

**CA Final Direct Taxes and International Taxation Amendments for May 2022****Exam (Paper 7 / 6C) – Part 1****Amendments as per Finance Act 2021, Notifications / Circulars issued between 1.5.2021 to 31.10.2021****Profits and Gains of Business and Profession****Section 32(1)(ii): Depreciation**

Depreciation shall be allowed on **Written Down Value** at prescribed rates on **block of asset** in respect of **Tangible or Intangible assets not being goodwill of a business or profession (w.e.f. AY 21-22)**

(a) which are owned wholly or partly by the assessee AND	(b) used for business / profession
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**Section 2(11): Block of assets** means a group of assets falling within a class of assets comprising

- tangible assets, being buildings, machinery, plant or furniture
- intangible assets, being know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature **not being goodwill of a business or profession (w.e.f. AY 21-22)** in respect of which the same percentage of depreciation is prescribed.

**Section 43 / Rule 8AC: Computation of short term capital gains and WDV u/s 50 where depreciation on goodwill has been obtained (w.e.f. 7.7.2021)**

- Depreciation on Goodwill of the business or profession is not allowable from PY 2020-21 AY 2021-22.
- Where the goodwill of the business or profession was the only asset or one of the assets in the block of asset "intangible" for which depreciation was obtained by the assessee in AY 2020-21, WDV as on 1.4.2020 shall be reduced by actual cost of the goodwill falling within that block as decreased by depreciation that would have been allowable for such goodwill as if the goodwill was the only asset in the relevant block of assets. Amount of such reduction should not exceed the written down value.
- Where sale consideration, money payable exceeds the aggregate of the following amounts:
  - WDV of the block of assets on 1.4.2020
  - Actual cost of any asset falling within the block of assets "intangible", other than goodwill, acquired after 1st April, 2020
 such excess shall be deemed to be the capital gains arising from transfer of short-term capital assets.
- Where the goodwill of the business or profession was the only asset in the block of asset "intangible" for which depreciation was obtained by the assessee in AY 2020-21 and the block of asset ceases to exist on account of there being no further asset acquired during the previous year 2020-21 in that block, there will not be any capital gains or loss on account of the block of asset having ceased to exist.
- The capital gains or loss on transfer of goodwill, during AY 2021-22 or subsequent assessment years, shall be determined in accordance with the provisions of section 48, section 49 and of section 55(2)(a).

**Example 1**

Goodwill is the only asset in the block of assets having WDV as on 31.03.2020 as Rs. 1,000.

Opening WDV as on 01.04.2020	1,000
Add: Additions during the year	0
Less: Sale Consideration received during the year	0

	1,000
Less: Adjustment as per Rule 8AC	<u>1,000</u>
	0
Depreciation for the year @ 25%	<u>0</u>
Closing WDV as on 31.03.2021	0

No Capital Gains will arise in this case.

### Example 2

WDV of block of asset as on 31.03.2020 as Rs. 1,000 comprising of WDV of Goodwill as Rs. 800 and other intangible assets as Rs. 200. During the FY 2020-21, A purchased patent for Rs. 100 and Goodwill Rs. 200.

Opening WDV as on 01.04.2020	1,000
Add: Additions during the year	100
Less: Sale Consideration received during the year	<u>0</u>
	1,100
Less: Adjustment as per Rule 8AC	<u>800</u>
	300
Depreciation for the year @ 25%	<u>75</u>
Closing WDV as on 31.03.2021	125

If in this case, Intangible asset is sold for Rs. 400, STCG u/s 50 = 400 (-) 300 = Rs. 100.

### Goodwill of Business or Profession on which depreciation is claimed till PY 2019-20 AY 2020-21

Cost of acquisition = Purchase price (-) Depreciation claimed by assessee or previous owner

**Note:** Cost of acquisition of self-acquired Goodwill of Business and Profession would be nil.

### CA Final Regular Video Lectures (by CA Kedar Junnarkar for May / Nov 2022 and May / Nov 2023 Exam (Google Drive Version))

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CA Final DT / International Taxation - Paper 7 and 6C	9,500	8,500
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### Note

- 1) Video Lectures as well as Updated Books (e-books and physical books) will be provided.
- 2) Above Prices are for Google Drive Version. In case student wants Pendrive, additional cost of Pendrive, Processing would be charged.
- 3) Students who have exam in 2023 can opt for these Videos. Amendment Notes and Videos will be provided later free of cost.

**Section 44DB: Special provision for computing deductions in case of amalgamation / demerger of Co-operative Banks**

- Deduction allowable to the predecessor co-operative bank u/s 32, 35D, 35DD or 35DDA =  $A * B / C$   
 A= deduction allowable as if the business reorganisation had not taken place  
 B= number of days comprised in the period beginning with the 1st day of the financial year and ending on the day immediately preceding the date of business reorganisation  
 C=total number of days in the financial year in which the business reorganisation has taken place
- Balance deduction will be available to the successor co-operative bank or **converted banking company.**
- Conversion means transition of a primary co-operative bank to a banking company under the scheme of the Reserve Bank of India as notified vide its circular**
- Converted banking company means a banking company formed as a result of conversion from primary co-operative bank.**

**Section 36(1)(iiia): Discount on Zero coupon Bonds**

- The pro rata amount of discount on a zero coupon bond having regard to the period of life of such bond shall be allowed as deduction.
- Zero Coupon Bond means a bond issued by any infrastructure capital company or infrastructure capital fund **infrastructure debt fund (w.e.f. 1.4.2021)** or public sector company or scheduled bank in respect of which no payment and benefit is received or receivable before maturity or redemption and is notified by the Central Government.

**Contributions to Gratuity Provident, Superannuation and Other Welfare Funds**

Employer's Contribution	Employee's Contribution
Deduction shall be allowed to employer subject to a) Fund should be approved or recognised b) Arrangements should be made for deduction of tax from Salary c) Payment should be made to the Fund before the Return of Income due date It should not be unapproved or unrecognized.	Employee's Contribution shall be added to employer's income when deducted from employees' Salary. Deduction will be allowed only if it is credited in the relevant fund on or before the due date as per respective Act. <b>Provisions of section 43B shall not apply and shall be deemed never to have been applied for the purposes of determining the "due date" under this clause (w.e.f. 1.4.2021)</b>

**Section 44AB: Audit of accounts of certain persons carrying on business or profession**

For Person carrying on business
Total sales, turnover or gross receipts in business exceed/s <b>Rs. 10 crores where</b> a. aggregate <b>amounts received</b> including amount received for sales, turnover or gross receipts during the previous year, <b>in cash</b> , does not exceed <b>5%</b> of the said amount; and b. aggregate <b>payments</b> made including amount incurred for expenditure, <b>in cash</b> , during the previous year does not exceed <b>5%</b> of the said payment. <b>Payment or receipt by a cheque drawn on a bank or by a bank draft, which is not account payee (i.e. bearer or crossed cheque) shall be deemed to be the payment or receipt in cash.</b> It implies that amounts should be paid or received by 4 specified modes i.e. account payee cheque or account payee bank draft or ECS or prescribed electronic modes All types of Receipts and Payments will be considered – revenue as well as capital.

**Revision of Tax Audit Report (w.e.f. 1.4.2021)**

The report of audit furnished may be revised by the person by getting revised report of audit from an Chartered Accountant and furnish it before the end of the relevant assessment year for which the report pertains, if there is payment by such person after furnishing of report which necessitates recalculation of disallowance under section 40 or section 43B.

Sec	Assessee	Rate
44ADA	<ul style="list-style-type: none"> <li>An <b>individual or HUF or a partnership firm, who is a resident, but not a LLP</b>, who is engaged in specified professions as per section 44AA (<b>w.e.f. 1.4.2021</b>)</li> <li>total gross receipts do not exceed <b>₹ 50 lakhs</b> in a previous year</li> </ul>	50% of the total gross receipts or sum claimed to have been earned whichever higher

**Income from Capital Gains****Section 2(14): Capital Asset** means

(a) property of any kind held by an assessee, whether or not connected with his business or profession	(b) Securities held by <b>Foreign Institutional Investor</b> (FII) which has invested as per SEBI regulations (even if held as Stock in trade) (Same provisions will also apply to <b>Foreign Portfolio Investor</b> (FPI) irrespective of the presence or otherwise in India, of the Fund manager managing the investments of the assessee)
(c) <b>Unit linked insurance policy (ULIP) to which exemption u/s 10(10D) does not apply on account of</b>	
<b>Fourth proviso to section 10(10D)</b>	<b>Fifth proviso to section 10(10D)</b>
ULIP issued on or after 1.2.2021 if the premium payable for any of the previous year during the term of such policy exceeds Rs. 2,50,000	Aggregate amount of premium exceeding Rs. 2,50,000 during the term of any of those policies by a person for more than one ULIP issued on or after 1.2.2021

**Note**

- ULIP means a life insurance policy which has components of both investment and insurance and is linked to a unit as defined in Insurance Regulatory and Development Authority of India (Unit Linked Insurance Products) Regulations, 2019 issued by the Insurance Regulatory and Development Authority under the Insurance Act, 1938 and the Insurance Regulatory and Development Authority Act, 1999
- Provisions of the fourth and fifth provisos shall not apply to any sum received on the death of a person. In such case, it will not be a capital asset.
- If any difficulty arises in giving effect to the provisions of this clause, the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty and every guideline issued by the Board under this proviso shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and the assessee.

**Section 45(1B): Taxability of ULIP to which exemption u/s 10(10D) does not apply due to 4<sup>th</sup> or 5<sup>th</sup> Proviso (w.e.f. 1.4.2021)**

Notwithstanding anything contained in section 45(1), where any person receives at any time during any previous year any amount under such ULIP, then, any Capital gains shall be deemed to be the income of such person of the previous year in which such amount was received and the income taxable shall be calculated in such manner as may be prescribed.

Equity oriented fund means a fund set up under a scheme of a mutual fund specified u/s 10(23D) or **under a scheme of an insurance company comprising unit linked insurance policies to which exemption under section 10(10D) does not apply on account of the applicability of the fourth and fifth provisos** and

Fund of Fund	Other Funds
<p>If the fund invests in the units of another fund which is traded on a recognised stock exchange</p> <p>a) a minimum of <b>90%</b> of the total proceeds of such fund is invested in the units of such other fund and</p> <p>b) such other fund also invests a minimum of <b>90%</b> of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange</p>	<p>Minimum of <b>65%</b> of the total proceeds of such fund is invested in the equity shares of domestic companies listed on recognised stock exchange.</p>
<ul style="list-style-type: none"> <li>Percentage of equity shareholding or unit held in the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures.</li> <li><b>In case of a scheme of an insurance company comprising ULIP to which exemption under section 10(10D) does not apply on account of the applicability of the fourth and fifth provisos, the minimum requirement of 90% or 65% is required to be satisfied throughout the term of such insurance policy.</b></li> </ul>	

Sec	TDS on	Res Status of receiver	Rate	Exemption from TDS
<b>194DA</b>	Maturity Proceeds including bonus of Life Insurance Policy (TDS at the time of payment)	Resident only	5% on Income (Maturity Proceeds (-) Insurance Premium paid)	<ul style="list-style-type: none"> <li>No TDS if proceeds exempt u/s 10(10D)</li> <li>In other cases, no TDS if Maturity Proceeds are <b>less than ₹1,00,000/-</b></li> </ul>

Such payee (other than a company or a firm) can submit Form 15G / 15H for non-deduction of tax.

**Exemption will not apply in following cases and TDS provisions may apply**

Fourth proviso to section 10(10D)	Fifth proviso to section 10(10D)
ULIP issued on or after 1.2.2021 if the premium payable for any of the previous year during the term of such policy exceeds Rs. 2,50,000	Aggregate amount of premium exceeding Rs. 2,50,000 during the term of any of those policies by a person for more than one ULIP issued on or after 1.2.2021

**Note**

- ULIP means a life insurance policy which has components of both investment and insurance and is linked to a unit as defined in Insurance Regulatory and Development Authority of India (Unit Linked Insurance Products) Regulations, 2019 issued by the Insurance Regulatory and Development Authority under the Insurance Act, 1938 and the Insurance Regulatory and Development Authority Act, 1999
- Provisions of the fourth and fifth provisos shall not apply to any sum received on the death of a person. In such case, it will not be a capital asset.
- If any difficulty arises in giving effect to the provisions of this clause, the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty and every guideline issued by the Board under this proviso shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and the assessee.

**Section 43CA for transfer of residential unit held as stock during the period 12.11.2020 to 30.6.2021**

Instead of 110%, it shall be **120%** if:

- such transfer is by way of **first time allotment of the residential unit** to any person - residential unit means an independent housing unit with separate facilities for living, cooking and sanitary requirement, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household
- the consideration received or accruing as a result of such transfer **does not exceed Rs. 2 crores**

**Transfer of capital asset by India Infrastructure Finance Company Limited to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government (Sec 47(viiae))**

**Transfer of capital asset, under a plan approved by the Central Government, by a public sector company to another public sector company notified by the Central Government for the purpose of this clause or to Central Government or to a State Government (Sec 47(viaf)) - Note**

**Note:** Transfer of capital asset under plan approved by Central Government from Air India Limited (PAN: AACCN6194P), being transferor public sector company, to Air India Assets Holding Limited (PAN: AAQCA4703M), being transferee public sector company is notified (**w.e.f AY 2022-23**)

**W.e.f. 1.4.2021:** Reconstruction or splitting up of a public sector company into separate companies shall be deemed to be a demerger, if such reconstruction or splitting up has been made to transfer any asset of the demerged company to the resulting company and the resulting company

- is a public sector company on the appointed day indicated in such scheme, as may be approved by the Central Government or any other body authorised under the provisions of the Companies Act, 2013 or any other law for the time being in force governing such public sector companies in this behalf and
- fulfils such other conditions as may be notified by the Central Government in the Official Gazette

**CA Final Fast Track Video Lectures by CA Kedar Junnarkar  
for May / Nov 2022 and May / Nov 2023 Exam (Google Drive Version)**

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**Difference between Regular and Fast Track Classes**

	Regular Video Lectures	Fast Track Video Lectures
Coverage	100% Syllabus	100% Syllabus
Books	Simplified Book and Practice Book	Simplified Book and Practice Book
Discussion on Problems from Practice Book	Yes, Problems are discussed in Class	Problems are for self-study; they are not discussed

ICAI Case Studies for Paper 7 and 8	All are discussed in Class	Not discussed in Class
Case Laws in DT	Discussed in Class	Discussed in Class
Case Study for Paper 6C	25 Case Studies are discussed in Class	Not discussed in Class

**Business Reorganisation in case of Banks**

<b>47(viaa)</b>	Any transfer, in a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under section 45 of the Banking Regulation Act, 1949 of a capital asset by the banking company to the banking institution
<b>47(vica)</b>	Any transfer in a business reorganisation (amalgamation or demerger) of a capital asset by the predecessor co-operative bank to the successor co-operative bank <b>or to the converted banking company (as</b>
<b>47(vicb)</b>	Any transfer by a shareholder, in a business reorganisation (amalgamation or demerger) of share/s in the predecessor co-operative bank if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank <b>or to the converted banking company</b>

**Slump Sale**

<b>Section 50B</b>	<b>Period of Holding</b>	<b>Sale Consideration</b>	<b>Cost of Acquisition</b>	<b>Year of Taxability</b>	<b>Special Points for Net worth</b>
Sale of assets in Slump Sale	Date of setting up of undertaking to date of slump sale (Short Term if undertaking for not more than 36 months immediately preceding the date of transfer)	<b>Fair Market Value of the capital assets as on the date of transfer (Calculated as per Rule 11UAE)</b>	Net Worth of the undertaking transferred = Assets (-) Liabilities	Year of Slump Sale	<ul style="list-style-type: none"> <li>For depreciable assets: take Income Tax WDV</li> <li>For other assets/ liabilities take book value</li> <li>Capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction u/s 35AD: nil</li> <li><b>Self-generated Goodwill of a business or profession: nil</b></li> <li>Revaluation shall not be considered</li> <li>No Indexation benefit</li> </ul>

**Section 2(42C)**

- Slump Sale means the transfer of one or more undertakings, **by any means as a result of the sale** for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales. (w.e.f. 1.4.2021)
- Transfer shall have the meaning assigned to it in section 2(47) (w.e.f. 1.4.2021)**



**Rule 11UAE: Computation of Fair Market Value of Capital Assets for section 50B (w.e.f. 24.5.2021)**

- Fair market value of the capital assets shall be determined on the date of slump sale and for this purpose valuation date referred to in rule 11UA shall also mean the date of slump sale.
- Fair market value of the capital assets shall be the FMV1 or FMV2 whichever is higher.
- FMV1 of the capital assets transferred by way of slump sale =  $(A+B+C+D - L) \times (PV) / (PE)$

<p>A = Book Value of all the assets of the undertaking or the division transferred by way of slump sale in the balance sheet (other than bullion, jewellery, precious stone, artistic work, shares, securities, and immovable property) as reduced by</p> <p>a) Income-tax paid (–) Refund</p> <p>b) any amount shown in the balance sheet as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset</p>	<p>L = Book value of liabilities shown in the balance-sheet of the undertaking or the division excluding</p> <p>a) the paid-up capital in respect of equity shares</p> <p>b) Dividends payable on preference/equity shares where if it is not declared before the date of transfer at a general body meeting of the company</p> <p>c) Reserves and Surplus, even if the resulting figure is negative, except that set apart towards depreciation</p> <p>d) Provision for taxation excess over the tax payable with reference to the book profits</p> <p>e) provisions made for meeting unascertained liabilities</p> <p>f) Contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares</p>
<p>B = the price which the jewellery and artistic work would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer;</p>	<p>C = fair market value of shares and securities as determined in the manner provided in this rule</p> <p>D = the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property</p>

- FMV2 = E+F+G+H

<p>E = value of the monetary consideration received or accruing as a result of the transfer</p>	<p>F = FMV of non-monetary consideration received or accruing as a result of the transfer represented by property referred to in rule 11UA(1) determined in the manner provided in rule 11UA(1) for the property covered in that sub-rule</p>
<p>G = the price which the non-monetary consideration received or accruing as a result of the transfer represented by property, other than immovable property, which is not referred to in rule 11UA(1) would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer, in respect of property</p>	<p>H = the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property in case the non-monetary consideration received or accruing as a result of the transfer is represented by the immovable property</p>

**Section 54GB: Exemption of capital gains on transfer of residential property (for Individual/ HUF)**

Exemption shall be allowed if the long-term capital asset is transferred and company is incorporated till **31.3.2022**.



**Section 9B: Income on receipt of capital asset or stock in trade by specified person from specified entity (w.e.f. 1.4.2021)**

- Where a specified person receives during the previous year any capital asset or stock in trade or both from a specified entity in connection with the dissolution or reconstitution of such specified entity, then the specified entity shall be deemed to have transferred such capital asset or stock in trade to specified person in the year in which it is received by the specified person.
- Any profits and gains arising from such deemed transfer of capital asset or stock in trade or both by the specified entity shall be
  - deemed to be the income of such specified entity of the previous year in which such capital asset or stock in trade or both were received by the specified person and
  - chargeable to income-tax as income of such specified entity under the head "Profits and gains of business or profession" or under the head "Capital gains", in accordance with provisions of this Act.
- Fair market value of the capital asset or stock in trade or both on the date of its receipt by the specified person shall be deemed to be the full value of the consideration received or accruing as a result of such deemed transfer of the capital asset or stock in trade or both by the specified entity.
- If any difficulty arises in giving effect to the provisions of this section and section 45(4), the Board may, with the approval of the Central Government, issue guidelines for the purposes of removing the difficulty. Every guideline issued by the Board shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the assessee.

**Reconstitution of the specified entity** means where

- one or more of its partners or members of such specified entity ceases to be partners or members or
- one or more new partners or members are admitted in such specified entity in such circumstances that one or more of the persons who were partners or members, as the case may be, of the specified entity, before the change, continue as partner or partners or member or members after the change or
- all the partners or members of such specified entity continue with a change in their respective share or in the shares of some of them

**Specified entity** means a firm or other association of persons or body of individuals (not being a company or a co-operative society).

**Specified person** means a person, who is a partner of a firm or member of other association of persons or body of individuals (not being a company or a co-operative society) in any previous year.

**Section 45(4) will apply only in case of reconstitution of specified entity and not on dissolution.**

<b>Section 45(4)</b>	<b>Period of Holding</b>	<b>Capital Gains</b>	<b>Year of Taxability</b>	<b>Special Points, if any</b>
Specified Person receives any money or capital asset from a specified entity on reconstitution of such specified entity	Date of purchase to date of transfer	<b>Capital Gains</b> $A = B + C - D$	Previous year in which such money or capital asset were received by the specified person	Capital Gains will arise in the hands of specified entity

A	Capital Gains taxable in the hands of the specified entity (If it is negative, then its value shall be deemed to be zero)
B	Value of any money received by specified person from the specified entity on the date of such receipt

C	Fair Market Value of the capital asset received by the specified person from the specified entity on the date of such receipt
D	Balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution It shall be considered without taking into account the increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset (i.e. which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession)

When a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity, the provisions of section 45(4) shall operate in addition to the provisions of section 9B and the taxation under the said provisions shall be worked out independently.

### **Deduction while calculating Capital Gains on remaining assets**

**Section 48(iii):** In case of value of any money or capital asset received by a specified person from a specified entity, the amount chargeable to income-tax as income of such specified entity under section 45(4) which is attributable to the capital asset being transferred by the specified entity, calculated in the prescribed manner (**Rule 8AB**)

### **Rule 8AB: Attribution of income taxable under section 45(4) to the capital assets remaining with the specified entity under section 48(iii)**

Aggregate of the value of money and FMV of the capital asset received by the specified person from the specified entity in excess of the balance in his capital account chargeable to tax under section 45(4)		
Relates to revaluation of any capital asset or valuation of self-generated asset or self-generated goodwill of the specified entity (revaluation shall be based on a valuation report obtained from a registered valuer)	does not relate to revaluation of any capital asset or valuation of self-generated asset or self-generated goodwill of specified entity	relate only to the capital asset received by the specified person from the specified entity
Amount attributable to the capital asset remaining with the specified entity for section 48(iii) shall be the amount which bears to the amount charged under section 45(4) the same proportion as the increase in, or recognition of, value of that asset because of revaluation or valuation bears to the aggregate of increase in, or recognition of, value of all assets because of revaluation or valuation	Amount charged to tax under section 45(4) shall not be attributed to any capital asset for the purposes of section 48(iii)	Amount charged to tax under section 45(4) shall not be attributed to any capital asset for section 48(iii)
Specified entity shall furnish the details of amount attributed to capital asset remaining with the specified entity in Form No. 5C on or before the due date for the assessment year in which the amount is chargeable to tax under section 45(4)		
Revaluation of an asset or valuation of self-generated asset or self-generated goodwill does not entitle the specified entity for the depreciation on the increase in value of that asset on account of its revaluation or recognition of the value of self-generated asset or self-generated goodwill due to its valuation.		

**Rule 8AA: In case of Capital Gains of specified entity under section 45(4)**

Amount or a part of it shall be deemed to be from transfer of short term capital asset, if it is attributed to	Amount or a part of it shall be deemed to be from transfer of long term capital asset or assets, if it is attributed to other capital asset and is long term capital asset at the time of taxation of amount under section 45(4)
a. capital asset which is short term capital asset at the time of taxation of amount under section 45(4)	
b. capital asset forming part of block of asset	
c. self-generated asset and self-generated goodwill	

**Problem**

Following is the Balance Sheet of Firm "FR" having partners A, B, C with equal profit-sharing ratio. Rs. In lacs

Liabilities		Assets	
Partners' Capital Balances:		Capital Assets	
A	10	Land- S (FMV: 70 Lacs)	10
B	10	Land- T (FMV: 70 Lacs)	10
C	10	Land- U (FMV: 50 Lacs)	10
	<b>30</b>		<b>30</b>

All the three lands were acquired by the firm more than 2 years ago, thus, these are long term capital assets. Partner "A" wishes to exit from the firm. On his exit, the firm decides to give him Rs. 11 Lakh of money and land "U" to settle his capital balances. Indexed cost of acquisition of land "U" is Rs. 15 Lacs. Tax rate 20% on LTCG.

**Answer**

As per section 9B of the Act, it shall be deemed that the firm "FR" has transferred land "U" to partner "A" at FMV Rs. 50 Lacs. Therefore, Long Term Capital Gains in the hands of firm "FR" (Rs. In Lacs)

Fair Market Value of Land "U"	50
Less: Indexed cost of acquisition	(15)
Long Term Capital Gain on deemed transfer of land "U"	35
Tax payable on LTCG @ 20% of 35 in hands of firm	7

This exercise is carried out since section 9B of the Act mandates that it is to be deemed that the firm "FR" has transferred the land "U" to the partner "A" and therefore, LTCG of Rs. 35 Lacs are charged to tax under section 9B of the Act.

**Net Book Profit on deemed transfer of land "U" to be credited to partner's capital account**

Fair Market Value of Land "U"	50
Less: Book value of Land "U"	(10)
Book Profit before tax	40
Less: Tax payable on LTCG	(7)
Net Book Profit to be shared in 1:1:1	33

Thus, capital of each of the partners will be credited with Rs. 11 Lacs for the profit as calculated above.

**Capital Accounts of the partners**

Particulars	A	B	C
Capital balances as given	10	10	10
Add: Profit on deemed transfer	11	11	11

Total capital balances	21	21	21
Less: Settlement by way of cash	(11)		
Less: settlement by way of land "U"	(50)		
Excess of settlement money as compared to capital balances	40		

Alternatively, Income under section 45(4) shall be calculated as follows-

	Rs.
Money received from the firm (B)	11,00,000
Fair market value of capital asset (i.e., Land)(C)	50,00,000
Balance in capital account of A (D)	(21,00,000)
Capital gain[deemed income taxable in the hands of firm u/s 45(4)](A) (i.e., B+C-D)	40,00,000

Thus, the excess money as calculated above **Rs. 40 Lacs** shall be charged to tax under section 45(4). This shall be in addition to an amount of Rs. 35 Lacs charged to tax under section 9B of the Act.

According to Rule 8AB, above Rs. 40 Lacs is attributed to remaining assets of firm "FR" on the basis of increase in their value due to revaluation. Both remaining assets "S" and "T" have their values increased by Rs. 60 Lacs. Thus, Rs. 40 Lacs will be attributed to both "S" & "T" in 60:60 i.e. Rs. 20 Lakhs each.

When either of these lands are sold in future, the above amount as attributed to them Rs. 20 Lacs shall be reduced from sales consideration under clause (iii) of section 48 of the Act.

The amount of Rs. 40 Lacs which is charged to tax under section 45(4) of the Act shall be charged as long-term capital gains in view of Rule 8AB, since the amount of Rs. 40 Lac is attributed to land "S" and "T" which are both long term capital assets at the time of taxation of Rs. 40 Lacs under section 45(4) of the Act.

Particulars	Cost	FMV	Increase	Proportion	Attribution of Capital Gains
Land S	10	70	60	50%	20
Land T	10	70	60	50%	20
					40

### **Problem**

Suppose, the above problem, all the facts are same except that the land "U" is sold at its fair market value of Rs. 50 Lacs. The final settlement to partner "A" is made in cash Rs. 61 Lacs.

### **Answer**

#### **Long Term Capital Gains in the hands of firm "FR" (Rs. In Lacs)**

Fair Market Value of Land "U"	50
Less: Indexed cost of acquisition	(15)
Long Term Capital Gain on deemed transfer of land "U"	35
Tax payable on LTCG @ 20% of 35 in hands of firm	7

#### **Net Book Profit on deemed transfer of land "U" to be credited to partner's capital account**

Fair Market Value of Land "U"	50
Less: Book value of Land "U"	(10)
Book Profit before tax	40
Less: Tax payable on LTCG	(7)
Net Book Profit to be shared in 1:1:1	33

Thus, capital of each of the partners will be credited with Rs. 11 Lacs for the profit as calculated above.

### Capital Accounts of the partners

Particulars	A	B	C
Capital balances as given	10	10	10
Add: Profit on deemed transfer	11	11	11
Total capital balances	21	21	21
Less: Settlement by way of cash	(61)		
Excess of settlement money as compared to capital balances	40		

Thus, the excess money as calculated above **Rs. 40 Lacs** shall be charged to tax under section 45(4) of the Income Tax Act. This shall be in addition to an amount of Rs. 35 Lacs charged to tax under section 9B.

According to Rule 8AB, the above Rs. 40 Lacs is attributed to remaining assets of the firm "FR" on the basis of increase in their value due to revaluation. In our example, both remaining assets "S" and "T" have their values increased by Rs. 60 Lacs. Thus, Rs. 40 Lacs will be attributed to both "S" & "T" in 60:60 i.e. Rs. 20 Lacs each.

When either of these lands are sold in future, the above amount as attributed to them Rs. 20 Lacs shall be reduced from sales consideration under clause (iii) of section 48 of the Act.

The amount of Rs. 40 Lacs which is charged to tax under section 45(4) of the Act shall be charged as long-term capital gains in view of Rule 8AB, since the amount of Rs. 40 Lac is attributed to land "S" and "T" which are both long term capital assets at the time of taxation of Rs. 40 Lacs under section 45(4) of the Act.

The final result in both cases is same due to the operation of section 9B of the Act.

### Problem

Following is Balance Sheet of Firm "FR" having partners A, B, C with equal profit-sharing ratio. (Rs. In lacs)

Liabilities		Assets	
Partners' Capital Balances:		Capital Assets	
A	100	Land- S (FMV Rs. 45 Lacs)	30
B	100	Patent -T (FMV Rs. 60 Lacs)	45 (WDV)
C	100	Cash	225
	<b>300</b>		<b>300</b>

The land was acquired by the firm more than 2 years ago and thus, it is a long-term capital asset. The patent was acquired/developed/registered only 1 year back. Partner "A" wishes to exit. As per the valuation report, there is also a self-generated goodwill of Rs. 30 Lacs. On the exit of partner "A", the firm decides to give him Rs. 75 Lakhs in cash and land "S" to settle his balances. Indexed cost of land "S" is Rs. 45 Lacs.

**Answer:** As per section 9B of the Act, it shall be deemed that the firm "FR" has transferred land "S" to partner "A" at its FMV Rs. 45 Lacs

### Long Term Capital Gains in the hands of firm "FR" (Rs. In Lacs)

Fair Market Value of Land "S"	45
Less: Indexed cost of acquisition	(45)
Long Term Capital Gain on deemed transfer of land "U"	0
Tax payable on LTCG @ 20% in hands of firm	0

This exercise is carried out since section 9B of the Act mandates that it is to be deemed that the firm "FR" has transferred the land "S" to the partner "A". However, since the LTCG as calculated above is "Nil", there will be no capital gain tax on application of section 9B of the Act.

For partner "A", the cost of acquisition of land "S" shall be taken as Rs. 45 Lacs.

**Net Book Profit on deemed transfer of land "S" to be credited to partner's capital account**

Fair Market Value of Land "S"	45
Less: Book value of Land "S"	(30)
Book Profit before tax	15
Less: Tax payable on LTCG	0
Net Book Profit to be shared in 1:1:1	15

Thus, capital of each of the partners will be credited with Rs. 5 Lacs for the profit as calculated above.

**Capital Accounts of the partners**

Particulars	A	B	C
Capital balances as given	100	100	100
Add: Profit on deemed transfer	5	5	5
Total capital balances	105	105	105
Less: Settlement by way of cash	(75)		
Less: settlement by way of land "S"	(45)		
Excess of settlement money as compared to capital balances	15		

Alternatively, Income under section 45(4) shall be calculated as follows-

	Rs.
Money received from the firm (B)	75,00,000
Fair market value of capital asset (i.e., Land)(C)	45,00,000
Balance in capital account of A (D)	(105,00,000)
Capital gain[deemed income taxable in the hands of firm u/s 45(4)](A) (i.e., B+C-D)	15,00,000

Thus, the excess money as calculated above Rs. 15 Lacs shall be charged to tax under section 45(4) of the Income Tax Act. This shall be in addition to any amount charged to tax under section 9B which is "Nil".

According to Rule 8AB, the above Rs. 15 Lacs is attributed to remaining assets of the firm "FR" on the basis of increase in their value due to revaluation of existing capital assets, or due to recognition of the value of self-generated goodwill, based on the valuation report of registered valuer. Value of patent "T" has increased by Rs. 15 Lakhs (45-30) and self-generated goodwill value has been recognised at Rs. 30 Lakhs.

So, Rs. 15 Lacs will be attributed between patent and the self-generated goodwill in the ratio of 15:30 or 1:2. Thus, Rs. 5 lakhs will be attributed to patent "T" and Rs. 10 Lacs attributed to self-generated goodwill.

The amount of Rs. 15 Lacs which is to be charged to tax u/s 45(4) shall be charged as STCG, as Rs. 5 Lacs as attributed to the Patent "T" is a depreciable asset and Rs. 10 Lacs is attributed to self-generated goodwill. As per Rule 8AA of the Rules, both of these are to be characterised as short-term capital gains.

Rs. 5 lacs as attributed to patent "T" shall not be added to the block of the assets and no depreciation shall be available on the same. When patent "T" gets transferred subsequently, this Rs. 5 Lacs attributed shall be

reduced from the full value of consideration receiving or accruing as a result of transfer of patent "T" by the firm "FR" and the net value shall be considered for reduction from the written down value of the intangible block under section 43(6)(c) of the Act or for calculation of capital gains under section 50 of the Act.

If patent "T" is sold for Rs. 25 Lacs. Then, net sales consideration will be taken as Rs. 20 Lacs (25-5) and Rs. 20 Lacs shall be considered for reduction from the WDV of the intangible block or for calculating short term capital gain u/s 50. Similarly, when the goodwill is sold subsequently, Rs. 10 Lacs would be reduced from its sales consideration under clause (iii) of section 48.

**Note:** For depreciation u/s 32 of the Act, the WDV of the block of intangible of which patent "T" is also a part, would remain Rs. 45 Lacs and would not be increased to Rs. 60 Lacs due to revaluation during the year.

Particulars	Cost	FMV	Increase	Proportion	Attribution of Capital Gains
Land S	45	60	15	1/3	5
Self-generated goodwill	-	30	30	2/3	10
					15

### **Books for May / Nov 2022 Exam by CA Kedar Junnarkar**

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<p><b>Price:</b> Black Money Act and Case Studies Book – <b>Rs. 650</b></p>	



## Income from Other Sources

### Section 56(2)(x)

Where any person receives, in any previous year, from any person/s

Sum of Money	Immovable Property		Movable Property	
	as gift (free)	bought for lower value	as gift (free)	bought for lower value
If sum of Money exceeds ₹50,000, then the whole amount is taxable.	If SDV of immovable property without consideration exceeds ₹50000, whole SDV will be taxable.	If stamp duty value of such property exceeds such consideration, excess will be taxable if excess is more than higher of following amounts: a) Rs. 50,000 b) 10% of consideration *	If aggregate FMV received without consideration exceeds ₹50000 whole of the FMV will be chargeable to tax.	If movable property is received for a consideration less than FMV by an amount exceeding ₹50000, the difference is chargeable to tax.

**\*\* Instead of 10%, it would be 20% in case of**

- a) the transfer of such residential unit takes place during 12.11.2020 to 30.6.2021
- b) such transfer is by way of first time allotment of the residential unit to any person and
- c) the consideration received or accruing as a result of such transfer does not exceed Rs. 2 crores.

### Exemptions for Gifts received from (Excluded from ₹50,000 limit)

any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution u/s 10(23C) or Trust registered u/s 12A or 12AA or **12AB (w.e.f. 1.4.2021)**

by way of transaction not regarded as transfer

- a) on any distribution of assets on the total or partial partition of HUF (Section 47(i))
- b) Section 47(iv) / (v) – Holding / Subsidiary Company related
- c) Section 47(vi) / (via) / (vii) – Amalgamation related (For Company / Shareholder)
- d) Section 47(vib) / (vic) / (vica) / (vicb) / (vid) – Demerger related (For Company / Shareholder)
- e) **Sec 47(viiac): Transfer, in a relocation, of capital asset by original fund to the resulting fund**
- f) **Sec 47(viiad): Transfer by a shareholder or unit holder or interest holder, in a relocation, of a share or unit or interest in the original fund in consideration for the share or unit or interest in the resultant fund**
- g) **Sec 47(vii ae): Transfer of capital asset by India Infrastructure Finance Company Limited to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government**
- h) **Sec 47(vii af): Transfer of capital asset, under a plan approved by the Central Government, by a public sector company to another public sector company notified by the Central Government or to the Central Government or to a State Government**

**Rule 11UAC:** Section 56(2)(x) shall not apply to

**Any movable property, being equity shares, of the public sector company, received by a person from the Central Government or any State Government under strategic disinvestment (w.e.f. AY 2022-23)**

Strategic disinvestment means sale of shareholding by the Central Government or any State Government in a public sector company which results in reduction of its shareholding to below fifty-one per cent along with transfer of control to the buyer.

**Taxation of Funds / Institutions under section 10(23C)****Exemption for 3 Categories of any University / Other Educational Institution or any Hospital / Other Medical Institutions** (Solely for philanthropic purposes and not for profit)

Wholly or substantially financed by the Government i.e. Government grant exceeds 50% of total receipts including voluntary contributions during the previous year (10(23C)(iiiab)/(iiiac))	Aggregate annual receipts do not exceed <b>₹5 crore</b> (10(23C)(iiiad)/(iii ae) – <b>w.e.f. 1.4.2021</b> <b>Check Note</b>	Other which are approved by CIT (Exemptions) (Procedural Compliances required – Section 10(23C)(iv)/(v)/(vi)/(via)) – discussed in Procedures of Trust
Procedural Compliances not required		

**Note:** For section 10(23C)(iiiad) and (iii ae), if the person has receipts from university or universities or educational institution or institutions as well as from hospital/s or institution, exemptions under these clauses shall not apply, if the aggregate of annual receipts of the person from such university or universities or educational institution/s or hospital/s or institution/s exceed Rs. 5 crores.

**Section 11 – For Charitable Trusts**

- Corpus Donations shall be exempt subject to the condition that **such voluntary contributions are invested or deposited in one or more of the forms or modes specified in section 11(5) maintained specifically for such corpus. (w.e.f. 1.4.2022)**
- Corpus Donations to any other trust or institution registered u/s 12AA or **12AB** to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to 10(23C)(iv)/(v)/(vi)/(via) shall not be treated as application of Income.
- Application from the corpus shall not be treated as application of income for charitable or religious purposes. The amount not so treated as application, or part thereof, shall be treated as application in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in section 11(5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or deposit.
- Application from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes. The amount not so treated as application, or part thereof, shall be treated as application in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment.
- Calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year i.e. excess application of last year cannot be set off in this year.
- Similar calculation for University / Other Educational Institution or any Hospital / Other Medical Institutions covered u/s 10(23C)(iv)/(v)/(vi)/(via)).

**Sec 12A(ac) / 12AB (w.e.f. 1.4.2021)**

Trust shall make application to the Principal CIT or CIT for registration

<b>Section 12A(ac)</b>			<b>Section 12AB(1)/(3)</b>
	<b>Case</b>	<b>Time limit to apply for registration</b>	<b>Period of Registration and Time Limit to pass the order</b>
1	Already registered u/s 12AA on 31.3.2021	within <b>3 months</b> from <b>1.4.2021</b>	Order registering the trust or institution for <b>5 years</b> shall be passed within <b>3 months</b> from the end of the month in which the application was received.
2	Registration u/s 12AB is due to expire	at least 6 months prior to expiry of the said period	He will call for such documents or information to satisfy himself about genuineness of activities and compliance of requirements of any other law for the time being in force as are material for achieving its objects
3	Provisional Registration	Earlier of (a) 6 months prior to expiry of period of the provisional registration (b) within 6 months of commencement of its activities	He may pass an order registering the trust or institution for <b>5 years</b>
4	Registration has become inoperative if it is approved u/s 10(23C) or 10(46)	at least 6 months prior to the commencement of AY from which the said registration is sought to be made operative	If he is not so satisfied, he shall pass an order rejecting such application after giving a reasonable opportunity of being heard
5	Objects modified which do not conform to conditions	<b>30 days</b> from the date of adoption or modification of objects which do not conform to conditions of registration	Time limit to pass order shall be <b>6 months</b> from the end of the month in which the application was received
6	Any Other Case (New Trusts)	at least <b>1 month</b> prior to the commencement of PY relevant to AY from which registration is sought	Provisional Order of Registration for <b>3 years</b> from the AY from which the registration is sought. It shall be passed within <b>1 month</b> from the end of the month in which the application was received

**Pending Applications on 1.4.2021**

All applications, pending before the Principal CIT or CIT on which no order has been passed u/s 12AA before 1.4.2021 shall be deemed to be an application made under 12A(ac)(vi) on that date i.e. last case.

**Provisions of sections 11 and 12 shall apply to a trust or institution**

<b>If it is already registered u/s 12AA</b>	<b>If it is provisionally registered</b>	<b>Other Cases</b>	<b>Retrospective effect when registration granted</b>
From the AY from which such trust or institution was earlier granted registration	From the first of the AY for which it was provisionally registered	From the AY immediately following the FY in which application is made.	Sections 11 and 12 shall apply for preceding year for which assessment proceedings are pending before AO as on the date of such registration and the objects and activities remain the same. No action u/s 147 shall be taken by AO for such preceding year only for non-registration. This restriction shall not apply if registration was refused or the registration granted to it was cancelled at any time u/s 12AA or <b>12AB</b>

**Note:** Above provisions, other than Point no. 4 and 5 in above table, also apply to

- University / Other Educational Institution or any Hospital / Other Medical Institutions covered u/s section 10(23C)(iv)/(v)/(vi)/(via))
- Institution / Fund approved by Principal CIT or CIT u/s 80G(5) – to pass on the benefit to the donor.

### **Section 12AB(4)/(5): Cancellation of Registration by Principal CIT or CIT other than Provisional Registration (w.e.f. 1.4.2021)**

Activities are not genuine	Activities are not being carried as per the objects	Activities are being carried out in a manner that sections 11 and 12 do not apply due to operation of section 13(1)	It has not complied with the requirement of any other law and the order, direction or decree holding that such non-compliance has occurred, has either not been disputed or has attained finality
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Opportunity of being heard has to be given before such cancellation. Registration shall not be cancelled if it proves that there was a reasonable cause for the activities to be carried out in the said manner.

### **Taxation of Investment Funds**

**Investment Fund** means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a **Category I or a Category II Alternative Investment Fund** and is regulated under SEBI (Alternative Investment Fund) Regulations 2012 or under **International Financial Services Centre Authority Act, 2019**.

### **Minimum Alternate Tax**

**Book profit** means the net profit as per statement of profit and loss for the relevant previous year as

Increased by	Expenditure relatable to income of foreign company, from (a) capital gains on transactions in securities (b) interest, royalty, fees for technical services or <b>Dividend</b> taxable at rate/s specified in Chapter-XII if the tax rate less than 15%
Decreased by	Income of foreign company, from (a) capital gains on transactions in securities (b) interest, royalty, fees for technical services or <b>Dividend</b> taxable at the rate/s specified in Chapter XII if the tax rate less than 15%

### **Alternate Minimum Tax**

The provisions of AMT shall not apply to specified fund referred to in section 10(4D) i.e. Category -III Alternative Investment Fund located in IFSC (**w.e.f. 1.4.2021**)

### **TDS TCS**

#### **No Monetary Limit for exemption from TDS under section 193 – Interest on**

Savings Bank Interest	paid or credited by the Central Government under Income Tax Act	received by Business Trust from Special Purpose Vehicle (Sec 10(23FC))
by a firm to a partner	Zero Coupon Bond by Infrastructure Capital Company or Infrastructure Capital Fund or <b>Infrastructure Debt Fund</b> or a Public Sector Company or Scheduled Bank	on notified deposits under any Central Government Scheme

**Exemption from TDS i.e. no TDS under section 194 (Dividend)**

- Dividend paid to LIC of India or General Insurance Corporation of India or other Insurer in respect of shares owned by it or in which it has beneficial interest
- **Dividend paid to Business Trust by SPV (w.e.f. 1.4.2020)**
- Dividend paid by any mode other than cash to an individual and total dividend paid does not exceed ₹5,000/-
- **Dividend paid to any other person notified by the Central Government (w.e.f. 1.4.2020)**
- Deemed Dividend u/s 2(22)(e) in case of concern
- Dividend payable by Foreign Company / Co-operative Society

**Section 194-IB**

If the tax is required to be deducted as per the provisions of section 206AA or **206AB**, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy.

**Notification No. 106/2021**

No deduction of tax shall be made under section 194-IA of the said Act on any payment made to the Air India Limited (PAN: AACCN6194P) for transfer of immovable property to Air India Assets Holding Limited (PAN: AAQCA4703M) under a plan approved by the Central Government.

**Rule 29BA: Application for grant of certificate for determination of appropriate proportion of sum (other than Salary), payable to non-resident, chargeable in case of the recipients (w.e.f. 1.4.2021)**

- An application by a person for determination of appropriate proportion of sum chargeable in the case of non-resident recipient u/s 195(2)/(7) shall be made in **Form 15E** electronically
  - a) under digital signature; or
  - b) through electronic verification code.
- The AO, in order to satisfy himself, shall examine whether the sum being paid or credited is chargeable to tax under the provisions of the Act read with the relevant Double Taxation Avoidance Agreement, if any, and if the sum is chargeable to tax he shall proceed to determine the appropriate proportion of such sum chargeable to tax.
- The AO shall examine the application and on being satisfied that the whole of such sum would not be the income chargeable in case of the recipient, may issue a certificate determining appropriate proportion of such sum chargeable under the provision of this Act, for the purposes of tax deduction u/s 195.
- While examining the application, the AO shall also take into consideration, following information in relation to the recipient:
  - a) tax payable on estimated income of the previous year
  - b) tax payable on the assessed or returned or estimated income of preceding four previous years;
  - c) existing liability under the Income-tax Act, 1961 and Wealth-tax Act, 1957
  - d) advance tax payment, tax deducted at source and tax collected at source for the assessment year relevant to the previous year till the date of making such application.
- The certificate shall be valid only for the payment to non-resident named therein and for such period of the previous year as may be specified in the certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.
- An application for a fresh certificate may be made, if the assessee so desires, after the expiry of the period of validity of the earlier certificate or within **3 months before the expiry** thereof.

**Section 194P: Deduction of tax in case of specified senior citizen (w.e.f. 1.4.2021)**

- Specified senior citizen means an individual, being a **resident** in India
  - who is of the age of **75 years or more** at any time during the previous year;
  - who is having income of the nature of pension and no other income except interest received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income (Savings / Fixed Deposit / Recurring Deposit Interest)
  - has furnished a declaration to the specified bank containing such particulars, in **Form no. 12BBA** and evidence relating to Chapter VI-A deductions.
- Notwithstanding anything contained in the provisions of Chapter XVII-B, in case of a specified senior citizen, the specified bank, shall, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A, compute the total income of such specified senior citizen for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force.
- The provisions of section 139 shall not apply to a specified senior citizen for the assessment year relevant to the previous year in which the tax has been deducted i.e. return of income need not be furnished.
- Specified Bank shall be a banking company which is a scheduled bank and has been appointed as agents of Reserve Bank of India under section 45 of the Reserve Bank of India Act, 1934.

**Section 194Q: TDS on payment of certain sum for purchase of goods (w.e.f. 1.7.2021)**

Sec	TDS by	Res Status of payee	Rate
<b>194Q</b>	Buyer* who is responsible for paying any sum to any resident seller for purchase of any goods of the value or aggregate of such value exceeding <b>Rs. 50 Lakhs</b> in any previous year	Seller should be Resident	<b>0.1%</b> of purchase consideration exceeding <b>Rs. 50 Lakhs</b>

\* Circular 13/2021 has clarified that provisions of section 194Q would apply if buyer is resident or non-resident.

However, it shall not apply to a non-resident whose purchase of goods from seller resident in India is not effectively connected with the permanent establishment of such non-resident in India. Permanent establishment shall mean to include a fixed place of business through which the business of the enterprise is wholly or partly carries on.

**Note**

- Buyer** means a person whose total sales, gross receipts or turnover from the business carried on by him exceed **Rs. 10 crores** during the preceding financial year immediately preceding the financial year in which the purchase of goods is carried out, not being a person notified by Central Government.
- Tax shall be deducted at the time of credit or payment whichever earlier.
- The provisions of this section shall not apply to a transaction on which
  - tax is deductible under any of the provisions of this Act and
  - tax is collectible under the provisions of section 206C applies other than section 206C(1H).
- If section 194Q applies, then provisions of section 206C(1H) will not apply.
- Limit of Rs. 50 Lakhs applies to each seller for a financial year.
- If PAN not submitted by seller, TDS rate would be 5% under section 206AA

**Notified Person**

Air India Assets Holding Limited (PAN: AAQCA4703M) shall not be considered as 'buyer' for the purpose of

section 194Q in case of transfer of goods by Air India Limited (PAN: AACCN6194P) to it under a plan approved by the Central Government.

### **Circular 13/2021**

- TDS u/s **194Q** shall not be applicable in relation to
  - a) transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre
  - b) transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered as per Regulation 21 of the CERC (Central Electricity Regulatory Commission)

- **Adjustment for GST**

Tax is deducted at the time of credit to the account of seller	Tax is deducted at the time of payment (as payment is earlier than credit)
In terms of the agreement or contract between the buyer and the seller, the component of GST comprised in the amount payable to the seller is indicated separately, tax shall be deducted under section 194Q on the amount credited without including such GST	TDS on Advance payment received - Tax would be deducted on the whole amount as it is not possible to identify that payment with GST component of the amount to be invoiced in future

- **Adjustment for Purchase Returns:** Before purchase return happens, the tax must have already been deducted under section 194Q on that purchase. If that is the case and against this purchase return the money is refunded by the seller, then this tax deducted may be adjusted against the next purchase against the same seller. No adjustment is required if the purchase return is replaced by the goods by the seller as in that case purchase on which tax was deducted u/s 194Q has been completed with goods replaced.
- **Seller is a person whose income is exempt**  
Provisions of section 194Q shall not apply on purchase of goods from a person, being a seller, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act etc.). This clarification would not apply if only part of the income of the person (being a seller) is exempt
- **TDS in the year of incorporation**  
Under section 194Q, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding Rs. 10 crores during immediately preceding financial year. Since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q shall not apply in the year of incorporation.
- **If turnover of business is less than Rs. 10 crores**  
Sales or gross receipts or turnover from business carried on by him **must exceed Rs 10 crore**. His turnover or receipts from non-business activity is not to be counted for this purpose. If turnover is less than Rs. 10 crores, then section 194Q will not apply.



- **Calculation of threshold for the financial year 2021-22 as section 194Q is applicable from 1.7.2021**
  - Provision shall not apply on any sum credited or paid before 1<sup>st</sup> July 2021. If either of the two events had happened before 1<sup>st</sup> July 2021, that transaction would not be subjected to section 194Q.
  - Since the threshold of Rs. 50 Lakhs is with respect to the previous year, calculation of sum for triggering TDS under section 194Q shall be computed from 1<sup>st</sup> April, 2021. Hence, if a person being buyer has already credited or paid Rs. 50 Lakhs or more up to 30th June 2021 to a seller, TDS shall apply on all credit or payment during the previous year, on or after 1<sup>st</sup> July 2021 to such seller.

#### **Section 206AB: Special provision for TDS for non-filers of income-tax return (w.e.f. 1.7.2021)**

- Notwithstanding anything contained in any other provisions of this Act, where tax is required to be deducted at source under the provisions of Chapter XVIIIB, other than section 192, 192A, 194B, 194BB, 194LBC or 194N on any sum or income or amount paid, or payable or credited, by a person (deductee) to a specified person, the tax shall be deducted at the higher of the following rates, namely:
  - a) at twice the rate specified in the relevant provision of the Act or rates in force
  - b) 5%
- If provisions of section 206AA is applicable to a specified person, in addition to this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA.
- Specified person means a person who has not filed the returns of income for both of the two previous years immediately prior to the previous year in which tax is required to be deducted, for which the time limit of filing return of income under section 139(1) has expired and the aggregate of TDS and TCS in his case is **Rs. 50,000 or more** in each of these two previous years:
- Specified person shall not include a non-resident who does not have permanent establishment in India.
- Permanent establishment includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

#### **Section 206CCA: Special provision for TCS for non-filers of income-tax return (w.e.f. 1.7.2021)**

- Notwithstanding anything contained in any other provisions of this Act, where tax is required to be collected at source under the provisions of Chapter XVII-BB, on any sum or amount received by a person from a specified person, the tax shall be collected at the higher of the following two rates:
  - a) at twice the rate specified in the relevant provision of the Act; or
  - b) at the rate of 5%
- If provisions of section 206CC is applicable to a specified person, in addition to the provisions of this section, the tax shall be collected at higher of the two rates provided in this section and in 206CC.
- Specified person means a person who has not filed the returns of income for both of the two previous years immediately prior to the previous year in which tax is required to be collected, for which the time limit of filing return of income under section 139(1) has expired and the aggregate of TDS and TCS in his case is **Rs. 50,000** or more in each of these two previous years:
- Specified person shall not include a non-resident who does not have permanent establishment in India.
- Permanent establishment includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

#### **TDS Statements (Section 200(3) / Rule 31A)**

TDS u/s <b>192</b> (Residents / Non-Residents) and <b>194P (Residents)</b>	TDS under other sections (Payments to <b>Non Resident or Foreign Company or R-NOR</b> )	TDS under other sections (Payments to <b>Resident / ROR</b> )
<b>Form No. 24Q</b>	<b>Form No. 27Q</b>	<b>Form No. 26Q</b>