments to sections 133 and 147 take effect from 1st June, 2016. The amendment to Section 143 takes effect from 1st of April, 2017 and will, accordingly apply in relation to assessment year 2017-18 and subsequent assessment years.

67. Immunity from penalty and prosecution in certain cases by inserting new section 270AA of the Income-tax Act

67.1 In order to provide immunity from penalty and prosecution in certain cases, a new section 270AA has been inserted in the Income-tax Act under which an assessee may make an application to the Assessing Officer for grant of immunity from imposition of penalty under section 270A of the Income-tax Act and initiation of proceedings under section 276C or section 276CC of the Income-tax Act, provided he pays the tax and interest payable as per the order of assessment or reassessment within the period specified in such notice of demand and does not prefer an appeal against such assessment order. The assessee can make such application, within one month from the end of the month in which the order of assessment or reassessment is received, in such form and manner, as may be prescribed.

67.2 It is also provided that the Assessing Officer shall, on fulfilment of the above conditions and after the expiry of period of filing appeal as specified in sub-section (2) of section 249 of the Income-tax Act, grant immunity from initiation of penalty and proceeding under section 276C or section 276CC of the Income-tax Act, if the penalty proceedings under section 270A of the Income-tax Act have not been initiated on account of the following, namely:—

(a) misrepresentation or suppression of facts;

(b) failure to record investments in the books of account;

(c) claim of expenditure not substantiated by any evidence;

(d) recording of any false entry in the books of account;

(e) failure to record any receipt in books of account having a bearing on total income; or

(f) failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction to which the provisions of Chapter X of the Income-tax Act apply.

67.3 The Assessing Officer shall pass an order accepting or rejecting such application within a period of one month from the end of the month in which such application is received. However, in the interest of natural justice, no order rejecting the application shall be passed by the Assessing Officer unless the assessee has been given an opportunity of being heard. The order of Assessing Officer under the said section shall be final.

67.4 Further, no appeal under section 246A of the Income-tax Act or an application for revision under section 264 of the Income-tax Act shall be admissible against the order of assessment or reassessment referred to in clause (a) of sub-section (1), in a case where an order under section 270AA of the Income-tax Act has been made accepting the application.

67.5 Clause (b) of sub-section (2) of section 249 of the Income-tax Act provides that an appeal before the Commissioner (Appeals) is to be made within thirty days of the receipt of the notice of demand relating to an assessment order.

67.6 In line with the insertion of section 270AA of the Income-tax Act, the provisions of section 249 of the Income-tax Act have also been amended to provide that in a case where the assessee makes an application under section 270AA of the Income-tax Act seeking immunity from penalty and prosecution, then, the period beginning from the date on which such application is made to the date on which the order rejecting the application is served on the assessee shall be excluded for calculation of the aforesaid thirty days period. The said amendment is consequential to the insertion of section 270AA of the Income-tax Act.

67.7 **Applicability:** These amendments will take effect from the 1st of April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

68. The Direct Tax Dispute Resolution Scheme, 2016

68.1 Litigation has been a major area of concern in direct taxes. In order to reduce the huge backlog of cases and to enable the Government to realise its dues expeditiously, 'The Direct Tax Dispute Resolution Scheme, 2016' has been introduced in relation to tax arrears and specified tax. The salient features of the scheme are as under:

(1) The scheme is applicable to "tax arrears" which is defined as the amount of tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act, 1957 ('the Wealth-tax Act') in respect of which appeal is pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) as on the 29th day of February, 2016.

(2) The pending appeal could be against an assessment order or a penalty order.

(3) The declarant under the scheme is required to pay tax at the applicable rate plus interest up to the date of assessment. However, in case of disputed tax exceeding rupees ten lakh, twenty-five per cent of the minimum penalty leviable is also required to be paid.

(4) In case of pending appeal against a penalty order, twenty-five per cent of minimum penalty leviable is payable along with the tax and interest payable on account of assessment or reassessment.

(5) Consequent to such declaration, appeal in respect of the disputed income and disputed wealth pending before the Commissioner (Appeals) shall be deemed to be withdrawn.

68.2 In addition to the above, the Scheme provides that person may also make a declaration in respect of any tax determined in consequence of or is validated by an amendment made with retrospective effect in the Income-tax Act or Wealth-tax Act, as the case may be, for a period prior to the date of enactment of such amendment and a dispute in respect of which is pending as on 29.02.2016 (referred to as specified tax). For availing the benefit of the Scheme, such declarant should withdraw any writ petition or any appeal filed against such specified tax before the Commissioner (Appeals) or the Tribunal or High Court or Supreme Court, before making the declaration and shall also furnish a proof of such withdrawal. Further, if any proceedings for arbitration, conciliation or mediation have been initiated by the declarant or he has given any notice under any law or agreement entered into by India, whether for protection of investment or otherwise, he shall withdraw such notice or claim for availing benefit under this Scheme.

68.3 The person making declaration in respect of specified tax shall furnish an undertaking in the prescribed form and verified in the prescribed manner, waiving the right, whether direct or indirect, to seek or pursue any remedy or claim in relation to the specified tax which otherwise be available to him under any law, in equity, by statute or under an agreement, whether for protection of investment or otherwise, entered into by India with a country or territory outside India. No appellate authority or Arbitrator or Conciliator or Mediator shall proceed to decide an issue relating to the specified tax in the declaration in respect of which an order is made by the designated authority or in respect of the payment of the sum determined to be payable.

68.4 Where the declarant violates any of the conditions referred to in the scheme or any material particular furnished in the declaration is found to be false at any stage, it shall be presumed as if the declaration was never made under this Scheme and all the consequences under the Income-tax Act or Wealth-tax Act under which the proceedings against declarant were or are pending, shall be deemed to have been revived.

68.5 The declarant under the scheme shall get immunity from institution of any proceeding for prosecution for any offence under the Income-tax Act or the Wealth-tax Act. In case of specified tax the declarant shall also get immunity from imposition of penalty under the Income-tax Act or the Wealth-tax Act. However, in case of tax arrears immunity from penalty is of the amount that exceeds the penalty payable as per the scheme. The scheme provides waiver of interest under the Income-tax Act or the Wealth-tax Act in respect of specified tax. However, waiver of interest in respect of tax arrears is to the extent the interest exceeds the amount of interest referred in the scheme.

68.6 In the following cases a person shall not be eligible for the scheme:

(i) Cases where the process of instituting prosecution was initiated on or before 29.02.2016, the assessee was intimated of the same and prosecution proceedings were instituted before the date of filing of declaration.

(ii) Search or survey cases where the declaration is in respect of tax arrears.

(iii) Cases relating to undisclosed foreign income and assets.

(iv) Cases based on information received under Double Taxation Avoidance Agreement under section 90 or 90A of the Income-tax Act where the declaration is in respect of tax arrears.

(iv) Person notified under Special Courts Act, 1992.

(v) Cases covered under Narcotic Drugs and Psychotropic Substances Act, Indian Penal Code, Prevention of Corruption Act or Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

68.7 A declaration under the scheme is to be made to the designated authority not below the rank of Commissioner in such form and verified in such manner as prescribed. The designated authority shall, within sixty days from the date of receipt of the declaration, determine the amount payable by the declarant. The declarant shall pay such sum within thirty days of the passing of such order and furnish proof of payment of such sum. Any amount paid in pursuance of a declaration shall not be refundable under any circumstances.

68.8 No matter covered by order of designated authority shall be reopened in any other proceeding under the Income-tax Act or Wealth-tax Act. The designated authority shall subject to the conditions provided in the scheme grant immunity from instituting any proceeding for prosecution for any offence under the two Acts in respect of matters covered in the declaration.

68.9 Nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant in any proceedings other than those in relation to which the declaration has been made.

68.10 **Applicability:** The scheme has come into effect from 1st June 2016.

Sd/-
(Niraj Kumar)
Under Secretary to the Government of India

[F. No. 370142/20/2016-TPL dated 20-01-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

CIRCULAR NO. 04/2017

Subject:- Circular No. 41/2016 [F. No. 500/43/2012-FT & TR] dated 21.12.2016

The Central Board of Direct Taxes had issued Circular No. 41/2016 on 21st December, 2016 regarding Indirect Transfer Provisions under the Income Tax Act, 1961.

2. After the issue of circular No. 41/2016, representations have been received from various FPIs, FIIs, VCFs and other stakeholders. The stakeholders have presented their Concerns stating that the circular does not address the issue of possible multiple taxation of the same income. The representations made by the stakeholders are currently under consideration and examination.

3. Pending a decision in the matter, operation of Circular No. 41 of 2016 dated 21st December, 2016 is kept in abeyance for the time being.

Sd/-
(Dr. O.N. Supriya Rao)
Under Secretary [FT&TR-IV(2)]

[F. No. 500/43/2012-FT&TR-IV dated 21-12-2016 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

CIRCULAR NO. 05/2017

Subject:- Measure for reducing litigation - Clarification on Circulars 21/2015 and 8/2016 reg.

Instructions were issued vide CBDT Circular No. 21/2015 dated 10.12.2015, to the effect that appeals/SLPs should not be filed in cases where tax effect does not exceed the monetary limits specified under para 3 of the said Circular. It was also clarified therein that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed in the said Circular.

2. In para 8 of the aforesaid Circular No. 21/2015, it has been unambiguously and expressly provided that adverse judgements relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in Circular or even if there is no tax effect:

a. Where the Constitutional validity of the provisions of an Act or Rule are under challenge, or

b. Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or

c. Where Revenue Audit Objection in the case has been accepted by the Department

d. Where the addition relates to undisclosed foreign assets/bank accounts. The direction to 'contest on merits' negates the mechanical filing of appeals in these cases.

3. However, it has been noticed that para 8 (c) of Circular No. 21/2015, regarding cases where addition made on account of Revenue Audit Objection is deleted, is being erroneously interpreted and appeals are being mechanically filed by the Department without proper examination of the case on merits. This is contrary to the instructions contained in Circular No. 21/2015 and Circular No. 8/2016. It is, therefore, clarified that the import and intent of para 8 of the Circular No. 21/2015 is that even on issues mentioned in the said para, appeals against the adverse judgment should only be filed on merits.

4. Accordingly, henceforth, appeals should not be filed by the Department in violation of instructions mentioned above. Further, appeals that may have been filed in violation of these instructions may be withdrawn.

5. The above may be brought to the notice of all concerned.

Sd/-
(Neetika Bansal)
DS (ITJ), CBDT New Delhi

[F. No. 279157/ITJ dated 23-01-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

CIRCULAR NO. 06/2017

Subject:- Guiding Principles for determination of Place of Effective Management (POEM) of a Company.

Section 6(3) of the Income-tax Act, 1961 (the Act), prior to its amendment by the Finance Act, 2015, provided that a company is said to be resident in India in any previous year, if it is an Indian company or if during that year, the control and management of its affairs is situated wholly in India. This allowed tax avoidance opportunities for companies to artificially escape the residential status under these provisions by shifting insignificant or isolated events related with control and management outside India. To address these concerns, the existing provisions of section 6(3) of the Act were amended vide Finance Act, 2015, with effect from 1st April, 2016 to provide that a company is said to be resident in India in any previous year, if

(i) it is an Indian company; or

(ii) its place of effective management in that year is in India .

2. "Place of effective management" is defined in the Act to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance, made.

3. The Finance Act, 2016 has changed the effectivity of the said amendment to section 6(3) of the Act. Therefore, the amended provision would now be effective from 1st April 2017 and will apply to Assessment Year 2017-18 and subsequent assessment years.

4. 'Place of effective management' (POEM) is an internationally recognised test for determination of residence of a company incorporated in a foreign jurisdiction. Most of the tax treaties entered into by India recognises the concept of 'place of effective management' for determination of residence of a company as a tie-breaker rule for avoidance of double taxation. The guiding principles to be followed for determination of POEM are enumerated in the following paragraphs.

5. For the purposes of these guidelines, -

(a) A company shall be said to be engaged in "active business outside India" if the passive income is not more than 50% of its total income; and

(i) less than 50% of its total assets are situated in India; and

(ii) less than 50% of total number of employees are situated in India or are resident in India; and

(iii) the payroll expenses incurred on such employees is less than 50% of its total payroll expenditure.

Explanation: For the aforesaid purpose, -

(A) the income shall be, -

(a) as computed for tax purpose in accordance with the laws of the country of incorporation; or

(b) as per books of account, where the laws of the country of incorporation does not require such a computation.

(B) the value of assets, -

(a) In case of an individually depreciable asset, shall be the average of its value for tax purposes in the country of incorporation of the company at the beginning and at end of the previous year; and

(b) In case of pool of a fixed assets being treated as a block for depreciation, shall be the average of its value for tax purposes in the country of incorporation of the company at the beginning and at end of the year;

(c) In case of any other asset, shall be its value as per books of account;

(C) the number of employees shall be the average of the number of employees as at the beginning and at the end of the year and shall include persons, who though not employed directly by the company, perform tasks similar to those performed by the employees;

(D) the term “pay roll” shall include the cost of salaries, wages, bonus and all other employee compensation including related pension and social costs borne by the employer.

(b) “Head Office” of a company would be the place where the company’s senior management and their direct support staff are located or, if they are located at more than one location, the place where they are primarily or predominantly located. A company’s head office is not necessarily the same as the place where the majority of its employees work or where its board typically meets;

(c) “Passive income” of a company shall be aggregate of, -

(i) income from the transactions where both the purchase and sale of goods is from / to its associated enterprises; and

(ii) income by way of royalty, dividend, capital gains, interest or rental income;

However, any income by way of interest shall not be considered to be passive income in case of a company which is engaged in the business of banking or is a public financial institution, and its activities are regulated as such under the applicable laws of the country of incorporation.

(d) "Senior Management" in respect of a company means the person or persons who are generally responsible for developing and formulating key strategies and policies for the company and for ensuring or overseeing the execution and implementation of those strategies on a regular and on-going basis. While designation may vary, these persons may include:

(i) Managing Director or Chief Executive Officer;

(ii) Financial Director or Chief Financial Officer;

(iii) Chief Operating Officer; and

(iv) The heads of various divisions or departments (for example, Chief Information or Technology Officer, Director for Sales or Marketing).

6. Any determination of the POEM will depend upon the facts and circumstances of a given case. The POEM concept is one of substance over form. It may be noted that an entity may have more than one place of management, but it can have only one place of effective management at any point of time. Since "residence" is to be determined for each year, POEM will also be required to be determined on year to year basis. The process of determination of POEM would be primarily based on the fact as to whether or not the company is engaged in active business outside India.

7. The place of effective management in case of a company engaged in active business outside India shall be presumed to be outside India if the majority meetings of the board of directors of the company are held outside India.

7.1 However, if on the basis of facts and circumstances it is established that the Board of directors of the company are standing aside and not exercising their powers of management and such powers are being exercised by either the holding company or any other person (s) resident in India, then the place of effective management shall be considered to be in India. For this purpose, merely because the Board of Directors (BOD) follows general and objective principles of global policy of the group laid down by the parent entity which may be in the field of Pay roll functions, Accounting, Human resource (HR) functions, IT infrastructure and network platforms, Supply chain functions, Routine banking operational procedures, and not being specific to any entity or group of entities per se; would not constitute a case of BoD of companies standing aside.

7.2 For the purpose of determining whether the company is engaged in active business outside India, the average of the data of the previous year and two years prior to that shall be taken into account. In case the company has been in existence for a shorter period, then data of such period shall be considered. Where the accounting year for tax purposes, in accordance with laws of country of incorporation of the company, is different from the previous year, then, data of the accounting year that ends during the relevant previous year and two accounting years preceding it shall be considered.

8. In cases of companies other than those that are engaged in active business outside India referred to in para 7, the determination of POEM would be a two stage process, namely:-

(i) First stage would be identification or ascertaining the person or persons who actually make the key management and commercial decision for conduct of the company's business as a whole.

(ii) Second stage would be determination of place where these decisions are in fact being made.

8.1 The place where these management decisions are taken would be more important than the place where such decisions are implemented. For the purpose of determination of POEM it is the substance which would be conclusive rather than the form.

8.2 Some of the guiding principles which may be taken into account for determining the POEM are as follows:

(a) The location where a company's Board regularly meets and makes decisions may be the company's place of effective management provided, the Board-

(i) retains and exercises its authority to govern the company; and

(ii) does, in substance, make the key management and commercial decisions necessary for the conduct of the company's business as a whole.

It may be mentioned that mere formal holding of board meetings at a place would by itself not be conclusive for determination of POEM being located at that place. If the key decisions by the directors are in fact being taken in a place other than the place where the formal meetings are held then such other place would be relevant for POEM. As an example this may be the case where the board meetings are held in a location distinct from the place where head office of the company is located or such location is unconnected with the place where the predominant activity of the company is being carried out.

If a board has de facto delegated the authority to make the key management and commercial decisions for the company to the senior management or any other person including a shareholder, promoter, strategic or legal or financial advisor etc. and does nothing more than routinely ratifying the decisions that have been made, the company's place of effective management will ordinarily be the place where these senior managers or the other person make those decisions.

(b) A company's board may delegate some or all of its authority to one or more committees such as an executive committee consisting of key members of senior management. In these situations, the location where the members of the executive committee are based and where that committee develops

and formulates the key strategies and policies for mere formal approval by the full board will often be considered to be the company's place of effective management.

The delegation of authority may be either de jure (by means of a formal resolution or Shareholder Agreement) or de facto (based upon the actual conduct of the board and the executive committee).

(c) The location of a company's head office will be a very important factor in the determination of the company's place of effective management because it often represents the place where key company decisions are made. The following points need to be considered for determining the location of the head office of the company:-

- If the company's senior management and their support staff are based in a single location and that location is held out to the public as the company's principal place of business or headquarters then that location is the place where head office is located.
- If the company is more decentralized (for example where various members of senior management may operate, from time to time, at offices located in the various countries) then the company's head office would be the location where these senior managers,-
  - (i) are primarily or predominantly based; or
  - (ii) normally return to following travel to other locations; or
  - (iii) meet when formulating or deciding key strategies and policies for the company as a whole.
- Members of the senior management may operate from different locations on a more or less permanent basis and the members may participate in various meetings via telephone or video conferencing rather than by being physically present at meetings in a particular location. In such situation the head office would normally be the location, if any, where the highest level of management (for example, the Managing Director and Financial Director) and their direct support staff are located.
- In situations where the senior management is so decentralised that it is not possible to determine the company's head office with a reasonable degree of certainty, the location of a company's head office would not be of much relevance in determining that company's place of effective management.

(d) The use of modern technology impacts the place of effective management in many ways. It is no longer necessary for the persons taking decision to be physically present at a particular location. Therefore physical location of board meeting or executive committee meeting or meeting of senior management

may not be where the key decisions are in substance being made. In such cases the place where the directors or the persons taking the decisions or majority of them usually reside may also be a relevant factor.

(e) In case of circular resolution or round robin voting the factors like, the frequency with which it is used, the type of decisions made in that manner and where the parties involved in those decisions are located etc. are to be considered. It cannot be said that proposer of decision alone would be relevant but based on past practices and general conduct; it would be required to determine the person who has the authority and who exercises the authority to take decisions. The place of location of such person would be more important

(f) The decisions made by shareholder on matters which are reserved for shareholder decision under the company laws are not relevant for determination of a company's place of effective management. Such decisions may include sale of all or substantially all of the company's assets, the dissolution, liquidation or deregistration of the company, the modification of the rights attaching to various classes of shares or the issue of a new class of shares etc. These decisions typically affect the existence of the company itself or the rights of the shareholders as such, rather than the conduct of the company's business from a management or commercial perspective and are therefore, generally not relevant for the determination of a company's place of effective management.

However, the shareholder's involvement can, in certain situations, turn into that of effective management. This may happen through a formal arrangement by way of shareholder agreement etc. or may also happen by way of actual conduct. As an example if the shareholders limit the authority of board and senior managers of a company and thereby remove the company's real authority to make decision then the shareholder guidance transforms into usurpation and such undue influence may result in effective management being exercised by the shareholder.

Therefore, whether the shareholder involvement is crossing the line into that of effective management is one of fact and has to be determined on case-to- case basis only.

(g) It may be clarified that day to day routine operational decisions undertaken by junior and middle management shall not be relevant for the purpose of determination of POEM. The operational decisions relate to the oversight of the day-to-day business operations and activities of a company whereas the key management and commercial decision are concerned with broader strategic and policy decision. For example, a decision to open a major new manufacturing facility or to discontinue a major product line would be examples of key commercial decisions affecting the company's business as a whole. By contrast,decisions by the plant manager appointed by senior management to run that facility, concerning repairs and maintenance, the implementation of company- wide quality controls and human resources policies, would be examples of routine operational decisions. In certain situations it may happen

that person responsible for operational decision is the same person who is responsible for the key management and commercial decision. In such cases it will be necessary to distinguish the two type of decisions and thereafter assess the location where the key management and commercial decisions are taken.

8.3 If the above factors do not lead to clear identification of POEM then the following secondary factors can be considered :-

(i) Place where main and substantial activity of the company is carried out; or

(ii) Place where the accounting records of the company are kept.

9. It needs to be emphasized that the determination of POEM is to be based on all relevant facts related to the management and control of the company, and is not to be determined on the basis of isolated facts that by itself do not establish effective management, as illustrated by the following examples:

(i) The fact that a foreign company is completely owned by an Indian company will not be conclusive evidence that the conditions for establishing POEM in India have been satisfied.

(ii) The fact that there exists a Permanent Establishment of a foreign entity in India would itself not be conclusive evidence that the conditions for establishing POEM in India have been satisfied.

(iii) The fact that one or some of the Directors of a foreign company reside in India will not be conclusive evidence that the conditions for establishing POEM in India have been satisfied.

(iv) The fact of, local management being situated in India in respect of activities carried out by a foreign company in India will not , by itself, be conclusive evidence that the conditions for establishing POEM have been satisfied.

(v) The existence in India of support functions that are preparatory and auxiliary in character will not be conclusive evidence that the conditions for establishing POEM in India have been satisfied.

10. It is reiterated that the above principles for determining the POEM are for guidance only. No single principle will be decisive in itself. The above principles are not to be seen with reference to any particular moment in time rather activities performed over a period of time, during the previous year, need to be considered. In other words a “snapshot” approach is not to be adopted. Further, based on the facts and circumstances if it is determined that during the previous year the POEM is in India and also outside India then POEM shall be presumed to be in India if it has been mainly /predominantly in India

11. The Assessing Officer (AO) shall, before initiating any proceedings for holding a company incorporated outside India, on the basis of its POEM, as being resident in India, seek prior approval of the Principal Commissioner or the Commissioner, as the case may be.

11.1 Further, in case the AO proposes to hold a company incorporated outside India, on the basis of its POEM, as being resident in India then any such finding shall be given by the AO after seeking prior approval of the collegium of three members consisting of the Principal Commissioners or the Commissioners, as the case may be, to be constituted by the Principal Chief Commissioner of the region concerned, in this regard. The collegium so constituted shall provide an opportunity of being heard to the company before issuing any directions in the matter.

12. Illustrations:

The following are certain illustrations intended to highlight applicability of certain principles enumerated in the foregoing paragraphs of the guidelines. The facts assumed have been simplified to highlight the principle. Actual determination of POEM of a company shall depend on all relevant facts.

Example 1: Company A Co. is a sourcing entity, for an Indian multinational group, incorporated in country X and is 100% subsidiary of Indian company (B Co.). The warehouses and stock in them are the only assets of the company and are located in country X. All the employees of the company are also in country X. The average income wise breakup of the company's total income for three years is, -

(i). 30% of income is from transaction where purchases are made from parties which are non-associated enterprises and sold to associated enterprises;

(ii). 30% of income is from transaction where purchases are made from associated enterprises and sold to associated enterprises;

(iii). 30% of income is from transaction where purchases are made from associated enterprises and sold to non-associated enterprises; and

(iv). 10% of the income is by way of interest.

Interpretation: In this case passive income is 40% of the total income of the company. The passive income consists of, -

(i). 30% income from the transaction where both purchase and sale is from/ to associated enterprises; and

(ii). 10% income from interest. The A Co. satisfies the first requirement of the test of active business outside India. Since no assets or employees of A Co. are in India the other requirements of the test is also satisfied. Therefore company is engaged in active business outside India.

Example 2: The other facts remain same as that in Example 1 with the variation that A Co. has a total of 50 employees. 47 employees, managing the warehouse,

storekeeping and accounts of the company, are located in country X. The Managing Director (MD), Chief Executive Officer (CEO) and sales head are resident in India. The total annual payroll expenditure on these 50 employees is of Rs. 5 crore. The annual payroll expenditure in respect of MD, CEO and sales head is of Rs. 3 crore.

Interpretation: Although the first limb of active business test is satisfied by A Co. as only 40% of its total income is passive in nature. Further, more than 50% of the employees are also situated outside India. All the assets are situated outside India. However, the payroll expenditure in respect of the MD, the CEO and the sales head being employees resident in India exceeds 50% of the total payroll expenditure. Therefore, A Co. is not engaged in active business outside India.

Example 3: The basic facts are same as in Example 1. Further facts are that all the directors of the A Co. are Indian residents. During the relevant previous year 5 meetings of the Board of Directors is held of which two were held in India and 3 outside India with two in country X and one in country Y.

Interpretation: The A Co. is engaged in active business outside India as the facts indicated in Example 1 establish. The majority of board meetings have been held outside India. Therefore, the POEM of A Co. shall be presumed to be outside India.

Example 4: The facts are same as in Example 3 but it is established by the Assessing Officer that although A Co.'s senior management team signs all the contracts, for all the contracts above Rs. 10 lakh the A Co. must submit its recommendation to B Co. and B Co. makes the decision whether or not the contract may be accepted. It is also seen that during the previous year more than 99% of the contracts are above Rs. 10 lakh and over past years also the same trend in respect of value contribution of contracts above Rs. 10 lakh is seen.

Interpretation: These facts suggest that the effective management of the A Co. may have been usurped by the parent company B Co. Therefore, POEM of A Co. may in such cases be not presumed to be outside India even though A Co. is engaged in active business outside India and majority of board meeting are held outside India.

Example 5: An Indian multinational group has a local holding company A Co. in country X. The A Co. also has 100% downstream subsidiaries B Co. and C Co. in country X and D Co. in country Y. The A Co. has income only by way of dividend and interest from investments made in its subsidiaries. The Place of Effective Management of A Co. is in India and is exercised by ultimate parent company of the group. The subsidiaries B, C and D are engaged in active business outside India. The meetings of Board of Director of B Co., C Co. and D Co. are held in country X and Y respectively.

Sd/-
(Rajesh Kumar Kedia)
Director (Tax Policy & Legislation)

[F. No. 142/11/2015-TPL dated 24-01-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

CIRCULAR NO. 07/2017

Subject:- Clarifications on implementation of GAAR provisions under the Income Tax Act, 1961

The provisions of Chapter X-A of the Income Tax Act, 1961 relating to General Anti Avoidance Rule will come into force from 1st April, 2017. Certain queries have been received by the Board about implementation of GAAR provisions. The Board constituted a Working Group in June, 2016 for this purpose. The Board has considered the comments of the

Working Group and the following clarifications are issued:

Question no. 1: ***Will GAAR be invoked if SAAR applies?***

Answer: It is internationally accepted that specific anti avoidance provisions may not address all situations of abuse and there is need for general anti-abuse provisions in the domestic legislation. The provisions of GAAR and SAAR can coexist and are applicable, as may be necessary, in the facts and circumstances of the case.

Question no. 2: ***Will GAAR be applied to deny treaty eligibility in a case where there is compliance with LOB test of the treaty?***

Answer: Adoption of anti-abuse rules in tax treaties may not be sufficient to address all tax avoidance strategies and the same are required to be tackled through domestic anti-avoidance rules. If a case of avoidance is sufficiently addressed by LOB in the treaty, there shall not be an occasion to invoke GAAR.

Question no. 3: ***Will GAAR interplay with the right of the taxpayer to select or choose method of implementing a transaction?***

Answer: GAAR will not interplay with the right of the taxpayer to select or choose method of implementing a transaction.

Question no. 4: ***Will GAAR provisions apply where the jurisdiction of the FPI is finalised based on non-tax commercial considerations and such FPI has issued P-notes referencing Indian securities? Further, will GAAR be invoked with a view to denying treaty eligibility to a Special Purpose Vehicle (SPV), either on the ground that it is located in a tax friendly jurisdiction or on the ground that it does not have its own premises or skilled professional on its own roll as employees.***

Answer: For GAAR application, the issue, as may be arising regarding the choice of entity, location etc., has to be resolved on the basis of the main purpose and other conditions provided under section 96

of the Act. GAAR shall not be invoked merely on the ground that the entity is located in a tax efficient jurisdiction. If the jurisdiction of FPI is finalized based on non-tax commercial considerations and the main purpose of the arrangement is not to obtain tax benefit, GAAR will not apply.

Question no. 5: ***Will GAAR provisions apply to (1) any securities issued by way of bonus issuances so long as the original securities are acquired prior to 01 April, 2017 (ii) shares issued post 31 March, 2017, on conversion of Compulsorily Convertible Debentures, Compulsorily Convertible Preference Shares (CCPS), Foreign Currency Convertible Bonds (FCCBs), Global Depository Receipts (GDRs), acquired prior to 01 April, 2017; (iii) shares which are issued consequent to split up or consolidation of such grandfathered shareholding?***

Answer: Grandfathering under Rule 10U(1)(d) will be available to investments made before 1st April 2017 in respect of instruments compulsorily convertible from one form to another, at terms finalized at the time of issue of such instruments. Shares brought into existence by way of split or consolidation of holdings, or by bonus issuances in respect of shares acquired prior to 15 April 2017 in the hands of the same investor would also be eligible for grandfathering under Rule 10U(1)(d) of the Income Tax Rules.

Question no. 6: ***The expression "investments" can cover investment in all forms of instrument - whether in an Indian Company or in a foreign company, so long as the disposal thereof may give rise to income chargeable to tax. Grandfathering should extend to all forms of investments including lease contracts (say, air craft leases) and loan arrangements, etc.***

Answer: Grandfathering is available in respect of income from transfer of investments made before 1 April, 2017. As per Accounting Standards, investments' are assets held by an enterprise for earning income by way of dividends, interest, rentals and for capital appreciation. Lease contracts and loan arrangements are, by themselves, not finvestments and hence grandfathering is not available.

Question no. 7: ***Will GAAR apply if arrangement held as permissible by Authority for Advance Ruling?***

Answer: No. The AAR ruling is binding on the PCIT I CIT and the Income Tax Authorities subordinate to him in respect of the applicant.

Question no. 8: ***Will GAAR be invoked if arrangement is sanctioned by an authority such as the Court, National Company Law Tribunal or is in accordance with judicial precedents etc.?***

Answer: Where the Court has explicitly and adequately considered the tax implication while sanctioning an arrangement, GAAR will not apply to such arrangement.

Question no. 9: ***Will a Fund claiming tax treaty benefits in one year and opting to be governed by the provisions of the Act in another year attract GAAR provisions? An example would be where a Fund claims treaty benefits in respect of gains from derivatives in one year and in another year sets-off losses from derivatives transactions against gains from shares under the Act.***

Answer: GAAR provisions are applicable to impermissible avoidance arrangements as under section 96. In so far as the admissibility of claim under treaty or domestic law in different years is concerned, it is not a matter to be decided through GAAR provisions.

Question no. 10: ***How will it be ensured that GAAR will be invoked in rare cases to deal with highly aggressive and artificially pre-ordained schemes and based on cogent evidence and not on the basis of interpretation difference?***

Answer: The proposal to declare an arrangement as an impermissible avoidance arrangement under GAAR will be vetted first by the Principal Commissioner / Commissioner and at the second stage by an Approving Panel, headed by judge of a High Court. Thus, adequate safeguards are in place to ensure that GAAR is invoked only in deserving cases.

Question no. 11: ***Can GAAR lead to assessment of notional income or disallowance of real expenditure? Will GAAR provisions expand the scope of charging provisions or scope of taxable base and/or disallow the expenditure which is actually incurred and which otherwise is admissible having regard to diverse provisions of the Act?***

Answer: If the arrangement is covered under section 96, then the arrangement will be disregarded by application of GAAR and necessary consequences will follow.

Question no. 12: ***A definite timeline may be provided such as 5 to 10 years of existence of the arrangement where GAAR provisions will not apply in terms of the provisions in this regard in section 97(4) of the IT Act.***

Answer: Period of time for which an arrangement exists is only a relevant factor and not a sufficient factor under section 97(4) to determine whether an arrangement lacks commercial substance.

Question no. 13: ***It may be ensured that in practice, the consequences of a transaction being treated as an 'impermissible avoidance arrangement' are determined in a uniform, fair and rational basis. Compensating adjustments under section 98 of the Act should be done in a consistent and fair manner. It should be clarified that if a particular consequence is applied in the hands of one of the participants, there would be corresponding adjustment in the hands of another participant.***

Answer: Adequate procedural safeguards are in place to ensure that GAAR is invoked in a uniform, fair and rational manner. In the event of a particular consequence being applied in the hands of one of the participants as a result of GAAR, corresponding adjustment in the hands of another participant will not be made. GAAR is an antiavoidance provision with deterrent consequences and corresponding tax adjustments across different taxpayers could militate against deterrence.

Question no. 14: ***Tax benefit of INR 3 crores as defined in section 102(10) may be calculated in respect of each arrangement and each taxpayer and for each relevant assessment year separately. For evaluating the main purpose to be obtaining of tax benefit, the review should extend to tax consequences across territories. The tax impact of INR 3 crores should be considered after taking into account impact to all the parties to the arrangement i.e. on a net basis and not on a gross basis (i.e. impact in the hands of one or few parties selectively).***

Answer: The application of the tax laws is jurisdiction specific and hence what can be seen and examined is the 'Tax Benefit' enjoyed in Indian jurisdiction due to the 'arrangement or part of the arrangement'. Further, such benefit is assessment year specific. Further, GAAR is with respect to an arrangement or part of the arrangement and therefore limit of Rs. 3 crores cannot be read in respect of a single taxpayer only.

Question no. 15: ***Will a contrary view be taken in subsequent years if arrangement held to be permissible in an earlier year?***

Answer: If the PCIT/Approving Panel has held the arrangement to be permissible in one year and facts and circumstances remain the same, as per the principle of consistency, GAAR will not be invoked for that arrangement in a subsequent year.

Question no. 16: ***No penalty proceedings should be initiated pursuant to additions made under GAAR at least for the initial 5 years.***

Answer: Levy of penalty depends on facts and circumstances of the case and is not automatic. No blanket exemption for a period of five years from penalty provisions is available under law. The assessee, may at his option, apply for benefit u/s 273A if he satisfies conditions prescribed therein.

Sd/-
(Dr. O. N. Supriya Rao)
Under Secretary to the Government of India

[F. No. 500/43/2016-FT&TR-IV dated 27-01-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

CIRCULAR NO. 08/2017

Subject:- Clarifications for determination of Place of Effective Management (POEM) of a company, other than an Indian companyreg.

The concept of POEM for deciding the residential status of a company, other than an Indian company, was introduced by the Finance Act, 2015. The existing provision of clause (ii) of sub section (3) of section 6 of the Income-tax Act, 1961 (the Act) shall come into effect from 1st April, 2017 and accordingly, applies to Assessment Year 201718 and subsequent years. Guiding Principles for determining POEM of a company were issued by Circular No. 6 of 2017 on 24th January, 2017. Press Release on POEM guidelines dated 24th January, 2017 has, inter alia, stated that the POEM guidelines shall not apply to a company having turnover or gross receipts of Rs. 50 crores or less in a financial year.

2. In view of above, it is clarified that existing provision of clause (ii) of sub section (3) of section 6 of the Act, shall not apply to a company having turnover or gross receipts of Rs. 50 crores or less in a financial year.

Sd/-
(Rajesh Kumar Kedia)
Director (Tax Policy & Legislation)

[F. No. 142/11/2015-TPL dated 23-02-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

CIRCULAR NO. 09/2017

Subject:- Clarifications on the Taxation and Investment Regime for Pardhan Mantri Garib Kalyan Yojana, 2016

The Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (hereinafter the Scheme') has commenced on 17.12.2016 and is open for declarations upto 31.03.2017. Vide CBDT Circular No. 2 of 2017 dated 18th January 2017, certain clarifications were issued on the Scheme.

2. Subsequent to issuance of the said circular, representations have been received from various stakeholders seeking clarification as to whether the deposits made in bank account or cash in hand which are eligible for being declared under the Scheme should exist on the date of filing of declaration under the Scheme.

3. In this context, it is clarified that where the undisclosed income is represented in the form of deposits in an account maintained with a specified entity, it is not necessary that the said deposits should exist on the date of making payments under the Scheme or furnishing a declaration under the Scheme. However, where the undisclosed income is represented in the form of cash, it is clarified that such cash should exist on the date of making payment of tax, surcharge and penalty under the Scheme or on the date of making deposit under the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016, whichever is earlier.

Sd/-
(R. Lakshmi Narayanan)
Under Secretary to the Government of India

[F. No. 142/33/2016-TPL (Part) dated 14-03-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

CIRCULAR NO. 10/2017

Subject: Clarifications on Income Computation and Disclosure Standards (ICDS) notified under section 145(2) ofthe Income-tax Act, 1961.

Sub-section (1) of section 145 of the Income-tax Act, 1961(,the Act') provides that the income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (2), be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. Sub-section (2) of section 145 provides that the Central Government may notify Income Computation and Disclosure Standards (ICDS) for any class ofassessees or for any class of income. Accordingly, the Central Government notified 10 ICDS vide Notification No.S.O.892(E) dated 31st March, 2015 with effect from assessment year 2016-17.

After notification of ICDS, it has been brought to the notice of the Central Board of Direct Taxes ('the Board') by the stakeholders that certain provisions of rCDS may require , amendment/clarification for proper implementation. The matter was referred to an expert ~ committee. The Committee after duly consulting the stakeholders in this regard has recommended a two-fold approach for the smooth implementation of ICDS i,e amendment to the provisions of IeDS in respect of certain issues and issuance of clarifications by way of FAQs for the rest of issues. Accordingly, vide Notification no 87. dated 29th September,2016 Central Government notified amended ICDS with effect from the assessment year 2017-18.

Further, the issues which require further clarification has been considered by Board and following clarifications are issued:

Question 1: ***Preamble of ICDS-I states that this ICDS is applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" and not for the purposes of maintenance of books of accounts. However, Para 1 of ICDS I states that it deals with significant accounting policies: Accounting policies are applied for maintenance of books of accounts and preparing financial statements. What is the interplay between ICDS-I and maintenance of books of accounts?***

Answer: As stated in the Preamble, ICDS is hot meant for maintenance of books of accounts or preparing financial statements. Persons are required to maintain books of accounts and prepare financial statements as per accounting policies applicable to them. For example, companies are required to maintain books of account and prepare financial statements as per requirements of Companies Act 2013. The accounting policies mentioned in ICDS-I being fundamental in nature shall be applicable for computing income

under the heads “Profits and gains of business or profession” or “Income from other sources”.

Question 2: ***Certain Icns provisions are inconsistent with judicial precedents. Whether these judicial precedents would prevail over ICDS?***

Answer: The ICDS have been notified after due deliberation and after examining judicial views for bringing certainty on the issues covered by it. Certain judicial pronouncements were pronounced in the absence of authoritative guidance on these issues under the Act for computing Income under the head “Profits and gains of business or profession” or Income from other sources. Since certainty is now provided by notifying ICDS under section 145(2). the provisions of ICDS shall be applicable to the transactional issues dealt therein in relation to assessment year 2017-18 and subsequent assessment years.

Question 3: ***Does ICDS apply to non-corporate taxpayers who are not required to maintain books of account and/or those who are covered by presumptive scheme of taxation like sections 44AD, 44AE, 44ADA, 44B, 44BB, 44BBA, etc. of the Act?***

Answer: ICDS is applicable to specified persons having income chargeable under the, head ‘Profits and gains of business or profession’ or ‘Income from other sources’. Therefore, the relevant provisions of ICDS shall also apply to the persons computing income under the relevant presumptive taxation scheme. For example, for computing presumptive income of a partnership firm under section 44AD of the Act, the provisions of reDS on Construction Contract or Revenue recognition shall apply for determining the receipts or turnover, as the case may be.

Question 4: ***If there is conflict between ICDS and other specific provrsions of the Income-tax rules,1962(‘the Rules’) governing taxation of income like rules 9A, 9B etc. of the Rules, which provisions shall prevail?***

Answer: ICDS provides general principles for computation of income. In case of conflict, if any, between the provisions of Rules and leOS, the provisions of Rules, which deal with specific circumstances, shall prevail.

Question 5: ***ICDS is framed on the basis of accounting standards notified by Ministry of Corporate, Affairs (MCA) vide Notification No. GSR 739(E) dated 7 December 2006 under section 211(3C) of erstwhile Companies Act 1956. However, MeA has notified in February 2015 a new set of standards called ‘Indian***

Accounting Standards' (Ind-AS). How will ICDS apply to companies which adopted Ind-AS?

Answer: ICDS shall apply for computation of taxable income under the head ,~ Profit and gains of business or profession" or "Income from other sources" under the Income Tax Act. This is irrespective of the accounting standards adopted by companies i.e. either Accounting Standards or Ind-Afi.

Question 6: ***Whether ICDS shall apply to computation of Minimum Alternate Tax (MAT) under section 115JB of the Act or Alternate Minimum Tax (AMT) under section 115JC of the Act?***

Answer: MAT under section 115JB of the Act is computed on 'book profit' that is net profit as shown in the Profit and Loss Account prepared under the Companies Act subject to certain specified adjustments. Since, the provisions of rCDS are applicable for computation of income under the regular provisions of the Act, the provisions of ICDS shall not apply for computation of MAT.

AMT under section 115JC of the Act is computed on adjusted total income which is derived by making specified adjustments to total income computed as per the regular provisions of the Act. Hence, the provisions ofICDS shall apply for computation of AMT.

Question 7: ***Whether the provisions of ICDS shall apply to Banks, Non-banking financial institutions, Insurance companies, Power sector, etc.?***

Answer: The general provisions of ICDS snail apply to all persons unless there are sector specific provisions contained in the ICnS or the Act. For example, lens VIII contains specific provisions for banks and certain financial institutions and Schedule I of the Act contains specific provisions for Insurance business. .

Question 8: ***Para 4(ii) of ICDS-I provides that Market to Market (MTM) loss or an expected loss shall not be recognized unless the. recognition is in accordance with the provisions of any other ICDS. Whether similar consideration applies to recognition of MTM gain or expected incomes?***

Answer: Same principle as contained in ICDS-I relating to MTM losses or an expected loss shall apply mutatis mutandis to MTM gains or an expected profit.

Question 9: ***ICDS-I provides that an accounting policy shall not be changed without 'reasonable cause'. The term 'reasonable cause' is not defined. What shall constitute 'reasonable cause'?***

Answer: Under the Act, ‘reasonable cause’ is an existing concept and has evolved well over a period oftime conferring desired flexibility to the tax payer in deserving cases.

Question 10: Which ICDS would g~vern derivative instruments?

Answer: ICDS -VI (subject to para 3 of ICDS-VIII) provides guidance on accounting for derivative contracts such as forward contracts and other similar contracts. For derivatives, not within the scope ofICDS-VI, provisions ofICDS-I would apply.

Question 11: Whether the recognition of retention money, receipt of which is contingent on the satisfaction of certain performance criterion is to be recognized as revenue on billing?

Answer: Retention money, being part of overall contract revenue, shall be recognised as revenue subject to reasonable certainty of its ultimate collection condition contained in para 9 of ICDS-III on Construction contracts.

Question 12: Since there is no specific scope exclusion for real estate developers and Build -Operate- Transfer (BOT) projects from Icns IV on Revenue Recognition, please clarify whether leDS-III and leDS-IV should be applied by real estate developers and BOT operators. Also, whether leDS is applicable for leases.

Answer: At present there is no specific ICDS notified for real estate developers, BOT projects and leases. Therefore, relevant provisions of the Act and ICDS shall apply to these transactions as may be applicable.

Question 13: The condition of reasonable certainty of ultimate collection is not laid down for taxation of interest, royalty and dividend. Whether the taxpayer is obliged to account for such income even when the collection thereof is uncertain?

Answer: As a’ principle, interest accrues on time basis and royalty accrues on the basis of contractual terms. Subsequent non recovery in either cases can be claimed as deduction in view of amendment to S.36 (1) (vii). Further, the provision of the Act (e.g. Section 43D) shall prevail over the provisions of ICDS.

Question 14: Whether ICDS is applicable to revenues which are liable to tax on gross basis like interest, royalty and fees for technical services for non-residents u/s. llSA of the Act.

Answer: Yes, the provisions of ICDSshall, also apply for computation of these incomes on gross basis for arriving at the amount chargeable to tax.

Question 15: ***Para 8 of Icns-v states expenditure incurred on commissioning of project, including expenditure incurred on test runs and experimental production shall be capitalized. It also states that expenditure incurred after the plant has begun commercial production i.e., production intended for sale or captive consumption shall be treated as revenue expenditure. What shall be the treatment of expense incurred after the conduct of test runs and experimental production but before commencement of commercial production?***

Answer: As clarified in Para 8 of ICDS-V, the expenditure incurred till the plant has begun commercial production, that is, production intended for sale or captive consumption, shall be treated as capital expenditure.

Question 16: ***What is the taxability of opening balance as on 1st day of April 2016 of Foreign Currency Translation Reserve (FCTR) relating to non-integral foreign operation, if any, recognised as per Accounting Standards (AS) II?***

Answer: FCTR balance as on 1 April 2016 pertaining to exchange differences on monetary items for non-integral operations, shall be recognised in the previous year relevant for assessment year 2017-18 to the extent not recognised in the income computation in the past.

Question 17: ***For subsidy received prior to 1st day of April 2016 but not recognised in the books pending satisfaction of related conditions and achieving reasonable certainty of receipt, how shall the same be recognised under ICDS on or after 15t day of April 2016?***

Answer: Para 4 of ICDS- VII read with Para 5 to Para 9 of ICDS- VII provides for timing of recognition of government grant. The transitional provision in Para 13 of ICDS- VII provides that a government grant which meets the recognition criteria on or after 1st day of April 2016 shall be recognised in accordance with ICDS-VII. All government grants actually received prior to 1st day of April 2016 shall be deemed to have been recognised on its receipt in accordance with Para 4(2) of ICDS-VII and accordingly will be outside the transitional provision and therefore. the government grants received on or after 1 st day of April 2016 and for which recognition criteria provided in Para 5 to Para 9 ofICDS-VII is also satisfied thereafter, the same shall be recognised as per the provisions of ICDS- VII. The grants received prior to 1st day of April 2016 shall continue to be recognised as per the law . prevailing prior to that date.

For example, if out of total subsidy entitlement of 10 Crore an amount of 6 Crore is recognised in the books of accounts till 31 st day of March 2016 and recognition of balance 4 Crore is deferred pending satisfaction of related conditions and/or achieving reasonable certainty of receipt. The balance amount of 4 Crore will be taxed in the year in which related conditions are met and reasonable certainty is achieved. If these conditions are met over two years, the amount of 4 Crore shall be taxed over the period of two years. The amount of 6 Crore for which recognition criteria were met prior to 1st day of April 2016 shall not be taxable post 1st day of April 2016.

But if the subsidy is already received prior to 1st day of April 2016, Para 13 of ICDS-VII shall not apply even if some of the related conditions are met o~ or after 1 April 2016. This is in view of Para 4(2) of ICDS~ VII which provides that Government grant shall not be postponed beyond the date of actual receipt. Such grants shall continue to be governed by the provisions of law applicable prior to 1 st day of April 2016.

Question 18.: ***If the taxpayer sells a security on the 30th day of April 2017. The interest payment dates are December and June. The actual date of receipt of interest is on the 30th day of June 2017 but the interest on accrual basis has been accounted as income on the 31'st day of March .2017. Whether the taxpayer shall be permitted to claim deduction of such interest i.e. offered to tax but not received while computing the capital gain?***

Answer: Yes, the amount already taxed as interest income on accrual basis shall be taken into account for computation of income arising from such sale.

Question 19: ***Para 9 of ICDS- VIII on securities requires securities held as stock-in-trade shall be valued at actual cost initially recognised or net realisable value (NRV) at the end of that previous year, whichever is lower. Para 10 of Part-A of lenS-VIII requires the said exercise to be carried out category wise. How the same shall be computed?***

Answer: For subsequent measurement of securities held as stock-in-trade, the securities are first aggregated category wise. The aggregate cost and NRV of each category of security are compared and the lower of the two is to be taken as carrying value as per ICDS- VIII. This is illustrated below -

Security	Category	Cost	NRV	Lower of cost or NRV	lens Value
A	Share	100	75	75	
B	Share	120	150	120	
C	Share	140	120	120	
D	Share	200	190	190 .	
	Total	560	535	505	535
E	Debt Security	150	160	150	
F	Debt Security	105	90	90	
G	Debt Security	125	135	125	
H	Debt Security	220	230	220	
	Total	600	615	585	600
Securities Total		1160	1150	1090	1135

Question 20: ***There are specific provisions in the Act read with Rules under which a portion of borrowing cost may get disallowed under sections like 14A, 43B, 40(a)(i), 40(a)(ia), 40A(2)(b), etc of the Act. Whether borrowing costs to be capitalized under lenS-IX should exclude portion of borrowing costs which gets disallowed under such specific provisions?***

Answer: Since specific provisions of the Act override the provisions of ICDS, it is clarified that borrowing costs to be considered for capitalization under IeDS IX shall exclude those borrowing costs which are disallowed under specific provisions of the Act. Capitalization of borrowing cost shall apply for that portion of the borrowing cost which is otherwise allowable as deduction under the Act.

Question 21: ***Whether bill discounting charges and other similar charges would fall under the definition of borrowing cost?***

Answer: The defmition of borrowing cost is an inclusive definition. Bill discounting charges and other similar charges are covered as borrowing cost.

Question 22: ***How to allocate borrowing· costs relating to general borrowing as computed in accordance with formula provided under Para 6 of ICns-IX to different qualifying assets?***

Answer: The capitalization of general borrowing cost under rCDS-IX shall be done on asset-by-asset basis.

Question 23: ***What is the impact of Para 20 of Icns X containing transitional provisions?***

Answer: Para 20 of ICDS X provides that all the provisions or assets and related income shall be recognised for the previous year commencing on or after 1 st day of April 2016 in accordance with the provisions of this standard after taking into account the amount recognised, if any, for the same for any previous year ending on or before 31st day of March, 2016.

The intent of transitional provision is that there is neither' double taxation' of income due to application of ICDS nor there should be escape of any income due to application of ICDS from a particular date. This is explained as under -

Provision required as per ICDS on 31 March 2017 for items brought forward from 31st day of March 2016 ... (A)	INR 3 Crores
Provisions as per I CDS for FY 2016-17 ... (B)	INR 5 Crores
Total gross provision ... (C) = (A) + (B)	INR 8 Crores
Less: Provision already recognised for computation of taxable income in FY 2016-17 or earlier ... CD)	INR 2 Crores
Net provisions as per ICDS in FY 2016-17 to be recognised as per transition provision ... (E) = (C) - (D)_	INR6 Crores

Question 24: ***Expenditure on most post-retirement benefits like provident fund, gratuity, etc. are covered by specific provisions. There are other post-retirement benefits offered by companies like medical benefits. Such benefits are covered by AS-1S for which no parallel lens has been notified. Whether provision for these liabilities are excluded from scope of ICDS X?***

Answer: It is clarified that provisioning for employee benefit which are otherwise covered by AS: 15 shall continue to be governed by specific provisions of the Act and are not dealt with by lCDS-X.

Question 25: ***ICDS-I requires disclosure of significant accounting policies and other ICDS requires specific disclosures. Where is the taxpayer required to make such disclosures specified in ICDS?***

Answer: Net effect on the income due to application of ICDS is to be disclosed in the Return of income. The disclosures required under ICDS shall be made in the tax audit report in Form 3CD. However, there shall not be any separate disclosure requirements for persons who are not liable to tax audit.

Sd/-
Lakshmi Narayanan
Under Secretary TPL CBDT

F.No 133/23/2016-TPL dated 23-03-2017 issued by Government of India, Ministry of Finance Department of Revenue, Central Board of Direct Taxes, New Delhi)

CIRCULAR NO. 11/2017

Subject:- Guidelines for Waiver of interest charged under section 201(1A) (i) of the Income-tax Act, 1961.

In exercise of the powers conferred under clause (a) of sub-section (2) of section 119 of Income-tax Act, 1961(the Act), Central Board of Direct Taxes (the Board), hereby directs that the Chief Commissioner of Income-tax and Director General of Income-tax may reduce or waive interest charged under section 201(1A) (i) of the Act in the classes of cases specified in paragraph 2 of this Order for the period and to the extent the Chief Commissioner of Income-tax/ Director General of Income-tax may deem fit. However, no reduction or waiver of such interest shall be ordered unless the principal demand under sections 200A, 201(1) or 234E, as the case may be, stands fully paid or satisfactory arrangements for payment of the principal demand under these sections have been made. The Chief Commissioner of Income-tax or Director General of Incometax may also impose any other condition as deemed fit for the said reduction or waiver of interest.

2. The class of cases in which the reduction or waiver of interest under section 201(1A) (i) can be considered, are as follows:

(i) Where during the course of proceedings for search and seizure under section 132 of the Income-tax Act, or otherwise, the books of account and other documents necessary for making deduction under Chapter XVIIB of the Act were seized and the assessee was not able to, within the time specified, deduct tax at source from any sum credited to any account (whether called “suspense account” or by any other name) in his books of accounts.

(ii) Where any sum paid or payable was not liable for deduction of tax at source in the case of a deductor on the basis of any order passed by the jurisdictional High Court, and as a result, he did not deduct tax at source in relation to such sum, and subsequently, in consequence of any retrospective amendment of law or a decision of the Supreme Court of India or a decision of a Larger Bench of the jurisdictional High Court (which was not challenged before the Supreme Court and has become final) in any proceedings, as the case may be, tax was held to be deductible or the tax deducted by the deductor during such financial year was found to be less than the tax deductible on such sums paid or payable.

(iii) Where the default under section 201 relates to non-deduction or a lower deduction of tax under section 195 of the Act in respect of a payment made to a non-resident (including a foreign company) being a resident of a country or specified territory outside India with whom India has entered into an agreement referred to in section 90 or 90A of the Act, and where -

(a) a dispute regarding the tax payable in India in respect of the said payment had been referred to the Competent Authority in India mentioned in Rule 44H of the Income-tax Rules, 1962 under the said agreement under section 90 or 90A of the Act;

(b) such reference had been received by the Competent Authority in India within a period of two years of the date on which the notice of demand determining the tax payable was received by the person in default under section 201;

(c) the dispute has been settled by way of a resolution arrived at under the Mutual Agreement Procedure (MAP) provided in the said agreement; and

(d) the person in default under section 201 has given his acceptance to the resolution and has withdrawn his appeal(s) pending on the issue, within the meaning of sub-rule (4) of Rule 44H of the Income-tax Rules, within a period of one month of the date on which the resolution is communicated to him.

3. Even if the interest u/s 201 (1A) (i) has already been paid by the deductor, the same can be considered for waiver, subject to the conditions above and a refund may be given to the deductor, if waiver is ordered.

4. The Chief Commissioner of Income-tax or Director General of Income-tax examining an application for waiver of interest under this Order shall pass a speaking order after providing adequate opportunity of being heard to the applicant.

5. The Board reserves the power to examine any grievance arising out of an order passed or not passed by Chief Commissioner of Income-tax or Director General of Income-tax, & the case may be, and issue suitable directions to these authorities for proper implementation of this Order. However, no review of or appeal against the orders passed on merits by such authorities would be entertained by the Board.

Hindi version follows.

Sd/-
(Sandeep Singh)
Under Secretary to the Government of India

[F. No. 275/56/2016-IT(B) dated 24-03-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

CIRCULAR NO. 12/2017

Subject:- Clarifications on the Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016.

The Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (hereinafter 'the Scheme') has commenced on 17.12.2016 and is open for declarations upto 31.03.2017.

2. Representations have been received from various stakeholders regarding difficulties in uploading of declaration in Form No.1 under the Scheme. Instances have been communicated wherein despite making payment of tax, surcharge, penalty and deposit under the Scheme, Challan Identification Number / deposit reference number with respect to the payment of tax, surcharge, penalty and deposit under the Scheme has not been provided by the banks. Consequently, the assessees are unable to upload Form No.1.

3. Considering the rush in banks during last days of financial year, which also happens to be the last date of filing declaration under the Scheme, CBDT has decided that if an assessee has made payment of tax, surcharge, penalty and deposit under the Scheme, in the banks by the closing hours of 31st March, 2017, he shall be allowed to file declaration in Form No.1under the Scheme by the 10th of April, 2017.

Sd/-
(Dr. T. S. Mapwal)
Under Secretary to the Government of India

[F. No. 370142/33/2016-TPL (Part) dated 31-03-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

INSTRUCTIONS

INSTRUCTION NO. 1/2017

Subject:- Double Taxation Agreement - India-Sweden Convention For Avoidable Of Double Taxation And Prevention Of Fiscal Evasion - Suspension Of Collection Of Taxes During Mutual AgreementProcedure (Map)

Attention is invited to Article 26 of the India - Sweden DTAC, which provides for Mutual Agreement Procedure (MAP) between the Competent Authorities of India and Sweden for avoiding taxation which is not in accordance with the Convention. During the pendency of MAP, recovery of tax demand could lead to potential hardships for the taxpayers as tax demand is yet to attain finality. Considering the hardship faced by the taxpayers during the pendency of MAP, as well as for efficient management of collection of revenue, the Competent Authorities of India and Sweden have signed a Memorandum of Understanding (MoLI) regarding suspension of collection of taxes during the pendency of MAP. In terms of the MoU, the collection of outstanding taxes in case of a taxpayer whose case is pending in MAP before the Competent Authorities of India and Sweden, would be kept in abeyance for a period of two years (extendable to a maximum period of five years through mutual agreement between the Competent Authorities of India and Sweden) subject to furnishing of a bank guarantee of an amount equal to the amount of tax under dispute and interest accruing thereon, as per the provisions of the Income-tax Act.

2. On receipt of a formal request for suspension of collection of outstanding tax from a taxpayer who is a resident of Sweden and where MAP has been invoked through the Competent Authority of Sweden, the Assessing Officers are required to keep the enforcement of collection of outstanding taxes in abeyance for a period of two years in respect of such taxpayers subject to fulfilment of the following conditions:

(i) the Foreign Tax and Tax Research I (FT&TR I) Division of the Central Board of Direct Taxes confirms the pendency of MAP; and

(ii) the taxpayer furnishes a bank guarantee to the Assessing Officer in the model draft format annexed to the MoU for an amount calculated in accordance with the manner indicated therein.

3. Further, the provisions of the MoU shall also apply to an Indian resident taxpayer in cases involving transfer pricing adjustments, where MAP has been invoked by the resident of Sweden through the Competent Authority of Sweden.

4. The effect of the MoU is that the furnishing of the bank guarantee should be treated as sufficient arrangement for exercising discretion by the Assessing Officer for extension of time limit for payment of taxes in terms of sub-section (3) of Section 220 of the Income-tax Act. The extension, however, shall subsist only for two years from the date on which communication from FT&TR I Division about the invocation/ pendency of MAP is received by the Assessing Officer. This period of two years may

be extended through mutual agreement between the Competent Authorities of India and Sweden and any such extension will be communicated to the Assessing Officer by FT&TR I Division of the CBDT. However, in no case shall the aggregate periods for which collection is suspended exceed five years.

5. In case the Competent Authorities of India and Sweden agree that there is no resolution possible, an intimation to this effect shall be given to the Assessing Officer who shall, thereafter, be entitled to enforce recovery of the taxes (including interest and penalty, if any). If the taxpayer fails to pay the taxes (including interest and penalty, if any), the Assessing Officer shall be entitled to invoke the bank guarantee. In case the time limit of two years has expired and no communication has been received from FT&TR I Division about MAP resolution, the Assessing Officer, before proceeding to making recoveries or invoking the bank guarantee, shall seek inputs from FT&TR I Division about the status of MAP in such cases. Recovery of taxes (including interest and penalty, if any) may only be proceeded with after getting confirmation from FT&TR I Division that no extension beyond two years has been granted through mutual agreement between the Competent Authorities of India and Sweden.

6. In cases where a resolution of dispute is arrived at by the Competent Authorities of India and Sweden after mutual consultation, the taxes (including interest and penalty, if any) payable by the Indian taxpayer shall be determined by the Assessing Officer in terms of such resolution, as per the procedure laid down in Rule 44H of the Income-tax Rules, 1962. After the revised notice of demand is sent to the taxpayer, the amount shall be recoverable from the taxpayer. In case the taxpayer fails to pay the demand, the bank guarantee so furnished shall be invoked after seeking the consent of the Indian Competent Authority, which shall grant the same after intimating its counterpart in Sweden.

7. The Assessing Officers as well as their controlling officers are advised to keep a close watch on the limitation of the bank guarantee furnished under the MAP. For this purpose, a control register should be maintained in the office of the Assessing Officers and the same may be periodically inspected by the jurisdictional Additional or Joint CIT and/or the jurisdictional Principal CIT or CIT.

8. A copy of the MoU, along with its Annexure containing the model draft format of the bank guarantee, is enclosed.

9. These instructions are issued under section 119 of the Income-tax Act and the same may be brought to the notice of all the officers in your charge.

Sd/-
(Dinesh Antil)
Under Secretary [FT&TR-I(2)]

[F. No. 500/5/2016-APA-II dated 04-01-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

MEMORANDUM OF UNDERSTANDING BETWEEN THE COMPETENT AUTHORITY OF INDIA AND THE COMPETENT AUTHORITY OF SWEDEN REGARDING SUSPENSION OF COLLECTION OF TAXES DURING MUTUAL

AGREEMENT PROCEDURE

The Competent Authority of India

and

The Competent Authority of Sweden

Having regard to the hardship faced by the taxpayers during the pendency of a **Mutual Agreement Procedure**, under Article 26 of the Convention between the Government of the Republic of India and the Government of the Kingdom of Sweden for the avoidance of double taxation and the prevention of fiscal evasion with respect to **taxes** on **income** and on **capital**, which was signed on 24th June, 1997 (the "Convention");

Having determined and agreed that efficient processing of Mutual Agreement Procedure ("MAP") cases will be facilitated by suspending collection of any amounts of tax, including also any related interest or penalties, for any taxable years which are the subject of MAP proceedings;

WHEREAS:

*(A) The **Competent Authorities** have arranged and desired to agree that with regard to amounts of taxes covered under Article 2 of the Convention and potentially payable to the Government of India, the Assessing Officer will suspend collection in accordance with this Memorandum;*

and

*(B) The **Competent Authorities** have arranged and desired to agree that with regard to amounts of taxes covered under Article 2 of the Convention and potentially payable to the Government of Sweden, the Swedish Tax Authority will suspend collection in accordance with this Memorandum.*

NOW THEREFORE, in consideration of the premises, covenants and conditions herein contained and in implementing this arrangement:

(1) The tax authorities of India and Sweden shall retain the right to demand security in appropriate cases, as deemed fit and necessary to avoid prejudicing the interests of their respective governments.

(2) In India, as security, a taxpayer shall provide an irrevocable Bank

Guarantee issued by any scheduled bank, or by an Indian branch of a foreign bank approved by the Reserve Bank of India to carry out banking business in India, as per Annexure 'A' to this Memorandum.

(3) In Sweden, as security, a taxpayer shall, upon demand, provide an irrevocable Bank Guarantee issued by a bank that is authorized by the Swedish Financial Supervisory Authority or any other form of security deemed adequate by the Swedish Tax Authority.

(4) The amount, if any, for which security is demanded under paragraph (2) or (3) above, as the case may be, shall not exceed the amount of additional tax demanded by the tax authority requiring the security (aggregated for all the periods pending before the Competent Authorities), and, if applicable, as adjusted by the Assessing Officer in accordance with domestic laws, and subject to further adjustment for interest on these amounts calculated at the statutory rate on non payments.

(5) Collection of any interest or penalty levied from the concerned taxpayer, in relation to amounts suspended from collection under this Memorandum, shall also be suspended subject to paragraph (A). For the avoidance of doubt, interest, if appropriate, will continue to run while the collection is suspended.

(6) The Competent Authorities shall endeavour to either resolve or close the case within a period of two years from the date on which one Competent Authority notifies the other that the application from the Taxpayer(s) for assistance under the MAP has been received.

(7) The maximum period for which collection can be suspended under this Memorandum shall be two years unless extended by mutual consent by both the Competent Authorities. However, in no case shall the aggregate periods for which collection is suspended exceed five years.

(8) Any draw-down upon a Bank Guarantee referred to in paragraph (2) or (3) above will be done after notification by one Competent Authority to the other about the completion of the Mutual Agreement Procedure, or of the time limit under paragraph (7), whichever earlier.

(9) In the event of a lapse of security under paragraph (2) or (3), the taxpayer shall be permitted to substitute another form of security under such paragraph, provided such substitution takes effect not less than 30 days prior to the lapse of the prior security. Such substitution will relieve the bank which provided the first Bank Guarantee from its obligations to the concerned Government of India or Sweden under that first security.

(10) The terms of this Memorandum may be reviewed by the Competent

Authorities at anytime in the future upon the request of either party.

(11) This Agreement shall enter into force on the thirtieth day after the notification in writing by the Competent Authority of Sweden to the Competent Authority of India of the completion of the procedures required by its law for the entry into force of this Agreement. AVE AGREED as follows:

Dated at Stockholm, 7 February, 2013

For the Competent Authority of Sweden

For the Competent Authority of India

Annexure 'A'

To

The President of India acting through and represented by
[Designation],
Income Tax Department,
Ministry of Finance,
Government of India, New Delhi.

Bank Guarantee

Bank guarantee as security for keeping the recovery of Tax Demand in abeyance during the pendency of Mutual Agreement Procedure (MAP)

[Applicable in case of non-resident assesses, and Indian companies and other entities affiliated with Swedish companies, who have invoked the Mutual Agreement Procedure]

This Deed of Bank guarantee made this . . . . . day of 20. . . , by [INSERT: Name and Address of Guaranteeing Bank] (hereinafter called "the Bank", which expression shall, unless excluded by or repugnant to the context, include its successors and assignees) to the President of India acting through and represented by [Designation], Income Tax Department, Ministry of Finance, Government of India, New Delhi (hereinafter called "the Government").

WHEREAS the Government has agreed that [INSERT: Name, Address, and permanent account number of the Assessee] (hereinafter called "the Assessee", which expression shall, unless excluded by or repugnant to the context, include its successors and assignees) shall furnish a Bank Guarantee in respect of a demand of Rs. [INSERT: Amount of Tax in dispute] for the assessment year(s) . . . . . in lieu of which the recovery of any part of such demand shall not be enforced until 30 days after the Assessing Officer receives written notice of the MAP Agreement between the Competent Authorities of the Governments of India and Sweden, and the Assessee will not be treated as in default for the above assessment year (s);

AND WHEREAS THE Bank has at the request of the Assessee agreed to execute these presents:

NOW THEREFORE THIS DEED WITNESSES AS FOLLOWS

In consideration of the Government agreeing to treat the Assessee as not in default for Rs. [INSERT: Amount of Tax in dispute, plus interest specified in paragraph (1) below] for the assessment year(s) . . . . . .

1. The Bank irrevocably guarantees and undertakes, for the term provided in paragraph (2) below, that the Bank shall indemnify and keep indemnified

the Government to the extent of the said sum of Rs [INSERT: Amount of Tax in dispute] (Rupees [written text]) and interest accruing at the rate specified in the Income-tax Act of 1961 as amended from time to time, for non-payment of taxes on this amount after [INSERT date from which recovery could otherwise be made] or any amount as adjusted by the order of the Assessing Officer which may be passed after the furnishing of the guarantee. On advice from the Government that the Assessee has failed and neglected to observe any of its obligations to the Government with regard to the terms and conditions of the agreements between the Assessee and the Government that may underlie this Bank Guarantee, the decision of the Government as to whether any amount should be paid out by the Bank to the Government hereunder shall be final and binding.

2. The Bank further agrees that the guarantee herein contained shall remain in full force and effect for a period of 3 years from the date hereof, i.e., till [INSERT: date]; and further agrees to renew this guarantee for another 3 years on the following terms: the Bank will provide the Government with written notice no later than 60 days prior to the expiration date of this Bank Guarantee if the taxpayer has not renewed the agreements between the Assessee and the Bank that underlie this Bank Guarantee for an additional period of 3 years. If the Government does not receive a renewal of this Bank Guarantee or a substitute Bank Guarantee for the amounts of tax and interest in dispute prior to 30 days before the expiration date of this Bank Guarantee, the Government may instruct the Bank to pay the guaranteed amounts prior to expiration of the Bank Guarantee.

   Provided further that, notwithstanding any other things contained herein, the liabilities of the Bank shall be limited to the maximum of the guaranteed amount of Rs. [INSERT: Amount of tax in dispute]

   (Rupees [INSERT: written text]), as increased by interest pursuant to paragraph (1) during the term of this Bank Guarantee; and unless a claim in writing is lodged with the Bank, or action to enforce the claim under the guarantee is filed or initiated against the Bank, within six months from the date of expiry of the guarantee period fixed hereunder or where such period is extended under the terms of this guarantee from the date of such extended period as the case may be, all the rights of the Government under this guarantee shall be forfeited and the Bank shall be relieved and discharged from liabilities hereunder.

3. The obligations of the Bank to the Government under this Bank guarantee will terminate upon the occurrence of any of the following for the taxable years in question:

(i) the payment by the Bank or the Assessee to the Government of the guaranteed amounts;

(ii) the payment by the Assessee to the Government of all amounts owed, as agreed to by the Competent Authorities in a MAP Agreement;

(iii) a MAP Agreement by the Competent Authorities that the Government will not seek to recover any part of the previously demanded amounts; or

(iv) the Assessee furnishes to the Government similar security from another Bank.

4. The guarantee herein contained shall not be discharged or affected by any change in the constitution either of the Assessee or of the Bank.

5. The Government shall have the fullest liberty without affecting the guarantee to postpone for any time, or from time to time, any of the powers exercisable by it against the Assessee, or to either enforce or forbear any of the terms and conditions under this guarantee or under the Income-tax Act and Income-tax Rules, and the Bank shall not be released from its liabilities under this guarantee by any exercise by the Government of the liberty with reference to the matter aforesaid or by reasons of time being given to the Assessee, or by any other act of forbearance or enforcement on the part of the Government, or by any indulgence by the Government to the Assessee, or by any other matter or thing whatsoever which under the law relating to sureties would but for these provisions have the effect of so releasing the Bank from its such liability. The Bank hereby agrees and undertakes that any claim which the Bank may have against the Assessee shall be subject and subordinate to the prior payment and performance in full of all the obligations of the Bank hereunder and the Bank will not without prior written consent of the Government exercise any legal rights or remedies of any kind in respect of any such payment or performance so long as the obligations of the Bank hereunder remain owing and outstanding, regardless of the insolvency, liquidation or bankruptcy of the Assessee or otherwise howsoever. The Bank will not counter claim or set off against its liabilities to the Government hereunder any sum outstanding to the credit of the Government with it.

6. This Bank Guarantee shall be governed by and construed in accordance with the laws of the Republic of India (without regard to its principles of conflict of laws).

7. The Bank undertakes not to revoke this guarantee during its currency except with the previous consent of the Government in writing.

8. Notwithstanding anything stated above, liability of the Bank under this guarantee is restricted to Rs. [INSERT: Amount of Tax in dispute, plus interest specified in paragraph (1) above] (Rupees [written text]) and is valid for the period(s) described in paragraph 2 above. Unless a demand or claim under this guarantee is lodged with the Bank on or before [INSERT: date, as established in paragraph (2) above], all rights of the Government under the said guarantee shall be forfeited and the Bank shall be relieved and discharged from all liabilities thereunder whether or not this document shall have been returned to the Bank.

IN WITNESS WHEREOF, the Bank, through its duly authorized representative, has set its hand stamp on this . . . . . day of . . . . . .at . . . . . .

Witness	For and on behalf of the Bank
(Signature)	(Designation with Bank Stamp)
Name	(Attorney as per power of Attorney No. . . . . .)
	Date

INSTRUCTION NO. 2/2017

Subject:- The Income Declaration Scheme, 2016 – reg.

Representations have been received from field authorities and stakeholders that there has been delay in payment of 1st instalment of tax, surcharge and penalty under the Income Declaration Scheme (the Scheme) in some cases owing to some technical errors in the system, non-deposit of cheque by collecting banks, payment made by filling wrong challan etc.

2. In this context, it is clarified that as per section 187(3) of the Scheme, nonpayment of tax etc. on or before the notified dates shall render the declaration invalid and the assessee shall be liable for consequences in accordance with the provisions of section 197(b) of the Scheme.

3. However, keeping into consideration that delay in payment of first instalment in some of the cases were owing to some genuine technical difficulties, the Central Board of Direct Taxes, in exercise of the powers under section 195 of the Scheme read with section 119 of the Income-tax Act, 1961, hereby directs the jurisdictional Principal Commissioner/Commissioner to accept the request for condonation of delay in payment of tax etc., payable under the Scheme in cases where payment has been made through cheque, RTGS, electronic transfer etc. on or before the date of 30th November, 2016, but the same has been credited by banks after the due date of 30th November, 2016, but on or before the 05th December, 2016.

4. This instruction may be brought to the notice of all the officers concerned and other stakeholders.

5. Hindi version of the instruction will follow.

Sd/-
(Dr. T.S. Mapwal)
Under Secretary (TPL-IV)

[F. No. 142/8/2016-TPL (Part) dated 16-01-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

INSTRUCTION NO. 3/2017

Subject:- Standard Operating Procedure (SOP) to be followed by the Assessing Officers in verification of cash transactions relating to demonetisation - regd.-

Post demonetisation of Rs. 500 and Rs. 1000 notes on November 8, 2016, several malpractices has been noticed. The Income Tax Department is enquiring/ seeking information and analysing instances of deposits to identify cases involving risk of tax evasion. Based upon vast amount of information of cash deposits collected and analysed by CBDT, a number of persons have been identified in whose case the cash transactions did not appear to be in line with their profile available with the Income-tax Department ('ITD'). In such cases, it has been decided to undertake online verification of select transactions through jurisdictional Assessing Officers ('AOs').

2. OVERVIEW OF ONLINE VERIFICATION

The online verification has been enabled on e-filing portal (for persons under verification) which will be synchronized with the internal verification portal (AIMS module of ITBA) of ITD. The salient features of online verification mechanism are as under:

2.1 ITD has enabled online verification of these transactions to reduce compliance cost for persons under verification while optimizing its resources. The information in respect of these cases has been made available in the e filing window of the PAN holder (after log in) at the portal https://incometaxindiaefiling.gov.in. The PAN holder can view the information using the link 'Cash Transactions 2016' under 'Compliance' section of the portal. The person under verification will be able to submit online explanation without any need to visit Income Tax office.

2.2 Email and SMS were sent to the persons under verification for submitting online response on the e- filing portal. Such persons who are not yet registered on the e-filing portal (at https:// incometaxindiaefiling.gov.in) should register immediately by clicking on the 'Register Yourself link. Registered taxpayers should verify and update their email address and mobile number on the e- filing portal to receive electronic communication.

2.3 The user guide, quick reference guide and frequently asked questions ('FAQs') are available on the portal for assisting the person under verification for submitting online response.

2.4 Cases meeting the low risk criteria will be closed centrally. Cases which are not closed automatically will be pushed in batches to the AO for verification.

2.5 The AO will be able to view each information record, information as submitted by the person under verification for each record and

also capture the verification result. In case additional information is required, the AO will be able to send a request for additional information electronically. The person concerned will also be automatically informed about the request for additional information by email and SMS. The information request will be visible to the person under verification with a hyperlink for uploading information. All the additional documents (including supporting evidence) are required to be submitted online.

2.6 The response filed by person under verification will be appraised against available information. The uploaded information can be downloaded by the Assessing Officer. In case explanation of source of cash is found justified, the verification will be closed by the AO electronically without any physical interface with the person concerned.

3. REFERENCE DOCUMENTS

A Cash Transactions 2016 User Guide and Frequently asked Questions ('FAQs') has been prepared to help the persons under verification so that the process of furnishing online information is clearly understood (available in the help section of the e-filing portal home page). Further, a 'User Guide for Verification of Cash Transactions on ITBA – AIMS Module' ('Verification Guide) has also been prepared for assisting the AOs involved in the verification process. It is advised that all stakeholders may go through the documents before filing response/ initiating action.

4. ENSURING ONLINE RESPONSE

It is seen that many persons in the target segment have still not registered with e-filing portal. Further many registered persons who are under verification have not yet submitted online response. Pr. CCIT/CCIT/ Pr. CIT/Range Heads are expected to give publicity and organize meetings with the taxpayer community and CAs/Bar Associations to educate them about the online verification facility and its benefits. So far, communication with the person under verification has been made under section 133C of the Income-tax Act, 1961 ('Act'). In cases where online response has not been submitted, AO shall generate a letter from the Verification portal on ITBA to the person under verification for submission of online response (except when immediate survey is contemplated) on the e-filing portal and ensure its service. This process should be completed within 7 days of availability of information on the portal.

5. CONDUCTING VERIFICATION

At the outset, it should be clearly understood that this exercise relates to preliminary verification of information only and the same should not be construed as conducting scrutiny or in-depth authentication. The entire process envisages end-to-end e-verification in which the concerned person would be required to electronically file his response on e-filing portal which shall be examined and monitored electronically by the tax department through Online

Verification platform (ITBA). The two systems are harmonized in a manner so that the person under verification is not required to attend the Income-tax office personally under any circumstance and at any stage during the verification exercise. It has been endeavour of CBDT to identify and target the potential cases through e-verification so that possible instances of grievances arising from the process of verification are minimized.

5.1 The online verification should be focussed and limited to the issue under verification the outcome of which is either 'Acceptable' or 'Non-Acceptable'. The queries raised should be relevant and limited in number since this is a preliminary verification process only.

5.2 The Assessing Officer is required to verify each information record individually and take a decision about each record being 'Acceptable' (where the nature and source of cash deposit for that particular record is explained by the person under verification to the prima-facie satisfaction of the Assessing Officer) or 'Non-Acceptable' (where the Assessing Officer is not satisfied with the explanations offered by the person under verification based on the information available). For each 'Non- Acceptable' information record, the undisclosed income will have to be ascertained and recorded along with verification remarks on the portal [the format has been reproduced in the Verification Guide].

5.3 The information relating to cash transactions and response submitted by the person under verification will be visible to the Assessing Officer and his supervisory officers.

5.4 The Assessing Officer will also be able to send a request for additional information, if required. The information request would be communicated to the PAN holder with a Hyperlink for uploading the information. The uploaded information can also be downloaded by the Assessing Officer.

5.5 It is reiterated that no independent enquiry or third party verifications are required to be made by the Assessing Officer outside the online portal. Whatever information is necessary during verification, the same has to be collected through the person under verification using online platform only. Even telephonic queries are to be avoided.

5.6 While conducting verification, seeking additional information and drawing inference regarding source of deposits in bank or other accounts, for general and broad guidance of the AOs, the source specific verification guidelines has been given in the Annexure with a view to maintain consistent approach during verification. If the sources informed by the person under verification are other than those indicated in the Annexure, suitable parameters should be decided by the AO in consultation with the range head and Pr. CIT concerned.

5.7 It should be ensured that the communications made online with the persons under verification should be in very polite language without containing any element of threat or warning. No show cause of any kind should be given.

5.8 The verification of a particular case shall be complete only when:

(a) each information record reflected in that case gets verified and has been marked either as ‘Acceptable’ or ‘Non-Acceptable’ (with mentioning of undisclosed income in the latter category);

and

(b) Approval has been given by the supervisory authority as prescribed at Para 7 of this instruction.

5.9 If no satisfactory explanation is provided, the undisclosed income may be quantified considering the facts of the case. Brief summary of verification may be mentioned under verification remarks.

5.10 The cases under the ‘Non Acceptable’ category would get escalated back to the Directorate of Systems and may lead to advance processing of such cases for further handling as cases involving possible tax- evasion.

5.11 In case the person under verification does not respond within the time frame prescribed, it might lead to a possible inference that the cash deposit under verification is prima-facie undisclosed and consequently the AO may treat these cases under the ‘Non Acceptable’ category with relevant remarks.

5.12 A holistic view should be adopted looking into the various aspects of the circumstances leading to deposit of cash (e.g. family-size, financial status and background of person) and uniformity in approach must be adopted while forming a view about quantum of undisclosed income.

6. ADHERENCE TO THE TIME-LIMIT DURING VERIFICATION

6.1 It shall be necessary to complete the process of online verification as quickly as possible so that the option to avail the benefits under the Prime-Minister Garib Kalyan Yojana, 2016 (‘PMGKY’) can be exercised by the persons under verification by the prescribed date for the said scheme. It will be desirable if the additional information required from the person under verification is communicated to the taxpayer within 5 working days (wherever considered necessary), from the receipt of online information from such person.

6.2 The Pr. CIT concerned should frame the intervening timelines depending upon the number of cases and content of information handled by the Assessing Officer in the charge.

6.3 The Additional/Joint CIT will monitor the adherence to the above time schedule and guide AOs wherever required.

7. APPROVAL FROM HIGHER AUTHORITIES

7.1 After all information records of a particular person have been verified by the AO, he would be required to take approval for closure of verification from the prescribed approving authority.

7.2 If the total value of transactions is below Rs. 10 lakh (Rs.25 Lakh in Delhi, Mumbai, Kolkata, Chennai, Bangalore, Pune, Hyderabad and Ahmedabad), the prescribed approving authority will be Additional/Joint CIT heading the Range. For cases where the total value of transactions in a particular case exceeds the above limits, the prescribed approving authority will be the Pr. CIT concerned.

7.3 The above approvals would be through online portal only for which the procedure has been specified in the Verification Guide.

7.4 The time-frame prescribed above in Para 6 will be inclusive of the time involved in granting approval by the prescribed approving authority.

8. DEALING WITH NON-COMPLIANCE

In cases where online response has not been submitted even after service of letter, the ITS profile of such PAN holders may be viewed to access information reported in earlier returns and under TDS/AIR/CIB. In case the cash deposit is not in line with the earlier return or information profile of the person under verification, necessary facts may be collected inter-alia by exercising the powers under section 133(6) with the approval of prescribed authority. In appropriate cases depending upon the online response or otherwise, survey action u/s. 133A can be considered. During survey, where there is suspicion of back dating or fictitious cash transactions, CCTV recording of the cash counter at relevant banks may also be checked, if necessary. Reference can also be sent to the Investigation wing in appropriate cases.

In cases of intrusive actions [133(6)/133A/ref. to Inv. Wing], the outcome needs to be reported by the AO in the online portal also.

9. INITIATION OF PENALTY PROCEEDINGS UNDER SECTIONS 269SS/269T OF THE ACT

In case, the transaction being loan received/repaid in cash above the permissible threshold comes to notice, the AO may consider initiation of penal proceedings under the relevant provisions separately.

10. FACILITATION

10.1 DIT(I&CI) has been designated as the local resource person for supporting the field formation in the e- verification process.

10.2 In case of technical difficulty, ITBA helpdesk and contact persons given in ITBA instruction may be contacted.

10.3 Further, clarifications would be issued by CBDT as and when required.

11. The above may be brought to the notice of all concerned.

ANNEXURE

Source Specific General Verification Guidelines 1.

1. Cash out of earlier income or savings

1.1 In case of an individual (other than minors) not having any business income, no further verification is required to be made if total cash deposit is up to Rs. 2.5 lakh. In case of taxpayers above 70 years of age, the limit is Rs. 5.0 lakh per person. The source of such amount can be either household savings/ savings from past income or amounts claimed to have been received from any of the sources mentioned in Paras 2 to 6 below. Amounts above this cut-off may require verification to ascertain whether the same is explained or years and its source, filing of ROI and income shown therein, cash withdrawals made from accounts etc.

1.2 In case the individual claims that cash deposit includes savings of other person(s), the necessary information is required to be submitted under Para 4 or Para 5 below, as the case may be.

1.3 In case of an individual having no business income, if the cash out of earlier income or savings exceeds the above mentioned threshold, the AO needs to consider the remarks provided by the person under verification and seek further relevant information. During verification, the AO needs to consider the information provided by the person concerned, income earned during past years, source of such income, filing of ROI and income shown therein, cash withdrawals made from accounts etc. before quantifying the undisclosed amount, if any. In case the person under verification has filed return of Income, a reasonable quantum can be considered as explained while quantifying the undisclosed amount, if any.

1.4 In case of persons engaged in business or requirement to maintain books of accounts, no additional information is required to be submitted by the person under verification if total cash out of earlier income or savings (sum of responses for all cash transactions) is not more than the closing cash balance as on 31st March 2016 in the return for AY 2016-17. However, if the AO has reason to believe that the closing cash balance as on 31st March 2016 has been increased by revising the return or backdating transactions in the books of account, further verification may be carried out.

1.5 In case of persons engaged in business or required to maintain books of accounts, if total cash out of earlier income or savings (sum of responses for all cash transactions) is more than the closing cash balance as on 31st March 2016 in the return for AY 2016-17, the AO needs to consider the remarks provided by the taxpayer and seek relevant information, i.e. closing balance as on 31st March 2016 as reflected in the books of account. During verification, the AO may consider the information provided by the person under verification, income

earned during past years, source of such income, filing of ROI and income shown therein, cash withdrawals made from accounts etc. before quantifying the undisclosed amount, if any.

1.6 If the person under verification has claimed that the cash deposit has been disclosed in IDS 2016 and if the same is found to be correct, no further verification should be made.

1.7 In case, there is information or apprehension/ suspicion that a particular bank account(s) has been misused for money laundering/tax evasion/entry operations in shell companies, the monetary cut-off or cash-balance based cut off prescribed in clauses above requiring no-verification, shall not be applicable.

2. Cash out of receipts exempt from tax

2.1 If the cash is explained to be out of receipts exempt from tax, and the same is not in line with the earlier returns filed by the person under verification, the AO needs to consider the remarks provided by the person and seek relevant information (e.g. records of land-holding and other relevant evidences etc. in case of agricultural income), to form appropriate view and quantify unexplained income.

3. Cash withdrawn out of bank account

3.1 The AO needs to consider the remarks provided by the person under verification and seek relevant information i.e. copy of bank statement/passbook to form appropriate view and quantify unexplained income.

3.2 Bank statement/passbook may be verified to confirm the name of the account holder. The date and amount of cash withdrawals and cash deposits in the bank account may be matched to verify whether claim that the cash deposited is out of cash withdrawn out of bank account is acceptable. Further removed in time the withdrawal is from the date of demonetization i.e. 8th November, 2016, the more suspicious it looks. The AO should take a balanced view in analyzing the time gap from the point of view of normal human behaviour and specific circumstances of the case.

4. Cash received from identifiable persons (with PAN)

4.1 No additional information is required to be submitted by the person under verification as the information will be pushed to the AO of the identifiable persons (with PAN).

4.2 In case the identifiable person (with PAN) does not confirm the transaction, the response will be referred back for further verification.

4.3 In case of a gift, it may be seen whether the same is taxable in the hands of the recipient under section 56(2) of the Act.

5. Cash received from identifiable persons (without PAN)

5.1 The AO needs to verify if the cash receipts are not in line with the normal practices of concerned business as mentioned in the earlier returns of Income after considering the remarks provided by the taxpayer, nature of business and earlier history before seeking additional information.

5.2 In case of other cash receipts, strategies for verification may be made in consultation with the Pr. CIT so that consistency is maintained in the entire charge based on nature of transaction.

6. Cash received from un-identifiable persons

6.1 The AO needs to verify if the cash transactions or its quantum are not in line with the normal practices of concerned business as mentioned in the earlier returns of Income.

6.2 During verification, the AO may seek relevant information e.g. monthly sales summary (with breakup of cash sales and credit sales), relevant stock register entries, bank statement etc. to identify cases with preliminary suspicion of back-dating of cash sales or fictitious sales. Some indicators for suspicion of back dating of cash sales or fictitious sales could be :

i. Abnormal jump in the cash sales during the period Nov to Dec 2016 as compared to earlier history.

ii. Abnormal jump in percentage of cash sales to unidentifiable persons as compared to earlier history.

iii. More than one deposit of specified bank notes in the bank account late in the demonetization period.

iv. Non-availability of stock or attempts to inflate stock by introducing fictitious purchases.

v. Transfer of deposited cash to another account/entity which is not in line with earlier history.

6.3 In case of receipt of cash on account of donation, indicators similar to above may be kept in mind.

6.4 In case of other cash receipts, strategies for verification may be made in consultation with the Pr. CIT.

7. Cash Disclosed/To be disclosed under PMGKY

7.1 In case the taxpayer mentions that the Cash Disclosed/to be disclosed under PMGKY, the same may be verified.

7.2 If the process of disclosure is informed to be pending, verification can be kept pending till the evidence is furnished.

7 3 The verification should be closed on the basis of evidence of disclosure made under PMGKY.

Sd/-
(Rohit Garg)
Director-ITA.II, CBDT

[F. No. 225/100/2017/ITA-II dated 21-02-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

INSTRUCTION NO. 4/2017

Subject:- Issue of notice under section 133(6) of the Income-tax Act, 1961 for verification of cash deposits under 'Operation Clean Money'-regd.-

Vide Instruction No. 3/2017 dated 21.02.2017, in file of even number, CBDT has issued a SOP to be followed by the Assessing Officer(s) for Online Verification of Cash Transactions pertaining to the demonetisation period. In continuation thereof, the Board hereby prescribes a Template, to be used for issue of notices under section 133(6) of the Income-tax Act, 1961 (`Act') in appropriate cases, for Online Verification of Cash Deposits. The format is enclosed herewith as Annexure.

2. Following issues may kindly be kept into consideration while issuing notices under section 133(6) of the Act, in applicable cases:

i. Notice under section 133(6) of the Act is required to be issued, after obtaining prior approval of Pr. CIT/CIT/Pr. DIT/DIT as provided in the Act, in cases where the 'person under verification' fails to file Online response in a timely manner in spite of issue of reminder by the Assessing Officer. The approval would be taken Online once the facility in ITBA module gets operationalised;

ii. Notice shall be generated through the ITD System only. Hence, no hand written/ typed notice is required to be issued by the Assessing Officer in an individual case;

iii. Response to notice under section 133(6) of the Act has to be furnished within the stipulated period by the 'person under verification' only through the Online mode;

iv. It is re-iterated that verification under 'Operation Clean Money' is to be made through the Online Verification Portal only in accordance with SOP dated 21.02.2017;

v. In case no response is furnished within the specified timeframe, Assessing Officer may form a view that 'person under verification' has no plausible explanation to offer regarding the cash deposits in his/her bank account(s) and consequentially, the case may be escalated as 'Not-Acceptable' for further action in accordance with the procedure prescribed in the SOP of CBDT vide Instruction No. 3/2017 dated 21.02.2017.

3. This may be brought to the notice of all for necessary compliance.

4. Hindi version to follow.

Enclosure: as above

Sd/-
(Rohit Garg)
Director (ITA.II), CBDT

[F. No. 225/100/2017/-ITA.II dated 03-03-2017 issued by Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi]

(Annexure)

Subject: Furnishing information under section 133(6) of the Income-tax Act, 1961 ('Act') regarding cash transactions made during 9th November to 30th December, 2016-regd.-

Dear…….

Income-tax Department has received…….. information record(s) showing total cash deposits of Rs. …….. relating to you. The information in respect of these transactions has already been made available in the online verification portal.

2. You are hereby required to furnish the requisite information/particulars in the matter above, under section 133(6) of the Act, within 5 days of receipt of this communication. The response has to be furnished online only and there is no need to visit the Income-tax office for submitting the same. The steps for furnishing the response are as under:

Step1: Login to e-filing portal at https://incometaxindiaefiling.gov.in. If you are not registered with the e-filing portal, use the 'Register Yourself' link to register.

Step2: Click on "Cash Transactions 2016" link under "Compliance" section.

Step3: The details of transaction(s) related to cash deposits during 9th November to 30th December, 2016 will be displayed.

Step4: Submit your online response for each transaction and keep acknowledgement for record.

3. Non-compliance of this notice may lead to forming a view that there is no plausible explanation in respect of cash so deposited and the matter may be further dealt with in accordance with the relevant provisions under the Act. Please also note that non-compliance within the prescribed time may attract penal proceedings under section 272A of the Act.

4. This issues with prior approval of Pr. CIT/CIT/Pr. DIT/DIT.

Note:

- Please ignore this notice, if response has already been furnished in the matter.
- kindly verify and update the email address and mobile number on the e-filing poratl to receive electronic communication.
- Please ignore this notice, if response has already been furnished in the matter.

ITO/ACIT/DCIT