

# INCOME TAX AMENDMENTS FOR CA INTER NOV 2022

## 1. CAPITAL GAINS

### **1. SLUMP SALE S. 50B** (amendment in Blue)

- FULL VALUE CONSIDERATION:
  - o Instead of the actual consideration, **FMV OF THE UNITY UNDERTAKING** on the date of transfer shall be deemed to be the consideration.
  - o FMV OF THE UNITY UNDERTAKING ON THE DATE OF TRANSFER: Higher of
    - ✓ **FMV 1:** FMV of capital assets transferred via slump sale
    - ✓ **FMV 2:** FMV of consideration recd for slump sale
- COST OF ACQUISITION + COST OF IMPROVEMENT = NET WORTH of the unit/ undertaking
  - o No indexation benefits
  - o Net worth = Total Assets - Total Liabilities
  - o WHILE CALCULATING NET WORTH:
    - ✓ **REVALUATION** of assets to be ignored
    - ✓ If **35AD BENEFIT** has been claimed for an asset, its value shall be taken as Nil
    - ✓ Value of **SELF GENERATED GOODWILL OF BUSINESS/ PROFESSION** shall be taken as NIL
  - o A **CA REPORT** shall be obtained
    - ✓ Indicating the **COMPUTATION OF NET-WORTH** of the undertaking/ division
    - ✓ Certifying that the computation is **CORRECT**
- MINIMUM PERIOD OF HOLDING OF UNITY UNDERTAKING REQUIRED TO BE CALLED LTCA:  
36 months

**SPACE FOR NOTES**

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

## 2. TDS/ TCS

### 1. TAX DEDUCTED BY BANKS WRT SENIOR CITIZENS S. 194-P

Payer (deductor)	Specified Bank (Scheduled Bank)
Recipient	Specified Senior Citizen <ul style="list-style-type: none"><li>- Individual</li><li>- Resident</li><li>- <math>\geq 75</math> years at any time during the previous year</li><li>- Has pension income</li><li>- No other income (Except interest income from any account maintained by him in the same bank in which his pension income is credited)</li><li>- has furnished a declaration to the specified bank containing prescribed particulars, in the prescribed form and verified in the prescribed manner (Such declaration has to be maintained by the bank and made available to Principle Chief Commissioner of IT/ Chief Commissioner of IT when required)</li></ul>
On what amount tax is to be deducted	On total income of the specified senior citizen after giving effect to Chapter VI - A and S. 87A rebate (after considering tax deducted on pension u/s 192) (Chapter VI - A deductions will be allowed on the basis of evidence furnished)
Rate	Rate in force (slab rate)

- **SPECIAL POINT:** If tax is deducted u/s 194-P, the specified senior citizen need not file his ROI for that AY.

**QUESTION:** Mr. Sharma, a resident Indian aged 77 years, gets pension of Rs 52,000 per month from the UP State Government. The same is credited to his savings account in SBI, Lucknow Branch.

In addition, he gets interest@8% on fixed deposit of Rs 20 lakh with the said bank. Out of the deposit of Rs 20 lakh, Rs 2 lakh represents five-year term deposit made by him on 1-4-2021. Interest on savings bank credited to his SBI savings account for the P.Y. 2021-22 is Rs 9,500.

(1) From the above facts, compute the total income and tax liability of Mr. Sharma for the A.Y. 2022-23, assuming that he has not opted for section 115BAC.

(2) What would be the amount of tax deductible at source by SBI, assuming that the same is a specified bank? Is Mr. Sharma required to file his return of income for A.Y. 2022-23, if tax deductible at source has been fully deducted? Examine.

(3) Would your answer to Q-2 be different if the fixed deposit of Rs 20 lakh was with Canara Bank instead of SBI, other facts remaining the same?

(Refer my YouTube channel for solution)

## 2. TAX DEDUCTED AT SOURCE ON PURCHASE OF GOODS S. 194-Q

Payer (deductor)	Buyer whose turnover from business > Rs 10 crores in PPY (non-business turnover to be excluded) Includes Departments of CG/ SG if they are carrying on business/ commercial activity NA to Departments of CG/ SG if they are NOT carrying on business/ commercial activity NA to persons notified by CG
Recipient	Resident seller (other than Department of CG/ SG)
When is tax to be deducted	At the time payment/ credit w.e.e.
Max amt which can be paid without tax deduction	Tax is deductible if the buyer has to pay for purchase of goods of aggregate value > Rs 50 lacs in the PY.
On what amount tax is to be deducted	On the aggregate amount to be paid by the buyer for the purchase of goods > Rs 50 lacs
Rate	@0.1% of aggregate amount > Rs 50 lacs

### - THIS SECTION IS NOT APPLICABLE:

- If tax is deductible under any other section
- If tax is collectible under any section except S. 206C(1H)
- On transactions carried through stock exchanges
- In the first year of incorporation as PPY turnover limit cannot be checked in that case.
- If the entire income of the seller is exempt (Eg u/s 10)

### - IN CASE OF CONFLICT:

- S. 194-Q AND S. 206C(1H): S. 194-Q will apply. (For any reason if seller has already collected tax u/s 206C(1H), buyer need not deduct tax again u/s 194-Q)
- S. 194-Q AND other TCS sections (other than S. 206C(1H)): Other TCS section will apply.
- S. 206C(1H) AND other TCS sections (other than S. 206C(1H)): Other TCS section will apply.
- For goods like alcoholic liquor for human consumption, tendu leaves, timber, forest produce, scrap, minerals like coal/ lignite/ iron ore, tax is not required to be collected if the buyer furnishes a declaration that such goods:
  - ✓ Will be used for
    - manufacturing, processing or producing articles or things or
    - generation of power
  - ✓ Will not be used for trading purposes.For such exempted goods, S. 206C(1H) is also not applicable. In such cases, if provisions u/s 194Q are fulfilled, buyer may deduct tax u/s 194Q.
- S. 194-O AND S. 206C(1H): S. 194-O (For any reason if seller has already collected tax u/s 206C(1H), e-commerce operator cannot escape responsibility u/s 194-O by giving the excuse that seller has already collected the tax)
- S. 194-O AND S. 194-Q: S. 194-O

- **NOTE:** This section is applicable from 1-7-2021 onwards. Hence:
  - o Tax will be deducted wrt payments/ credits on/ after 1-7-2021. Tax will not be deducted on payments/ credits before 1-7-2021
  - o But to compute the aggregate amount to be paid by the buyer for purchase of goods, all payments/ credits from 1-4-2021 onwards will be considered, including payments/ credits from 1-4-2021 to 30-6-2021
- TDS is not to be deducted on the GST amount separately indicated on the invoice (unlike 206C(1H)). However, if payment is earlier and tax is deducted on payment basis, then, 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.  
(Same concept applicable for other levies like VAT, Sales Tax, CST, Excise duty, etc)
- In case of purchase returns, TDS amount need not be refunded. May be adjusted against subsequent transactions. No adjustment is required if the purchase return is replaced by the goods by the seller.
- Should tax be deducted even on advance payments? Yes. Because tax is to be deducted at the time of payment or credit w.e.e.
- Generally, IF THE DEDUCTEE DOES NOT FURNISH PAN, tax is deducted at higher rate of 20% u/s 206AA. But for S. 194-Q, if PAN is not furnished tax will be deducted at higher rate of 5%.

**QUESTION:** Mr. Gupta, a resident Indian, is in retail business and his turnover for F.Y.2020-21 was Rs 12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the F.Y.2021-22 was Rs 95 lakh (Rs 20 lakh on 1-6-2021, Rs 25 lakh on 12-8-2021, Rs 22 lakh on 23-11-2021 and Rs 28 lakh on 25-3-2022). Assume that the said amounts were credited to Mr. Agarwal's account in the books of Mr. Gupta on the same date. Mr. Agarwal's turnover for F.Y.2020-21 was Rs 15 crores.

(1) Based on the above facts, examine the TDS/TCS implications, if any, under the Income-tax Act, 1961.

(2) Would your answer be different if Mr. Gupta's turnover for F.Y.2020-21 was Rs 8 crores, all other facts remaining the same?

(3) Would your answer to (1) and (2) change, if PAN has not been furnished by the buyer or seller, as required?

### 3. S. 206C(1G) (amendment in Blue)

- TAX IS COLLECTIBLE U/S 206C(1G) BY:
  - o an authorised dealer who receives amount under the Liberalised Remittance Scheme of RBI for overseas remittance from a buyer, being a person remitting such amount out of India;
  - o a seller of an overseas tour package who receives any amount from the buyer who purchases the package.
- Tax need NOT be collected if buyer is an INDIVIDUAL who is a NR & is VISITING INDIA.

### 3. ASSESSMENT PROCEDURES

#### 1. REQUIREMENT TO FILE INCOME TAX RETURN

In addition to the existing provisions, it will also be mandatory for the following persons to file their return within the due date prescribed u/s 139(1)

A person carrying on business	Total sales, turnover or gross receipts from the business	> Rs 60 lakhs in the P.Y.
A person carrying on profession	Total gross receipts from the profession	> Rs 10 lakhs in the P.Y.
Senior Citizen	TDS + TCS	≥ Rs 50,000 in the P.Y.
Any other person	TDS + TCS	≥ Rs 25,000 in the P.Y.
A person having savings bank account	Aggregate deposit in all his savings bank accounts	≥ Rs 50 lakhs in the P.Y.

#### 4. AADHAR LINKING AND 5. 234H FEE (amendment in Blue)

- LAST DATE TO LINK AADHAR TO PAN: 31.3.2022
- FEE U/S 234H: Upon failure to link Aadhar to PAN, assessee shall be liable to pay fee as may be prescribed u/s 234H (~~Max Rs 1000~~)
  - o Rs 500 - If Aadhar is linked to PAN by 30.06.2022
  - o Rs 1,000 - Other cases
- PAN INOPERATIVE:
  - o Upon failure to link Aadhar to PAN by 31.3.2022, PAN allotted to the person would be made inoperative
  - o CONSEQUENCES OF INOPERATIVE PAN:
    - ✓ Assessee will not be able to file return
    - ✓ Pending returns will not be processed
    - ✓ Pending refunds cannot be issued
    - ✓ Pending proceedings as in the case of defective returns cannot be completed
    - ✓ Tax will be deducted at a higher rate
    - ✓ Assessee will also face several difficulties as PAN is an important KYC requirement for all financial transactions (eg. in banks)
  - o *These consequences will be applicable only w.e.f. 1.4.2023. i.e. if the assessee links his Aadhar with his PAN before 1.4.2023, he will not have to suffer the consequences of an inoperative PAN*

**SPACE FOR NOTES**