

STATUTORY UPDATE FOR MAY, 2024 EXAMINATION

The **October 2023** edition of the Study Material, based on the provisions of direct tax laws, as amended by the **Finance Act, 2023** and significant notifications/circulars issued upto 31st October, 2023, are relevant for May 2024 examination. The relevant assessment year for May 2024 examination is **A.Y.2024-25**. The following **significant notifications/circulars issued upto 31st October 2023**, are also relevant for May 2024 examination, but not covered in the October 2023 edition of the Study Material:

Chapter No.	Chapter Name	Details of Notifications/Circulars
4	Capital Gains	Central Government expanded the list of “specified securities” notified for the purposes of section 47(viiab) [Notification No. 71/2023 dated 12-09-2023]
13	Deduction, Collection and Recovery of Tax	Interest on deposit with post office under a scheme eligible for non-deduction of tax at source under section 194A notified by the Central Government [Notification No. 27/2023 dated 16.05.2023]
		No deduction of tax at source under section 194 on dividend paid by any unit of an IFSC, primarily engaged in the business of leasing of an aircraft to a company, being a Unit of an IFSC primarily engaged in the business of leasing of an aircraft [Notification No. 52/2023 dated 20.07.2023]
		No deduction of tax at source under section 194-I on lease rent or supplemental lease rent made by a person to a person being a Unit of an IFSC for lease of a ship [Notification No. 57/2023 dated 01.08.2023]
15	Assessment Procedure	Rule 114B, 114BA and 114BB relating to PAN amended [Notification No. 88/2023 dated 10.10.2023]
		Substitution of Rule 14B specifying guidelines for the purposes of determining expenses for audit or inventory valuation under section 142(2A) [Notification No. 82/2023 dated 27.09.2023]

The above notifications and circulars are discussed hereunder:

Chapter 4: Capital Gains

Central Government expanded the list of “specified securities” notified for the purposes of section 47(viiab) [Notification No. 71/2023, dated 12-09-2023]

Section 47(viiab) provides that any transfer of a capital asset, being bond or Global Depository Receipt referred to in section 115AC(1) or rupee denominated bond of an Indian company or a derivative or any other security as may be notified by the Central Government, made by a non-resident on a recognised stock exchange located in any International Financial Services Centre (IFSC) would not be considered as transfer for attracting capital gains tax, where the consideration for such transfer is paid or payable in foreign currency.

Accordingly, the Central Government has, vide this notification, notified the following securities -

- (i) unit of investment trust, being REITs or an InvITs;

(ii) unit of a scheme (a scheme of a fund management entity launched under IFSC Authority (Fund Management) Regulations, 2022);

(iii) unit of a Exchange Traded Fund launched under IFSC Authority (Fund Management) Regulations, 2022

in addition to the securities notified earlier vide Notification No. 16/2020 dated 05.03.2020 and Notification No. 89/2022 dated 03.08.2022, which are listed on a recognised stock exchange located in any IFSC in accordance with the regulations made by the SEBI under the SEBI Act 1992 or the IFSC Authority under the IFSC Authority Act 2019, as the case may be.

Chapter 13: Deduction, Collection and Recovery of Tax

Interest on deposit with post office under a scheme eligible for non-deduction of tax at source under section 194A notified by the Central Government [Notification No. 27/2023 dated 16.05.2023]

Section 194A provides for deduction of tax @10% by any person (other than an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him/it does not exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year) on interest, other than “interest on securities” credited or paid to residents.

No deduction of tax under section 194A would be made, *inter alia*, if the aggregate amount of interest paid or credited by post office during the financial year does not exceed ₹ 40,000/ ₹ 50,000 (in case of a senior citizen), on any deposit made with it under any scheme framed and notified by the Central Government.

Accordingly, the Central Government has, vide this notification, specified the Scheme “Mahila Samman Savings Certificate, 2023”.

“Mahila Samman Savings Certificate, 2023” is a one-time scheme available for two years i.e., from 1st April, 2023 to 31st March, 2025. It offers a maximum deposit facility of upto ₹ 2 lakh in the name of women or a girl for 2 years at a fixed interest rate of 7.5% p.a., compounded quarterly.

Consequently, no tax under section 194A would be deductible by the post office on interest paid or credited under this scheme since the amount of interest would not exceed ₹ 40,000.

No deduction of tax at source under section 194 on dividend paid by any unit of an IFSC, primarily engaged in the business of leasing of an aircraft to a company, being a Unit of an IFSC primarily engaged in the business of leasing of an aircraft [Notification No. 52/2023 dated 20.07.2023]

Section 194 requires deducting tax at source @10% by the principal officer of a domestic company on dividend distributed or paid by it to its resident shareholders.

As per section 197A(1F), no deduction of tax would be made or deduction of tax would be made at such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institutions or associations or bodies notified by the Central Government in this behalf.

In exercise of the power provided under section 197A(1F), the Central Government has, vide this notification, notified that w.e.f. 1st September, 2023, no tax is required to be deducted under section 194 from dividend paid by any unit of an IFSC, primarily engaged in the business of leasing of an aircraft (payer) to a company, being a Unit of an IFSC primarily engaged in the business of leasing of an aircraft (payee) subject to the following:

- (1) The payee has to furnish and verified a statement-cum-declaration to the payer giving details of previous year relevant to the assessment year in which the dividend income eligible for exemption under section 10(34B) is payable.

- (2) The payer would not deduct tax on payment made or credited to the recipient of such dividend (payee) after the date of receipt of copy of statement-cum-declaration from payee and furnish the particulars of all the payments made to the recipient of such dividend on which tax has not been deducted in the statement of deduction of tax under section 200(3) read with the Rule 31A.

No deduction of tax at source under section 194-I on lease rent or supplemental lease rent made by a person to a person being a Unit of an IFSC for lease of a ship [Notification No. 57/2023 dated 01.08.2023]

Section 194-I requires to deduct tax at source by any person other than individual or HUF whose total sales, gross receipts or turnover from the business or profession carried on by him does not exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year, on rent paid or credited to residents.

As per section 197A(1F), no deduction of tax would be made or deduction of tax would be made at such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institutions or associations or bodies notified by the Central Government in this behalf.

In exercise of the power provided under section 197A(1F), the Central Government has, vide this notification, notified that w.e.f. 1st September, 2023, no tax is required to be deducted under section 194-I from lease rent or supplemental lease rent made by a lessee to a lessor, being a Unit of an IFSC for lease of a ship subject to the following:

- (1) The lessor has to furnish and verified a statement-cum-declaration to the lessee giving details of previous year relevant to the ten consecutive assessment years for which the lessor opts for claiming deduction under section 80LA(1A)/(2).
- (2) The lessee would not deduct tax on payment made or credited to lessor after the date of receipt of copy of statement-cum-declaration from the lessor and also furnish the particulars of all the payments made to lessor on which tax has not been deducted in the statement of deduction of tax under section 200(3) read with the Rule 31A.

The above relaxation is available to the lessor only during the said previous years relevant to the ten consecutive assessment years as declared by the lessor for which deduction under section 80LA is being opted. The lessee is liable to deduct tax on payment of lease rent for any other year.

Chapter 15: Assessment Procedure

Rule 114B, 114BA and 114BB relating to PAN amended [Notification No. 88/2023 dated 10.10.2023]

Amendments in Rule 114B:

As per section 139A(5) quoting of PAN is mandatory, *inter alia*, in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of revenue. In this connection, CBDT has prescribed the transactions vide Rule 114B.

However, as per second proviso to Rule 114B, the requirement of mandatorily quoting of PAN is relaxed where a person does not have a PAN and makes a declaration in Form No.60 giving therein the particulars of such transaction.

The CBDT has, vide this notification, amended the second proviso to Rule 114B to withdraw such relaxation for a company or a firm. Therefore, w.e.f. 10.10.2023, second proviso to Rule 114B provides that any person, not being a company or a firm, who does not have a PAN and who enters into any transaction specified in Rule 114B, has to make a declaration in Form No.60 giving therein the particulars of such transaction.

However, a foreign company who does not have any income chargeable to tax in India and does not have a PAN and enters into the following transactions, in an IFSC banking unit, has to make a declaration in Form No. 60.

Nature of transaction	Value of transaction
Opening an account [other than a time deposit and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act).	All such transactions
A time deposit with, - (i) a banking company or a cooperative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act); (ii) a Post Office; (iii) a Nidhi referred to in section 406 of the Companies Act, 2013; or (iv) a non-banking financial company which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934, to hold or accept deposit from public.	Amount exceeding ₹ 50,000 or aggregating to more than ₹ 5 lakh during a financial year.

Meaning of IFSC banking unit – A financial institution defined under section 3(1)(c) of the IFSC Authority Act, 2019, that is licensed or permitted by the IFSC to undertake permissible activities under the IFSC Authority (Banking) Regulations, 2020.

Amendments in Rule 114BA and Rule 114BB:

As per section 139A(1)(vii) read with Rule 114BA, every person, who has not been allotted a PAN, has to apply for PAN if he intends to enter into any of the following transactions:

(i)	Deposit cash in his one or more accounts with a banking company, co-operative bank or post office, if the aggregate amount of cash deposit in such accounts during a financial year is ₹ 20 lakh or more
(ii)	Withdraw cash from his one or more accounts with a banking company, co-operative bank or post office, if the aggregate amount of cash withdrawal from such accounts during a financial year is ₹ 20 lakh or more
(iii)	Open a current account or cash credit account with a banking company or a co-operative bank, or a Post Office

Similar transactions are prescribed for the purpose of quoting PAN or Aadhar Number in the document pertaining to such transactions under section 139A(6A) read with Rule 114BB.

The CBDT has, vide this notification, amended Rule 114BA and 114BB, w.e.f. 10.10.2023, to provide that a person is not required to apply for PAN or quote PAN, in a case -

- (a) where the person, making the deposit or withdrawal of an amount otherwise than by way of cash as per (i) or (ii) above, or opening a current account not being a cash credit account as per (iii) above, is a non-resident (not being a company) or a foreign company;
- (b) the transaction is entered into with an IFSC banking unit; and
- (c) such non-resident (not being a company) or the foreign company does not have any income chargeable to tax in India.

Substitution of Rule 14B specifying guidelines for the purposes of determining expenses for audit or inventory valuation under section 142(2A) [Notification No. 82/2023 dated 27.09.2023]

As per proviso to section 142(2D), where the direction for special audit or inventory valuation under section 142(2A) is issued by the Assessing Officer, the expenses of, and incidental to, such special audit or inventory valuation, including remuneration of the Accountant or Cost Accountant, shall be determined by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in accordance with the prescribed guidelines. The expenses so determined shall be paid by the Central Government.

Accordingly, the CBDT has, vide this notification, substituted Rule 14B prescribing the guidelines for the purposes of determining expenses for audit or inventory valuation under section 142(2A).

Every Chief Commissioner would maintain a panel of

- accountants, out of persons referred to in *Explanation* to section 288(2), and
- cost accountants, out of the persons referred to in *Explanation* to section 142 for the purposes of section 142(2A).

The expenses of, and incidental to, audit or inventory valuation (including the remuneration of the Accountant, Cost Accountant, qualified assistants, semi-qualified and other assistants who may be engaged by such Accountant or Cost Accountant) should not be

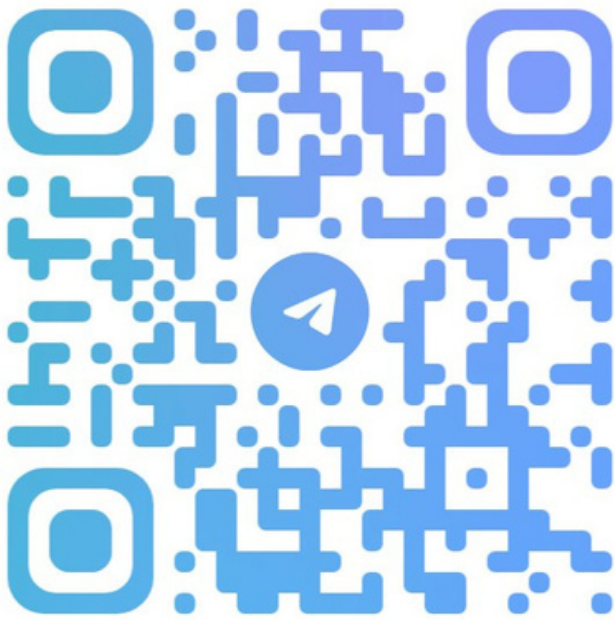
- less than ₹ 3,750 and
- not more than ₹ 7,500

for every hour of the period as specified by the Assessing Officer under section 142(2C). Such period shall be specified in terms of the number of hours required for completing the report.

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