

CA INTER INCOME TAX AMENDMENTS

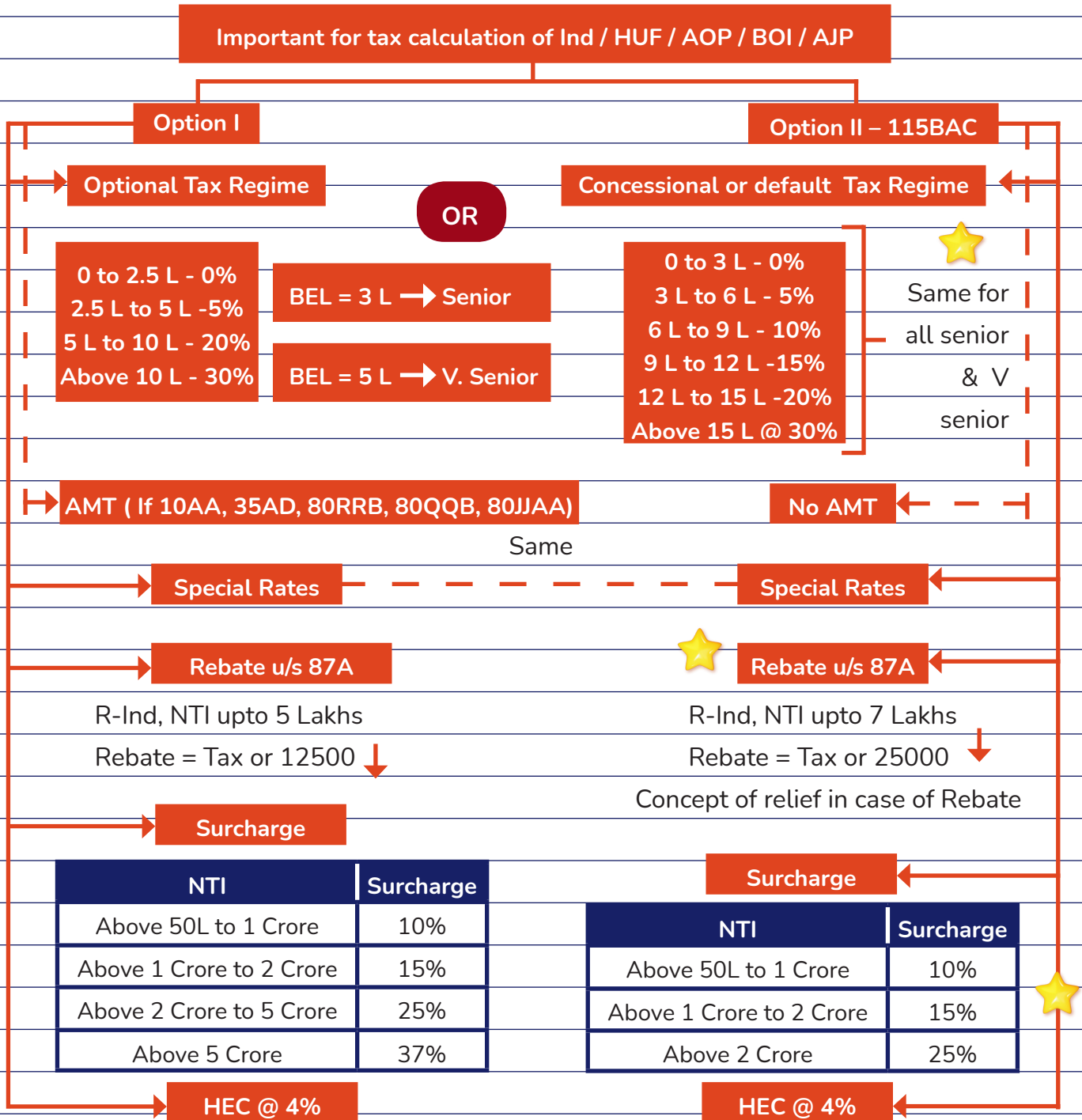
FOR MAY 24 EXAMS (PART I)

BY CA POOJA DATTE

Chapter 1 - Basic Concepts

115 BAC has some amendments wef FA 23

1. Comparison between optional tax regime & concessional tax regime



Note : Under option I and option II enhanced rate of surcharge of 25% or 37% would not apply to STCG u/s111A, LTCG u/s112A, LTCG u/s 112

115BAC - Chapterwise benefits to be forgone u/s 115BAC

1. Salary

- MP/MLA - Daily allowance & constituency allowance is disallowed
- HRA is Disallowed
- LTC is Disallowed
- Allowance u/s 10(14) is disallowed.
(4 Exceptions) → Travelling (Tour) / Daily / conveyance (office) / Transport allowance for handicapped.

→ 16(ia) standard deduction is now allowed

2. Deductions → 16(ii) EA is Disallowed

→ 16(iii) PT is Disallowed



3. PGBP → 35AD is Disallowed

- Additional depreciation is Disallowed
- Donation / Contribution u/s 35 for scientific research is Disallowed

4. HP → Deduction u/s 24 for interest on borrowed capital is disallowed for 50

5. Clubbing → Exemption of Rs. 1500 p.a. u/s 10(32) is not allowed.

6. Set off → Inter head adjustment of HP loss is not allowed.

→ Loss arising due to above adjustment cannot be carried forward.

7. VI A → Deduction under chapter VI A

- All deduction are disallowed
- Deduction u/s 80CCD(2) - contribution to Agniveer Corpus is allowed.
- Deduction u/s 80JJAA is allowed.
- 80CCH (2) is allowed.

8. Exemption u/s 10AA is not allowed.

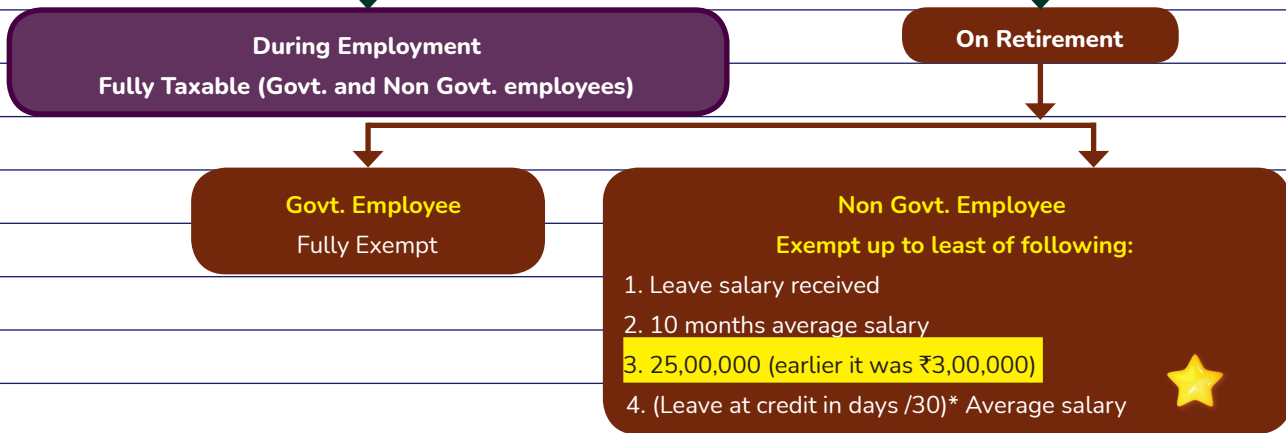
Chapter 2 - Salary

1. Sec 80 CCH : - Contribution to Agniveer corpus fund account - Newly added.

Contri to Agniveer employer's contribution to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme (referred to in section 80CCH.) is fully taxable of employee.

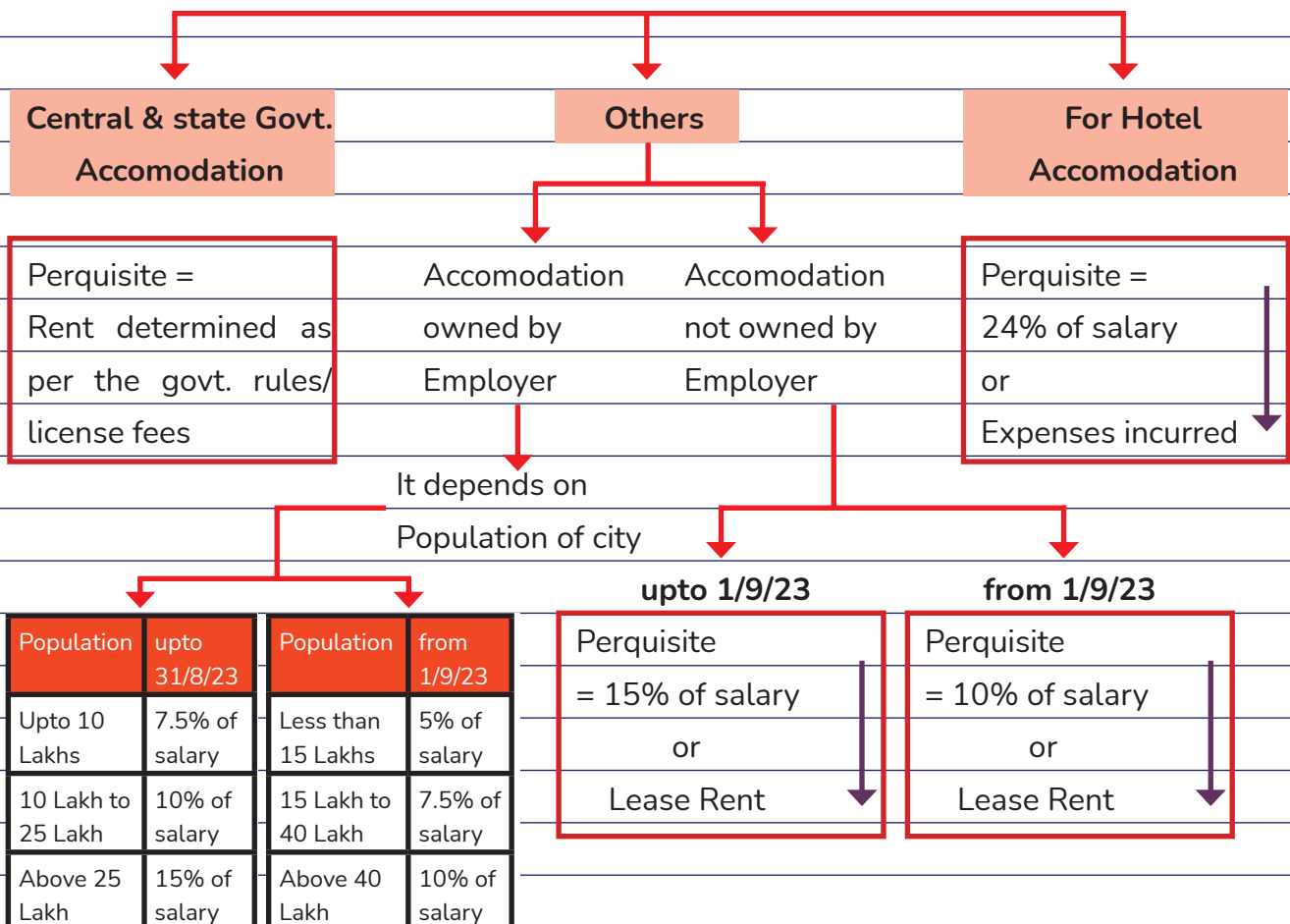
2. Leave Encashment

Leave Encashment/Leave Salary



3. Rent-free / concessional unfurnished accommodation - The method of valuation of rent- Free accommodation is as follows -

Rent free unfurnished accommodation



Chapter 3 - PGBP

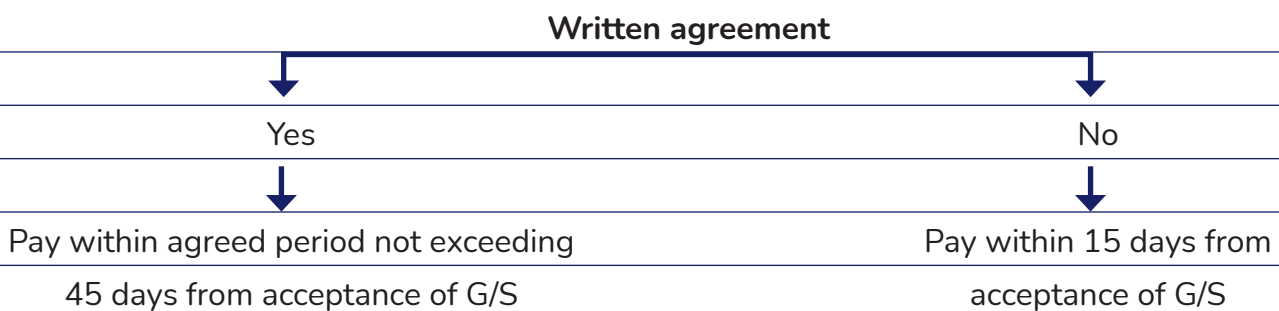
1. New Clause - 43B

- Payment to MSME included in 43B
- Meaning of MSME

| S.No. | Meaning | |
|-------|--|---|
| 1. | In case of enterprises engaged in the manufacture or production of goods pertaining to specified industries | |
| | Micro Enterprise Where the investment in plant and machinery \leq ₹ 25 lakhs | Small Enterprise Where the investment in plant and machinery $>$ ₹ 25 lakhs \leq ₹ 5 crores |
| | Note – For calculating investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such notified items shall be excluded. | |
| 2. | In case of enterprises engaged in providing or rendering services | |
| | Micro Enterprise Where the investment in equipment \leq ₹ 10 lakhs | Small Enterprise Where the investment in equipment $>$ ₹ 10 lakhs \leq ₹ 2 crores |

Note : Any sum payable means a sum for which the assessee incurred liability in the previous year even though such sum might not have been payable within that year under the relevant law.

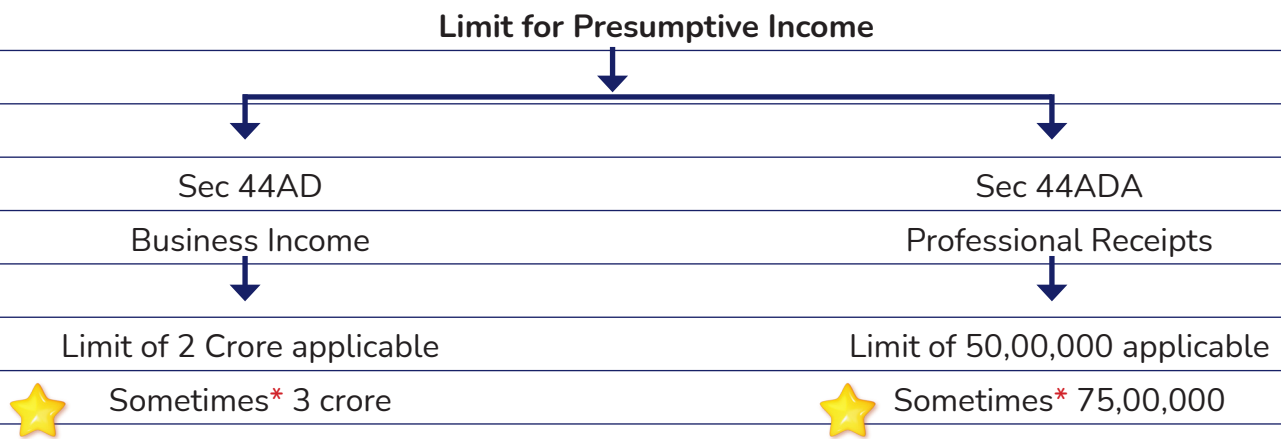
c. Time limit for payment is as follows



d. If payment done as per above time limit then allowable expenditure

e. If Payment not done as per above time limit then exp allowed in the year of payment

2. Section 44AD / 44ADA - Limits have been amended



* If cash receipts is upto 5% of total receipts.

3. Time limit prescribed for furnishing statement of expenditure eligible for amortisation under section 35D [Notification No. 54/2023 dated 01.8.2023]

- i. Preliminary exp are allowed to w/off overs years
- ii. The assessee has to furnish a statement containing the particulars of expenditure in connection with -
 - (a) the preparation of feasibility report
 - (b) the preparation of project report
 - (c) conducting market survey or any other survey necessary for the business of the assessee
 - (d) engineering services relating to the assessee's business.
- iii. The CBDT has, vide this notification, inserted Rule 6ABBB to prescribe that the statement containing particulars of above specified expenditure is required to be furnished one month prior to the due date for furnishing the return of income as specified under section 139(1).

Chapter 4 - Capital Gains

1. Interest on loan for house property

W.e.f. FA 2023 - Any interest on loan taken for House Property which is allowed as deduction u/s 24b or under chapter VI A (80EE/80EEA) would not be considered in COA/COI

2. Section 50 AA - CG in case of market linked debentures (w.e.f. FA 2023)

Section 50 AA is an over riding section

It is applicable for a specified mutual fund acquired on or after 1/4/2023 (market linked debentures)

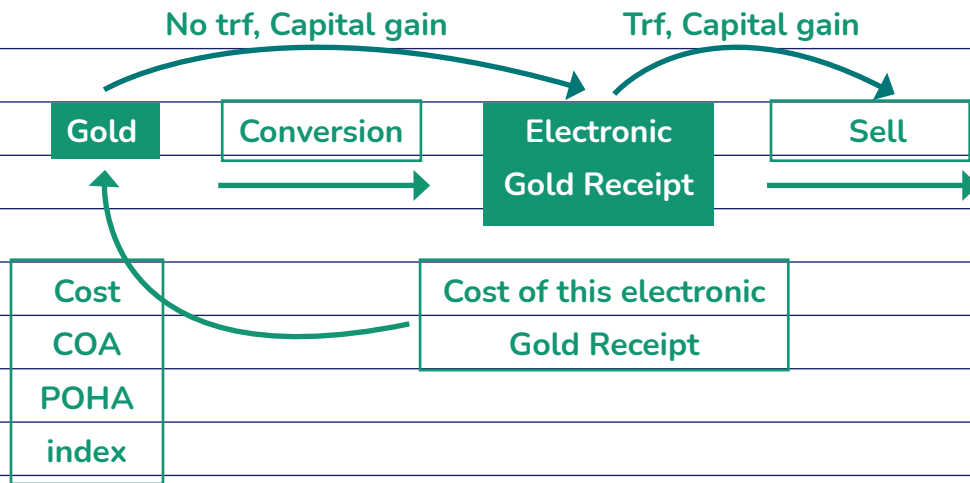
Irrespective of POHA these assets would be **deemed to be STCA**

The STCG will be taxable at **normal rate of tax**.

Section 112 A, no benefit of in deduction in case of LTCG on equity shares and equity Oriented MF in case of LTCG above Rs. 1,00,000 w.e.f AY 19-20.

Market linked debentures / units of specified mutual funds will always be ST

4. Gold Conversion Electronic Gold Receipt



5. Special points for exemption under sec 54 series.

1. W.e.f. FA 2023 - The maximum exemption that can be claimed u/s 54 is ₹ 10 Crore
2. The deemed cost of new asset i.e. investment would be restricted to w.e.f. FA 2023 ₹ 10 crores for the purpose of exemption u/s 54F
3. Deposit in CGAS cannot exceed ₹ 10 crore

a. Exemption u/s 54

| | LTCG | New RHP | Exemption |
|----|----------|----------|-----------|
| 1. | 7 Crore | 12 Crore | |
| 2. | 12 Crore | 14 Crore | |
| 3. | 11 Crore | 9 Crore | |
| 4. | 15 Crore | 13 Crore | |

Exemption = CG or Reinvestment ↓

b. Exemption u/s 54F

| | 1. | 2. | 3. | 4. | 5. |
|----|-------------------|---------------|-------------------------------|---|-------------|
| | Net Consideration | LTCG computed | Cost of new residential house | Amount in column (3) or ₹ 10 crores, whichever is lower | Exempt LTCG |
| 1. | ₹ 15 crore | ₹ 7.5 crore | ₹ 12 crore | | |
| 2. | ₹ 20 crore | ₹ 12 crore | ₹ 15 crore | | |
| 3. | ₹ 16 crore | ₹ 12 crore | ₹ 8 crore | | |
| 4. | ₹ 10 crore | ₹ 6 crore | ₹ 10 crore | | |
| 5. | ₹ 12 crore | ₹ 6 crore | ₹ 12 crore | | |

Chapter 5 - Income from other Source

New Section

1. Sec 115 BBJ : Net winnings from online games.

On Net winnings from online games taxable under IOS

Net winnings from any online games would be taxed @ 30% plus surcharge if applicable plus 4% HEC u/s 115BBJ

No expenditure or allowance can be allowed from such income.

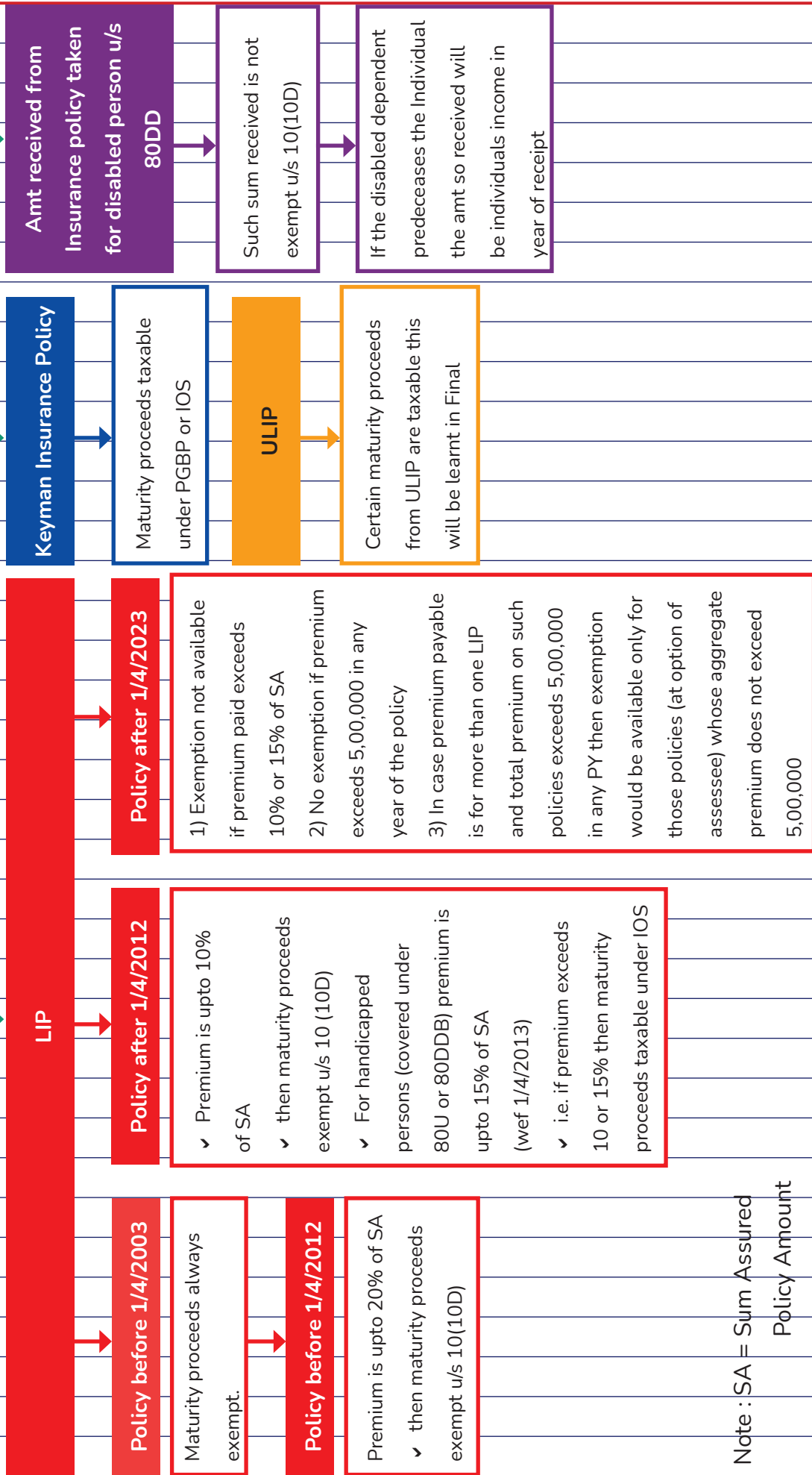
Deduction under Chapter VI-A is not allowable from such income.

No BEL

Adjustment of unexhausted basic exemption limit is also **not permitted** against such income.

Meaning of online games: A game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device

2.13) Maturity proceeds of Insurance policies would be taxable under IOS if not exempt u/s 10(10D)



Note : SA = Sum Assured Policy Amount

- 2) The maturity proceeds would be taxable under IOS
- 3) If the maturity proceeds are received on death of policy holder then the total proceeds will be exempt without applying any condition of 10% / 15% / 5L / 20%.

i. **One LIP**

| LIP | Eg1 | Eg2 | Eg3 |
|------------------------|-----------|------------|------------|
| Date of issue | 1.4.2013 | 1.4.2023 | 1.4.2023 |
| Annual premium | 6,00,000 | 5,00,000 | 6,00,000 |
| Sum assured | 60,00,000 | 50,00,000 | 60,00,000 |
| Consideration received | 70,00,000 | 52,00,000 | 70,00,000 |
| Date of maturity | 1.11.2023 | 01.11.2033 | 01.11.2033 |

ii. **More than One LIP**

| Eg.4 | LIP | A | B |
|------|--|-----------|-----------|
| | Date of issue | 1.4.2023 | 1.4.2023 |
| | Annual premium | 3,00,000 | 2,00,000 |
| | Sum assured | 30,00,000 | 20,00,000 |
| | Consideration received as on 01.11.2033 on maturity | 32,00,000 | 21,00,000 |
| | Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34. | | |

Eg.5

| LIP | A | B |
|--|-----------|-----------|
| Date of issue | 1.4.2023 | 1.4.2023 |
| Annual premium | 4,50,000 | 5,50,000 |
| Sum assured | 45,00,000 | 55,00,000 |
| Consideration received as on 01.11.2033 on maturity | 52,00,000 | 60,00,000 |
| Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34. | | |

Eg.6

| LIP | A | B | C |
|--|-----------|-----------|-----------|
| Date of issue | 1.4.2023 | 1.4.2023 | 1.4.2023 |
| Annual premium | 1,00,000 | 3,50,000 | 6,00,000 |
| Sum assured | 10,00,000 | 35,00,000 | 60,00,000 |
| Consideration received as on 01.11.2033 on maturity | 12,00,000 | 40,00,000 | 70,00,000 |
| Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34. | | | |

| Eg.7 | LIP | X | A | B | C |
|--|---|-----------|-----------|-----------|-----------|
| | Date of issue | 1.4.2022 | 1.4.2023 | 1.4.2023 | 1.4.2023 |
| | Annual premium | 5,50,000 | 1,00,000 | 3,50,000 | 6,00,000 |
| | Sum assured | 55,00,000 | 10,00,000 | 35,00,000 | 60,00,000 |
| | Consideration received as on 01.11.2032 on maturity | 62,00,000 | | | |
| | Consideration received as on 01.11.2033 on maturity | | 12,00,000 | 40,00,000 | 70,00,000 |
| Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34, except LIP X in P.Y. 2032-33. | | | | | |

iii. More than LIP's

LIP issued on or after = called as EEE LIP's Earlier
 1/4/2023 and exemption Exempt eligible LIP
 claimed u/s 10(10D)

| Eg. 8 | LIP | X | A | B | C |
|--|---|-----------|-----------|-----------|-----------|
| | Date of issue | 1.4.2023 | 1.4.2024 | 1.4.2024 | 1.4.2024 |
| | Annual premium | 4,50,000 | 1,00,000 | 1,50,000 | 6,00,000 |
| | Sum assured | 45,00,000 | 10,00,000 | 15,00,000 | 60,00,000 |
| | Consideration received as on 01.11.2033 on maturity | 50,00,000 | | | |
| | Consideration received as on 01.11.2034 on maturity | | 12,00,000 | 18,00,000 | 70,00,000 |
| Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2034-35, except LIP X in P.Y. 2033-34. | | | | | |

| Eg. 9 | LIP | X | A | B | C |
|--|---|-----------|-----------|-----------|-----------|
| | Date of issue | 1.4.2023 | 1.4.2024 | 1.4.2024 | 1.4.2024 |
| | Annual premium | 2,50,000 | 2,00,000 | 2,50,000 | 6,00,000 |
| | Sum assured | 25,00,000 | 20,00,000 | 25,00,000 | 60,00,000 |
| | Consideration received as on 01.11.2033 on maturity | 30,00,000 | | | |
| | Consideration received as on 01.11.2034 on maturity | | 24,00,000 | 38,00,000 | 70,00,000 |
| Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2034-35, except LIP X in P.Y. 2033-34. | | | | | |

| Eg. 10 | LIP | X | Y | A | B | C |
|--|---|-----------|-----------|-----------|-----------|-----------|
| | Date of issue | 1.4.2023 | 1.4.2023 | 1.4.2024 | 1.4.2024 | 1.4.2024 |
| | Annual premium | 2,00,000 | 2,00,000 | 2,00,000 | 3,00,000 | 6,00,000 |
| | Sum assured | 20,00,000 | 20,00,000 | 20,00,000 | 30,00,000 | 60,00,000 |
| | Consideration received on surrender as on 1.7.2033 | 12,00,000 | | | | |
| | Consideration received as on 01.11.2034 on maturity | | 24,00,000 | | | |
| | Consideration received as on 01.11.2035 on maturity | | | 24,00,000 | 36,00,000 | 70,00,000 |
| Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2035-36, except LIP “X” and “Y”. | | | | | | |


Clarification on GST Component :

Premium payable for a life insurance policy on or after 1/4/2023 would be exclusive of amount of GST

3. Manner of computation of taxable income from LIP under section 56(2)(xiii) [Notification No. 61/2023 dated 16.08.2023]

- 1) Income u/s 56(2)(xiii) = sum received - Premium Paid
Premium paid (which is not claimed as deduction under any other provision)
- 2) While calculation premium paid
 - i. Consider all the premiums paid till date
 - ii. Premium should not be considered as a deduction or expenditure earlier.

Chapter 6 - Residential Status


1. Indian R $\xrightarrow{\text{any sum paid without C}}$ a. Non-corporate NR
 Property gifted in excess of 50,000 \rightarrow b. Foreign Co.
 c. RNOR (w.e.f. FA2023) 

Such sums will be deemed to accrue in India and taxable

Chapter 7 - Deduction (New Section 80CCH)

1. Section u/s 80G

Now donation to Indira Gandhi Memorial Trust and Rajiv Gandhi Foundation not eligible for 80G

2. **80CCH Deduction in respect of contribution to Agnipath Scheme w.e.f. FA 2023** 
 w.e.f. FY 2023

1. Agnipath Scheme is a Central govt scheme launched in 2022 for enrollment of Indian youth in Indian Armed Forces

2. **Ind. Contri Agniveer Contri 80CCH(1)** \rightarrow **30% of customised Agniveer package**

Agniveer Corpus Fund \rightarrow **Amt Rec by Ind or this nominee (exempt) 10(12C) (FA 2023)**

CG contri 80CCH(2) matching contri (treated as Ind perquisite ie. Salary Income) \rightarrow **Int on both's contri to be paid by CG.**

3. Deduction = Ind contri + CG contri
 80CCH(1) 80CCH(2)

Note : 80CCH(2) will be available in 115 BAC.

Chapter 8: Provisions for filing Return of Income and Self Assessment

I. Amendments in Rule 114B:

1. As per section 139A(5) quoting of PAN is mandatory, in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT.
2. 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.
3. The CBDT has, amended the second proviso to Rule 114B to withdrawn such relaxation for a company or a firm.
4. 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 | 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. |

II. Amendments in Rule 114BA and Rule 114BB:

1. 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 |

2. 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.

Chapter 8 - TDS & TCS

| Nature of payment | Rate | Payment in excess of | Remarks | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|------------------------|--|---|-----------|-----------|------|---------------------------------|--|--|---------------|-------------|----|-------------------------|-------------|----|---|--|--|---------------|-----------------------|----|-------------|----|-------------------------|------------------------|----|-------------|----|
| Winnings from online games <div style="background-color: #d9534f; color: white; border-radius: 15px; padding: 5px; display: inline-block; margin: 10px 0;">194 BA</div> <div style="background-color: #f1c40f; border: 2px solid #2ecc71; border-radius: 20px; padding: 5px; display: inline-block; margin: 10px 0;">New Section</div> | 30% | As computed in prescribed manner | At the end of the F.Y. In case, there is withdrawal from user account during the F.Y., tax would be deducted at the time of such withdrawal on net winnings comprised in such withdrawal. In addition, tax would also be deducted on the remaining amount of net winnings in the user account as computed in prescribed manner at the end of the F.Y. 1. Where the net winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings. | | | | | | | | | | | | | | | | | | | | | | | | | |
| Meaning of certain terms: 2. Online gaming intermediary – An intermediary that offers one or more online games. 3. User – Any person who accesses or avails any computer resource of an online gaming intermediary. 4. User account – Account of a user registered with an online gaming intermediary. | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 194N P TDS on cash withdrawals Deductor is banking company co-operative bank and post office <div style="background-color: #d9534f; color: white; border-radius: 15px; padding: 5px; display: inline-block; margin: 10px 0;">194 N</div> <div style="background-color: #f1c40f; border: 2px solid #2ecc71; border-radius: 20px; padding: 5px; display: inline-block;">Changes in Rate</div> | Refer Table | 1 crore (TDS to be deducted On amount Exceeding 1 crore) | 1) No 194N TDS applicable to Cash replenishment Agencies 2) Also no TDS on cash withdrawn by commission agents operating under APMC 3) Authorised money exchange dealers who withdraw cash for purchase of Foreign currency not covered u/s 194N. <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr style="background-color: #2c4e64; color: white;"> <th style="width: 40%;">Recipient</th> <th style="width: 20%;">Threshold</th> <th style="width: 40%;">Rate</th> </tr> </thead> <tbody> <tr> <td colspan="3">I. Regularly filling ITR</td> </tr> <tr> <td>a) Any Person</td> <td>Above 1 Cr.</td> <td>2%</td> </tr> <tr> <td>b) Co-operative Society</td> <td>Above 3 Cr.</td> <td>2%</td> </tr> <tr> <td colspan="3">II. Not filed ITR for last 5 years</td> </tr> <tr> <td rowspan="2">a) Any Person</td> <td>Above 20 Lakhs 1Crore</td> <td>2%</td> </tr> <tr> <td>Above 1 Cr.</td> <td>5%</td> </tr> <tr> <td rowspan="2">b) Co-operative Society</td> <td>Above 20 Lakhs 3 Crore</td> <td>2%</td> </tr> <tr> <td>Above 3 Cr.</td> <td>5%</td> </tr> </tbody> </table> | Recipient | Threshold | Rate | I. Regularly filling ITR | | | a) Any Person | Above 1 Cr. | 2% | b) Co-operative Society | Above 3 Cr. | 2% | II. Not filed ITR for last 5 years | | | a) Any Person | Above 20 Lakhs 1Crore | 2% | Above 1 Cr. | 5% | b) Co-operative Society | Above 20 Lakhs 3 Crore | 2% | Above 3 Cr. | 5% |
| Recipient | Threshold | Rate | | | | | | | | | | | | | | | | | | | | | | | | | | |
| I. Regularly filling ITR | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| b) Co-operative Society | Above 3 Cr. | 2% | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| a) Any Person | Above 20 Lakhs 1Crore | 2% | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Above 1 Cr. | 5% | | | | | | | | | | | | | | | | | | | | | | | | | | |
| b) Co-operative Society | Above 20 Lakhs 3 Crore | 2% | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Above 3 Cr. | 5% | | | | | | | | | | | | | | | | | | | | | | | | | | |

I. **CBDT has issued Guidelines for Section 194BA i.e. TDS on online games**

Question 1:

There are a large number of gamers who play with very insignificant amount and withdraw also very small amount. Deducting tax at source under section 194BA for each insignificant withdrawal would increase compliance for tax deductor. Can there be relaxation to ease compliance?

Answer:


Tax may not be deducted on withdrawal on satisfaction of all of the following conditions, namely:-

- i. net winnings comprised in the amount withdrawn does not exceed ₹ 100 in a month;
- ii. tax not deducted on account of this concession is deducted at a time when the net winnings comprised in withdrawal exceeds ₹ 100 in the same month or subsequent month or if there is no such withdrawal, at the end of the financial year; and
- iii. the deductor undertakes responsibility of paying the difference if the balance in the user account at the time of tax deduction under section 194BA is not sufficient to discharge the tax deduction liability.

Question 2:

When the net winnings is in kind how will tax deduction under section 194BA operate?

Answer:

1. Net winnings in cash - deductor should deduct TDS
2. Net winnings in cash and kind  Deductor should ensure before releasing the winnings that tax has been paid.
(cash component is not sufficient to meet the TDS amt or net winnings in kind) Deductor can obtain the proof of payment from deductee eg challan details

Question 3:

How will the valuation of winnings in kind required to be carried out?

Answer:

- i. The online game intermediary has purchased the winnings before providing it to the user. In that case the purchase price shall be the value for winnings.
- ii. The online game intermediary manufactures such items given as winnings. In that case, the price that it charges to its customers for such items shall be the value for such winnings.

It is further clarified that GST will not be included for the purposes of valuation of winnings for TDS under section 194BA.

II. TDS

No TDS on Mahila Samman Saving certificate

- 1) Govt has notified that no TDS should be deducted by post office in case of interest paid under Mahila Samman Savings certificate.
- 2) "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.
- 3) 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.

TCS

Foreign Remittance (Change in rate)

| | | Before 30/9/23 | After 1/10/23 |
|--|---------------|-----------------------------------|---------------------------------|
| 1. Remittance for education or medical treatment | upto 7 Lakhs | NIL - no TCS | NIL - no TCS |
| | Above 7 Lakhs | 5% on amount in excess of 7 Lakhs | |
| Note - If the amt remitted is out of loan taken from financial institution then TCS rate will be 0.5% instead of 5%. | | | |
| 2. Remittance for overseas tour package | upto 7 Lakhs | 5% of the amt | 5% |
| | Above 7 Lakhs | 5% | 20% |
| 3. Remittance for other purpose | upto 7 Lakhs | no TCS | no TCS |
| | Above 7 Lakhs | 5% on amt in excess of 7 Lakhs | 20% on amt in excess of 7 Lakhs |

CBDT Clarification

Question 1: Whether payment through overseas credit card would be counted in LRS?

Answer: No TCS shall be applicable on expenditure through international credit card while being overseas till further order.

Question 2: Whether the threshold of ₹ 7 lakh, for TCS to become applicable on LRS, applies separately for various purposes like education, health treatment and others? For example, if remittance of ₹ 7 lakh under LRS is made in a financial year for education purpose and other remittances in the same financial year of ₹ 7 lakh is made for medical treatment and ₹ 7 lakh for other purposes, whether the exemption limit of ₹ 7 lakh shall be given to each of the three separately?

Answer: It is clarified that the threshold of ₹ 7 lakh for LRS is combined threshold for applicability of the TCS on LRS irrespective of the purpose of the remittance.

Thus, in the given example, upto ₹ 7 lakh remittance under LRS during a financial year shall not be liable for TCS. However, subsequent ₹ 14 lakh remittance under LRS shall be liable for TCS in accordance with the TCS rates applicable for such remittance.

In the example, if the remittances under LRS are made in the current financial year at different point of time, TCS rates for the remaining ₹ 14 lakh remittances under LRS would depend on the time of remittance as TCS rates changes from 1st October 2023.

TCS rates would be applicable as under:-

| Remittances | Rate of TCS |
|--|--|
| First ₹ 7 lakh remittance under LRS during the financial year 2023-24 for education purpose (or for that matter any purpose) | No TCS |
| Remittances beyond ₹ 7 lakh under LRS during the financial year 2023-24, if on or before 30 th September 2023 | TCS at 5% (irrespective of the purpose unless it is for education purpose financed by loan from a financial institution when the rate is 0.5%) |
| Remittances beyond ₹ 7 lakh under LRS during the financial year 2023-24, if on or after 1 st October 2023. | TCS at 0.5% (if it is for education purpose financed by loan from a financial institution), 5% (if it is for education or medical treatment) and 20% (if it is for other purposes) |

Question 3: Since there are different TCS rates on LRS for the first six months and next six months of the financial year 2023-24, whether the threshold of ₹ 7 lakh, for the TCS to become applicable on LRS, applies separately for each six months?

Answer: No. The threshold of ₹ 7 lakh, for the TCS to become applicable on LRS, applies for the full financial year. If this threshold has already been exhausted; all subsequent remittances under LRS, whether in the first half or in the second half, would be liable for TCS at applicable rate.

Question 4: Whether the threshold of ₹ 7 lakh, for TCS to become applicable on LRS, applies separately for each remittance through different authorised dealers? If not, how will authorised dealer know about the earlier remittances by that remitter through some other authorised dealer?

Answer: It is clarified that the threshold of ₹ 7 lakh for LRS is qua remitter and not qua authorised dealer.

Since the facility to provide real time update of remittance under LRS by remitter is still under development by the RBL, it is clarified that the details of earlier remittances under LRS by the remitter during the financial year may be taken by the authorised dealer through an undertaking at the time of remittance. If the authorised dealer correctly collects the tax at source based on information given in this undertaking, he will not be treated as “assessee in default”. However, for any false information in the undertaking, appropriate action may be taken against the remitter under the Act.

It is further clarified that same methodology of taking undertaking from the buyer of overseas tour program package may be followed by the seller of such package.

Question 5: There is threshold of ₹ 7 lakh for remittance under LRS for TCS to become applicable while there is another threshold of ₹ 7 lakh for purchase of overseas tour program package where reduced rate of 5% of TCS applies. Whether these two thresholds apply independently?

Answer: Yes, these two thresholds apply independently. For LRS, the threshold of ₹ 7 lakh applies to make TCS applicable. For purchase of overseas tour program package, the threshold of ₹ 7 lakh applies to determine the applicable TCS rate as 5% or 20%.

Question 6: A resident individual spends ₹ 3 lakh for purchase of overseas tour program package from a foreign tour operator and remits money which is classified under LRS. There is no other remittance under LRS or purchase of overseas tour program during the financial year. Whether TCS is applicable?

Answer: In case of purchase of overseas tour program package which is classified under LRS, TCS provision for purchase of overseas tour program package shall apply and not TCS provisions for remittance under LRS.

Since for purchase of overseas tour program package, the threshold of ₹ 7 lakh for applicability of TCS does not apply, TCS is applicable and tax is required to be collected by the seller. In this case the tax shall be required to be collected at 5% since the total amount spent on purchase of overseas tour program package during the financial year is less than ₹ 7 lakh. The TCS should be made by the seller.

Question 7: There are different rates for remittance under LRS for medical treatment/education purposes and for other purposes. What is the scope of remittance under LRS for medical treatment/education purposes?

Answer: As per the clarification by the RBI, remittance for the purposes of medical treatment shall include,-

- (i) remittance for purchase of tickets of the person to be treated medically overseas (and his attendant) for commuting between India and the overseas destination;
- (ii) his medical expense; and
- (iii) other day to day expenses required for such purpose.

Education

Remittance for purpose of education shall include,-

- (i) remittance for purchase of tickets of the person undertaking study overseas for commuting between India and the overseas destination;
- (ii) the tuition and other fees to be paid to educational institute; and
- (iii) other day to day expenses required for undertaking such study.

Question 8: Whether purchase of international travel ticket or hotel accommodation on standalone basis is purchase of overseas tour program package?

Answer: The term 'overseas tour program package' is defined as to mean any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

It is clarified that purchase of only international travel ticket or purchase of only hotel accommodation, by in itself is not covered within the definition of 'overseas tour program package'. To qualify as 'overseas tour program package', the package should include at least two of the followings:-

- (i) international travel ticket,
- (ii) hotel accommodation (with or without food)/boarding/lodging,
- (iii) any other expenditure of similar nature or in relation thereto.