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CA Vardhaman Daga is member of ICAI & visiting faculty, having practical knowledge in the field of Income Tax & GST.. He is also a Proficient orator and speaker and has been teaching at CA/CS/CMA Foundation & Intermediate level since more **than 10 years**.

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Currently, more than **20,000 students** have benefited from his lectures over **YouTube** and over Other Platforms.

He is favourite amongst CA Students for the astute & insightful academic inputs provided by him and for his pleasing & endearing personality and **lucid art of teaching**.

He is famous for concepts linkage from the very beginning till the end which helps in understanding the topic, acing the exams and in post CA life as well. His unique use of GST portal during the class to link theory practical makes him stand apart from the crowd. His class are practical, conceptual and concise.

1st Edition 2023

@ Author

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INCOME TAX & GST

FOR May/June/Nov/Dec'24

1st Edition

CA/CS/CMA

- ❖ Updated with all Relevant Amendments
- ❖ Colourful notes and key words highlighted
- ❖ Sections list
- ❖ Charts for Cross Reference
- ❖ Tabular Presentation for Easy Learning

CA Vardhaman Daga

INCOME TAX

SUMMARY BOOK (with Amendments)

(CA/CMA - INTER/CS-EXECUTIVE)

APPLICABLE FOR MAY'24/JUNE'24/NOV'24/DEC'24

- Residential status	1 - 4
- Salary	5 - 23
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YOUTUBE CHANNEL: ARHAM INSTITUTE

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Red - heading

Green - Amendments

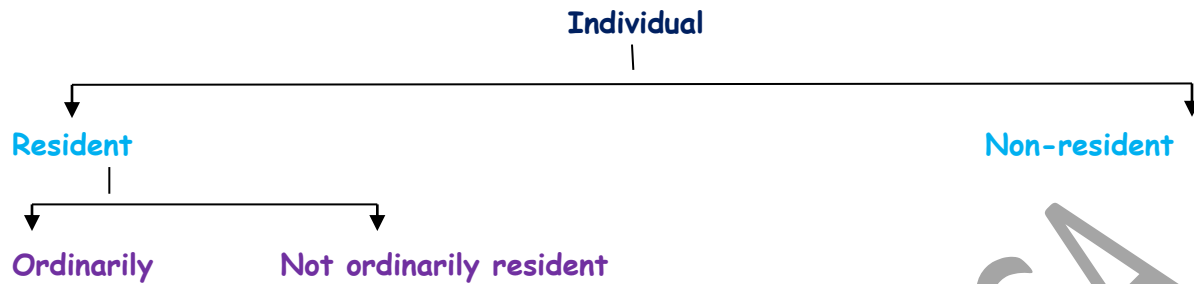
Other colour - highlights

Income Tax - 50 Marks

Section-wise weightage

Content	Section	Weightage
Basic concepts	I	10% - 20%
Residential status and scope of total income	II	25% - 30%
Heads of income	III	25% - 30%
Clubbing, Set-off, Deduction	IV	15% - 20%
Advance Tax, TDS & TCS, Provision for filing of return	V	15% - 20%
Computation of Total Income, AMT	VI	15% - 20%

CHAPTER - 2: RESIDENTIAL STATUS



Residential status of an individual [Section 6(1)]

BASIC CONDITION:

1. In India for a period of 182 days or more during P.Y or,
2. In India for a period of 60 days or more during P.Y + 365 days or more during 4 preceding the P.Y.

✚ Exceptions: As per explanation to Section 6(1),

(1) the period of 60 days [given in (2) above] is substituted by 182 days in case of an individual -

- (i) Indian citizen, leaves India for employment outside India;
- (ii) Indian citizen, leaves India as a member of the crew of an Indian ship;
- (iii) Indian citizen or person of Indian origin, who being outside India, comes to visit to India in the P.Y.

(2) the period of 60 days [given in (2) above] is substituted by 120 days in case of an individual being an Indian Citizen or a person of Indian origin, who being outside India, comes on a visit to India in the previous year, having total income, other than the income from foreign sources, exceeding Rs 15 Lakh during the previous year.

"Income from foreign sources" means income which accrues or arises outside India (except income derived from a business controlled in or profession set up in India) and which is not deemed to accrue or arise in India. [Amended by Finance Act, 2020]

Period of stay in case Indian citizen being crew member of foreign bound ship - job se Indian port leave kiya tabse se vapis Indian port aane tak period exclude karenge for counting days in India.

While counting the number of days of stay in India, the day of arrival as well as departure are included for stay in India.

✚ Deemed resident in India [Section 6(1A)]: An individual shall be deemed to be resident in India if he fulfills the following conditions:

- (1) He must be citizen of India;

(2) His total income, other than the income from foreign sources, must exceed Rs 15 Lakh during the previous year; and

(3) He is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

If these conditions are satisfied he is deemed to be Not Ordinarily resident in India as per section 6(1)(d).

Non Applicability [Explanation]: The above provisions shall not apply in case of an individual who is said to be resident in India in the previous year under Section 6(1).

“Income from foreign sources” means income which accrues or arises outside India (except income derived from a business controlled in or profession set up in India) and which is not deemed to accure or arise in India.

Meaning of “liable to tax” [section 2(29A)]: Liable to tax, in relation to a person and with reference to a country, means that there is an income tax liability on such person under the law of that country for the time being in force. It also includes a person who has subsequently been exempted from such liability under the law of that country.

✚ **Not Ordinarily Resident....Additional conditions u/s 6(6):**

(a) Non-resident in India in any 9 years out of total 10 years preceding P.Y

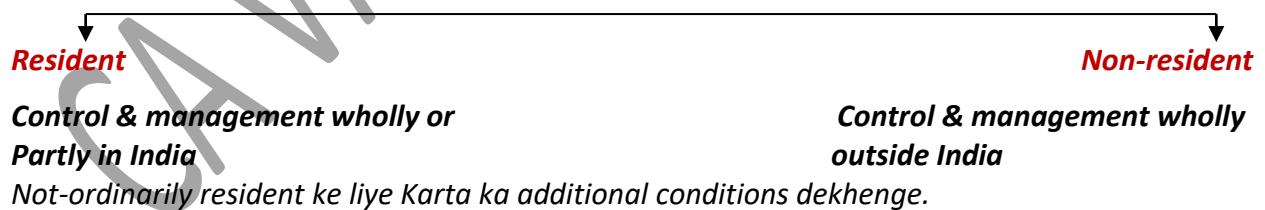
(b) In India for a period of 729 days or less during the 7 preceding the P.Y

(c) A citizen of India, or a person of Indian Origin, having total income, other than the income from foreign sources, exceeding Rs 15 Lakh during the previous year, and he comes to India for the purpose of visit to India during the relevant previous year and he has been in India for a periods amounting in all to 120 days or more but less than 182 days; or

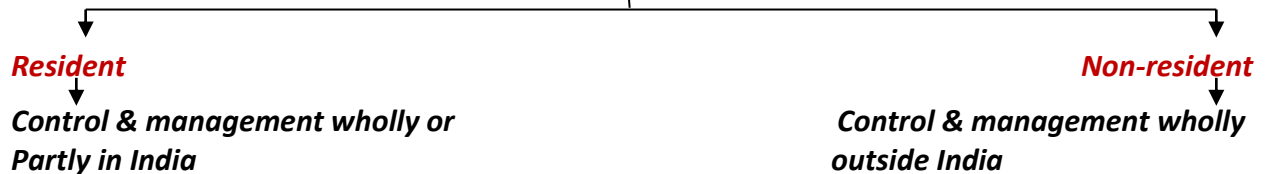
(d) A citizen of India who is deemed to be resident in India under Section 6(1A).

“Income from foreign sources” means income which accrues or arises outside India (except income derived from a business controlled in or profession set up in India) and which is not deemed to accure or arise in India.

HUF



Partnership firm (or AOP or any other person)



Company [Section 6 (3)]: A company is said to be resident in India in any previous year, if -

- (a) It is an Indian company; or
- (b) Its place of effective management in that year is in India.

Scope of total income [section 5]

	Particulars	OR	NOR	NR
i.	Income received or deemed to be received in India (chahe kahi bhi earn karo)	Yes	Yes	Yes
ii.	Income which accrue or arises or is deemed to accrue or arise in India (chahe kahi bhi receive ho)	Yes	Yes	Yes
iii.	Income which accrue or arises outside India and received outside India from a business controlled from India (India main sirf business control kar raha hai aur kuch nahi)	Yes	Yes	No
iv.	Income which accrue or arise outside India and received outside India in the P.Y from any other source (business ke alawa koi aur source se income a rahi hai)	Yes	No	No
v.	Income accrue or arise outside India and received outside India & remitted to India	No	No	No

✚ Income deemed to accrue or arise in India [Section 9]

1) All income accruing or rising, whether directly or indirectly, through or from -

- ✚ Any **business connection** in India; or
- ✚ Any **property** in India; or
- ✚ Any **asset or source of income** in India; or
- ✚ Through the **transfer of capital asset** situated in India.

2) Incomes not deemed to accrue or arise in India -

- ◆ In case of a business, in respect of which all the operations are not carried out in India.
- ◆ Purchase of goods in India for export
- ◆ Collection of news and views in India for transmission out of India
- ◆ Shooting of cinematograph films in India
- ◆ Activities confined to display of rough diamonds in SNZs

Business connections include

- ♣ **Concluding agent** - an authority to **conclude contracts** on behalf of non-resident
- ♣ **Stocking agent** - he **maintains stock of goods** in India
- ♣ **Indenting agent** - he **secures orders** in India

Significant economic presence means

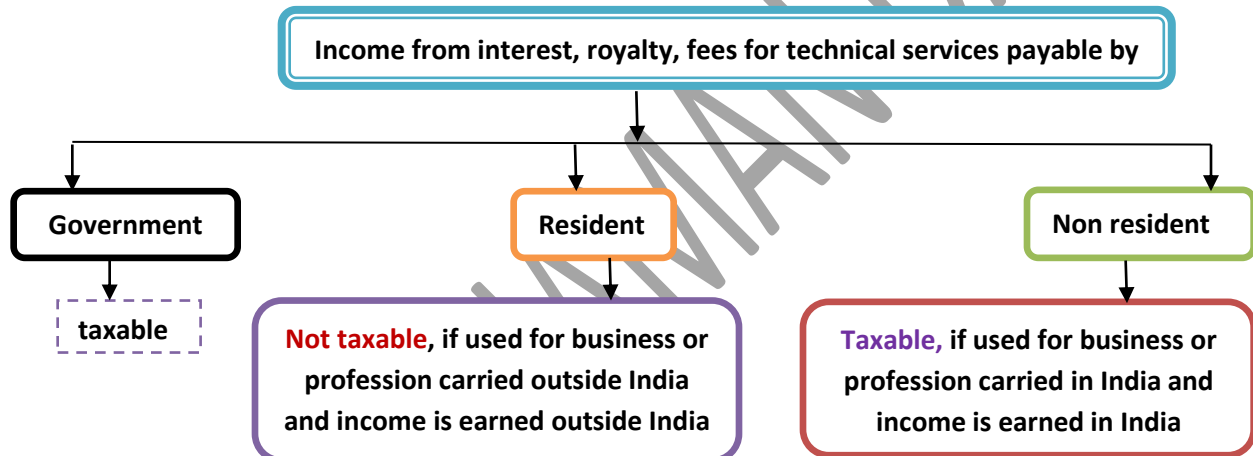
	Nature of transaction	Condition
(a)	In respect of any goods, services or property carried out by a non-resident with any person in India including provision of download of data or	Aggregate of payments arising from such transaction or transactions

	software in India	during the previous year should exceed ' 2 crores.
(b)	Systematic and continuous soliciting of business activities or engaging in interaction with users in India	The number of users should be atleast 3 lakhs

Further, the above transactions or activities shall constitute significant economic presence in India, whether or not -

- (i) The agreement for such transactions or activities is entered in India;
- (ii) The non-resident has a residence or place of business in India; or
- (iii) The non-resident renders services in India:

However, where a business connection is established by reason of significant economic presence in India, only so much of income as is attributable to the transaction or activities referred in (a) or (b) above shall be deemed to accrue or arise in India.



CHAPTER - 3: INCOME FROM SALARY

- An income earned is chargeable to tax under the head "salaries" - if and only if there exists an employer and employee relationship between the payer and the payee. Principle - agent not, independent professional, paper setter/invigilator not covered.
- Salary received by MP's/MLA's not covered.
- Remuneration received by judges are taxable under head salary.
- Retainership fees received by advocate general is not taxable under head salary.
- Pay and allowance to chief minister is salary.

SALARIES (SECTION 15)

- ✚ Salary taxable on due basis.
- ✚ Advance salary taxable on receipt basis.
- ✚ Arrears of salary taxable on receipt basis.
- ✚ Advance salary not to be taxed again on due basis.
- ✚ Salary received by partner of firm to be taxed under PGBP.

SALARY {SECTION 17(1)} includes:-

- ✚ the contribution made by the Central Government in the previous year, to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme referred to in section 80CCH.
- Fixed pay scale - fixed amount of salary
- Graded pay scale - annual increment in salary (eg: ₹ 20000-500-25000-1000-40000-1500-60000)
- Loan against salary - salary ke against loan and baad me salary se installment me deduct karwana. Yeh taxable nahi hota hai.
- Advance against salary - salary ke against advance and baad me adjust karwana but yeh taxable hai.
- Foregoing of salary - waive of salary after due or accures. It is taxable.
- Surrender of salary - surrender to the government and it is exempt.
- Annuity - means the yearly sums payable to a person.
 - ◆ Present employer - **taxable as salary.**
 - ◆ Past employer - **taxable as profit in lieu of salary.**
 - ◆ Other than employer - **taxable as income from other sources.**
- Salary received from UNO - Exempt.

DEDUCTION FROM SALARIES (SECTION 16)

- ♥ Standard deduction - ₹ 50000 or the amount of salary, WEL.
- ♥ Entertainment allowance - only govt. employees. First included in salary then deduction is given. Least of following:

- ✓ Actual amount received
- ✓ ₹ 5000
- ✓ 20% of basic salary.
- ♥ **Employment tax** - an assessee is allowed as deduction and cannot exceed ₹ 2500 p.a.

TAXABILITY OF ALLOWANCES

HOUSE RENT ALLOWANCE {SECTION 10(13A)}

Least of the following shall be exempt-

S.No.	In other cities	In Mumbai, Delhi, Chennai and Kolkata
1.	Actual HRA received	Actual HRA received
2.	Rent paid - 10% of salary	Rent paid - 10% of salary
3.	40% of salary	50% of salary

Salary = Basic pay + Dearness Allowance (if it enters into retirement benefits) + percentage-wise fixed commission on turnover.

Exemption not applicable:

- ♣ The residential accommodation occupied by the assessee is owned by him or
- ♣ The assessee has not actually incurred expenditure on payment of rent in respect of the residential accommodation occupied by him.

FULLY TAXABLE ALLOWANCES:

<i>Dearness allowance</i>	<i>Tiffin allowance</i>	<i>Interim allowance</i>
<i>Overtime allowance</i>	<i>Transport allowance to employee other than blind/deaf and dumb/ orthopedically handicapped employee</i>	<i>Any other cash allowance etc.</i>
<i>City compensatory allowance</i>	<i>Servant allowance</i>	<i>Non-practicing allowance</i>
<i>Warden allowance</i>	<i>Medical allowance</i>	<i>Project allowance</i>
<i>Family allowance</i>		

PARTLY TAXABLE ALLOWANCES:

(A) **Allowance exempt from tax** (exclusively for official purpose ke liye to the extent such expenses are actually incurred)

<i>Travelling allowance</i>	<i>Conveyance allowance</i>	<i>Uniform allowance</i>
<i>Daily allowance</i>	<i>Research allowance</i>	<i>Helper allowance</i>

(B) Allowance exempt from tax to the extent amount notified

ALLOWANCES	AMOUNT EXEMPT
Special compensatory (hilly areas) allowance	₹ 800 or 7000 or 300 p.m
Border area allowance or remote locality allowance or difficult area allowance or distributed area allowance	₹ 1300 or 1100 or 1050 or 750 or 300 or 200

Transport allowance to employees of transport system	(a) 70% of such allowance (b) ₹ 10000 p.m WEL
Tribal area allowance	₹ 200 p.m
Transport allowance (residence to office)	Now fully taxable
Transport allowance (deaf and dumb or orthopaedically handicapped from residence to office)	₹ 3200 p.m
Underground allowance	₹ 800 p.m
Children education allowance	₹ 100 p.m per child for max 2 children
Hostel expenditure allowance	₹ 300 p.m per child for max 2 children
Compensatory field area allowance	₹ 2600p.m
Compensatory modified field area allowance	₹ 1000p.m

(c) WHOLLY EXEMPT ALLOWANCE:

- ❖ Allowance to Indian citizen who is a government employee and rendering services outside India.
- ❖ Allowance to high court judges.
- ❖ Sumptuary allowances to judges of high court and supreme court.
- ❖ Allowances to employees of UNO.

PERQUISITES {SECTION 17(2)}

➤ **Specified employees:** means-

- ✚ An employee who is a **director of the company** or
- ✚ An **employee being a person who has a substantial interest** in the company.
- ✚ Any other employee whose income chargeable under the head "salaries" exclusive of all the value of all benefits or amenities not provided for by way of monetary payment, **exceed ₹ 50000**. (₹ 50000 main all non-monetary benefits, all monetary payments exempt under section 10, deduction under section 16 yeh sab ko exclude ya deduct karna hai)

➤ **Perquisites taxable in case of specified employees only:** car facility, provision for sweeper, domestic servant, facility for gas, electricity or water, education facility, and transport facility are taxable only in the case of specified employees.

RENT FREE ACCOMMODATION (RFA) [Explanation to Section 17(2) read with Rule 3]

S.NO	CIRCUMSTANCES	WHEN ACCOMMODATION IS UNFURNISHED	WHEN ACCOMMODATION IS FURNISHED
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INCOME TAX Summary Book (Applicable for MAY'24/JUNE'24/NOV'24/DEC'24)

	Column (1)	Column (2)	Column (3)
1.	When accommodation is provided by govt. to govt. employee	License fees - rent paid by employee	Column (2) + 10% p.a. of the cost of furniture if owned by employer or hire charges payable - recovered by employee
2.	(a) owned and provided by other employer	<ul style="list-style-type: none"> • 10% of salary in cities having population > 40 lakhs as per 2011 census; • 7.5% of salary in cities having population > 15 lakhs ≤ 40 lakhs as per 2011 census; • 5% of salary in other areas, in respect of the period during which the said accommodation was occupied by the employee during the previous year as reduced by the rent, if any, actually paid by the employee.	
	(b) Taken on lease or rent by employer	Lower of - I. Actual rent paid by the employer or II. 10% of salary; WEL Less: recovered from employee	

Taxability of accommodation for subsequent years: Where the accommodation is owned or taken on lease or rent by the employer and the same accommodation is continued to be provided to the same employee for more than one previous year, the amount calculated in accordance with Sl. No. 2(a) or 2(b) shall not exceed the amount so calculated for the first previous year, as multiplied by the amount which is a ratio of the Cost Inflation Index for the previous year for which the amount is calculated and the Cost Inflation Index for the previous year in which the accommodation was initially provided to the employee.

(i) "Cost Inflation Index" means the index notified by the Central Government in

Official Gazette Explanation to section 48;

(ii)"First previous year" means the previous year 2023-2024, or the previous year in which the accommodation was provided to the employee, whichever is later.

3.	In hotel	N.A	Lower of - i. The actual charges paid or ii. 24% of salary Less : recovered from employee
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Salary = Basic pay + D.A (if forming part of superannuation or retirement benefits) + Bonus + commission + Fees + All taxable allowances + All monetary payments chargeable to tax; from one or more employers,

Salary shall not include -

- D.A not forming part
- Employers contribution to provident fund
- Allowances which are exempt
- The value of perquisite specified in section 17(2) i.e HRA
- Any payment or expenditure specifically excluded under proviso to section 17(2)(iii) or proviso to sec 17(2) i.e jo upper table me excluded hai.
- Lump sump payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and similar payments.

Exemptions:

- a) **Hotel accommodation not exceeding 15 days** - value of perquisite is nil.
- b) **Accommodation of temporary nature/ remote area** : Accommodation provided to employee working at mining site or an onshore oil exploration site, or a project execution site or a dam site or a power generation site or an offshore site -
 - (i) which, being of a temporary nature and having plinth area not exceeding **1000 sq. feet**, is located not less than 8 kms. away from the local limits of any municipality or a cantonment board; or
 - (ii) which is located in a **remote area**.

"Remote area", means any area other than an area which is located -

- (a) **within the local limits of;** or
- (b) **within a distance, measured aerially, of 30 kilometers from the local limits of, any municipality or a cantonment board having a population of 1,00,000 or more based on the 2011 census.**

Double accommodation on account of transfer:

For first 90 days - lower of the value of two accommodations

After 90 days - value of perquisite will be aggregate of both accommodations.

Government employee sent on deputation - value of perquisite of such an accommodation shall be calculated as if the accommodation is owned by the employer

PERQUISITE TAXABLE IN THE HANDS OF SPECIFIED EMPLOYEE

MOTAR CAR OR OTHER CONVEYANCE FACILITY

CIRCUMSTANCES	USED WHOLLY FOR PRIVATE PURPOSE	PARTLY FOR OFFICIAL AND PARTLY FOR PERSONAL PURPOSES	
(I) When motar car is owned or hired by the employer:-			
(a) Maintenance & running expenses met or reimbursed by employer	Amount incurred or reimbursed + chauffeur's salary + 10% of actual cost of car or hire charges Less: amount recovered	If CC < 1.6 litres: ₹ 1800 p.m + (900 p.m if chauffer provided)	If CC > 1.6 litres: ₹ 2400 p.m + (900 p.m if chauffer provided)
(b) Maintenance & running expenses met by employee {note 1}	10% of actual cost of car or hire charges	If CC < 1.6 litres: ₹ 600 p.m + (900 p.m if chauffer provided) {note 4}	If CC > 1.6 litres: ₹ 900 p.m + (900 p.m if chauffer provided) {note 4}
(II) When the motor car is owned by employee and maintenance and running expenses including remuneration of the chauffeur are met or reimbursed by employer	Actual expenditure incurred by employer Less: amount recovered	Actual expenses incurred by employer Less : If CC < 1.6 litres: ₹ 1800 p.m + (900 p.m if chauffer provided) {note 3}	Actual expenses incurred by employer Less : If CC > 1.6 litres: ₹ 2400 p.m + (900 p.m if chauffer provided) {note 3}
(III) Conveyance other than motor car (scooter, motorcycle etc..) is owned by	Actual expenditure incurred by employer for maintenance and running	Actual expenditure incurred by employer Less : ₹ 900 p.m {note 3}	

the employee and the employer meet its running expenses	Less:	amount recovered	
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Notes:

1. Wholly and exclusively for business purpose - **fully exempt.**
2. If two car provided - one car for private purpose and another for partly official and partly personal purpose.
3. Where the assessee claims that wholly and exclusively for official purpose and expenses incurred is higher than the amount deducted - then he need to provide proof.
4. No deduction shall be allowed for the amount recovered.
5. Perquisite is calculated for calendar month.
6. If car used from office to residence the considered for official use.

SWEeper, GARDENER, WATCHMEN OR PERSONAL ATTENDENT:

Salary paid - amount recovered

GAS ELECTRICITY OR WATER FACILITY:

- Employer own source: manufacturing cost p.u * no. of unit consumed
 - From outside agencies: hire charges paid
- Less : Amount recovered

FEEs OR CONCESSIONAL EDUCATIONAL FACILITY:

CIRCUMSTANCES	VALUE OF PERQUISITE
(I) Employer incurs cost of education	Actual expenditure incurred by the employer
(II) Educational institution is owned and maintained by the employer or Free educational facility is provided in any other institution by reason of his employment with that employer.	Cost of such education in a similar institution in or near the locality. {The perquisite is exempt if - (a) Free education facility is provided to children of the employee and (b) Cost of education is upto RS 1000 p.m per child, Otherwise it is fully taxable}
Less: Amount recovered	

TRANSPORT FACILITY TO THE EMPLOYEES OF TRANSPORT UNDERTAKING

Amount charged from general public - amount recovered
(does not apply to airline or railways)

EMPLOYEE STOP OPTION PLAN / SCHEME (ESOP)

FMV on the date of exercising of option by employee -
Less: amount recovered -

Value of sweat equity shares -

Deferment of taxability in case of ESOP allotted to employee of eligible start-up. Where the income of the assessee of any assessment year, beginning on or after 01-04-2021, includes perquisite income of specified securities or sweat equity shares and such specified security or sweat equity shares are directly allotted or transferred directly or indirectly by the current employer, being an eligible start-up referred to in Section 80-IAC, the tax or interest on such income included in the notice of demand u/s 156(1) shall be payable by the assessee within 14 days -

- + After the expiry of 48 months from the end of the relevant assessment year; or
- + From the date of sale of such specified security or sweat equity share by the assessee; or
- + From the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity share, Whichever is the earliest.

Thus, the tax burden on such employee getting ESOP has been reduced by deferring the payment of tax by 5 years or till they leave the company or when they sell shares, whichever is earliest

FMV in the following cases: (on the date of exercising option)

CASE	FMV shall be
Listed equity shares: (a) Only one RSE (b) Only one RSE but not traded on that day (c) More than one RSE (d) More than one RSE but not traded on that day	Opening + closing price/2 Closing price of previous day Opening + closing price/2 (highest volume wala RSE) Closing price of previous day (highest volume wala RSE)
Unlisted equity shares	Value by merchant banker
Specified securities not being an equity share	Value by merchant banker

MEDICAL FACILITY [Proviso to Section 17(2)]

SITUATION	RESULT
Treatment in hospital maintained by employer (employee or his family member)	Exempt
Treatment in govt. hospital (employee or his family member)	Exempt
Treatment of prescribed disease in a hospital approved by the principal chief commissioner or chief commissioner (employee or his family member)	Exempt

<p>COVID medical treatment expenditure by the employer: Any sum paid by an employer in respect of expenditure incurred on medical treatment of employee or any of his family member in respect of any illness relating to COVID-19 subject to such conditions as the notified by the Central Government.</p> <p>Accordingly, the Central Government has, vide Notification No. 90/2022 dated 5-8-2022, specified that for claiming benefit of such exemption, the employee has to submit the following documents to the employer, -</p> <p>(a) the COVID-19 positive report of the employee or family member, or medical report if clinically determined to be COVID-19 positive through investigations, in a hospital or an in-patient facility by a treating physician of a person so admitted;</p> <p>(b) all necessary documents of medical diagnosis or treatment of the employee or his family member for COVID-19 or illness related to COVID-19 suffered within 6 months from the date of being determined as COVID-19 positive; and</p> <p>(c) a certification in respect of all expenditure incurred on the treatment of COVID-19 or illness related to COVID-19 of the employee or of any member of his family.</p>	<p>Exempt</p>
<p>Health insurance premium paid by the employer</p>	<p>Exempt</p>
<p>Health insurance premium reimbursed by the employer</p>	<p>Exempt</p>
<p>Medical treatment abroad: expenditure incurred or reimbursed by the employer</p> <p>(a) medical treatment of employee or his family + stay + (one attendant)</p> <p>(b) cost of travel of employee or his family + attendant if Gross total income does not exceed ₹ 2 lacs (family means spouse, children, (brother, sister, parents - wholly or mainly dependent upon individual))</p>	<p>Exempt</p> <p>exempt</p>

FRINGE BENEFITS

INTEREST FREE OR CONCESSIONAL LOANS

Max. monthly outstanding balance * rate charged p.a by SBI for similar purpose -
(saal ke start me i.e 1/4/2020)

Less: amount recovered -

(monthly outstanding balance means the aggregate outstanding balance for each loan as on the last day of each month)

TRAVELLING, TOURING, ACCOMMODATION AND ANY OTHER EXPENSES PAID FOR OR BORNE OR REIMBURSED BY THE EMPLOYER FOR ANY HOLIDAY, OTHER THAN LEAVE TRAVEL CONCESSION/ ASSISTANCE, AVAILED OF BY AN EMPLOYEE OR ANY MEMBER OF HIS HOUSEHOLD

Value shall be the amount of the expenditure incurred by the employer

Facility is maintained by employer and not available to all employee	Value of such facility offered by other agencies to public
Employee on official tour + expenses for household	Amount of expenditure incurred
Official tour extended to vacation	Expenses incurred for extended vacations

FREE FOOD & NON-ALCHOLIC BEVERAGES PROVIDED BY EMPLOYER

Amount incurred by employer - amount recovered

♣ during working hours upto ₹ 50 per meal exempt above taxable
♣ tea and snacks during working not taxable
♣ free food & non alcoholic beverages in remote area not taxable

GIFTS INCLUDING GIFT VOUCHERS AND TOKENS RECEIVED BY THE EMPLOYEE OR ANY MEMBER OF HIS HOUSEHOLD ON CEREMONIAL OCCASIONS OR OTHERWISE

Sum equal to amount to such gift (Rs 5000 aggregate value exempt)

CREDIT CARD OR ADD ON CARD PROVIDED TO EMPLOYEE OR ANY MEMBER OF HIS HOUSEHOLD

Amount of expenses reimbursed by employer - amount recovered
(if for official purpose not taxable)

CLUB FACILITY PROVIDED TO EMPLOYEE OR ANY MEMBER OF HIS HOUSEHOLD

Amount of expenses paid or reimbursed by employer - amount recovered

Corporate membership exempt
Wholly and exclusively for business purpose exempt
Facilities provided to all employees exempt

USE, BY THE EMPLOYEE OR ANY MEMBER OF HIS HOUSEHOLD, OF MOVABLE ASSETS (OTHER THAN ASSETS ESLEWHERE SPECIFIED IN RULE 3) BELONGING TO THE EMPLOYER OR HIRED BY HIM

Value of perquisite = 10% of the actual cost of asset or amt of rent or hire charges paid by employer - amount recovered
(use of laptop and computers is exempt)

TRANSFER OF ANY MOVABLE ASSET WHICH ARE BELONGING TO THE EMPLOYER, DIRECTLY OR INDIRECTLY TO EMPLOYEE OR ANY MEMBER OF HIS HOUSEHOLD

COMPUTERS & ELECTRONIC GADGETS	MOTOR CARS	OTHERS
<i>Actual cost</i>	<i>Actual cost</i>	<i>Actual cost</i>
<i>Less: dep 50% (WDV)</i>	<i>Less: dep 20% (WDV)</i>	<i>Less: dep 10% (SLM)</i>
<i>Less: amount recovered</i>	<i>Less: amount recovered</i>	<i>Less: amount recovered</i>

Note:

- (1) **Depreciation is allowed for each completed year of put to use.**
- (2) Electronic gadgets means data storage and handling devices like computer, digital diaries and printers. They do not include household appliances like washing machines, microwaves ovens, mixers, hot plates, ovens etc.
- (3) Member of household shall include - (i) spouse; (ii) children and their spouses; (iii) Parents; and (iv) servants and dependants

ANY OTHER AMENITY OR BENEFITS

Cost of same to the employer - amount recovered
(telephone/mobile charges paid by employer is exempt)

PERQUISITE WHICH ARE EXEMPT

Perquisite allowed outside India by the provided	Employer's contribution to staff group insurance scheme	Annual premium by employer on personal accident policy
Refreshment	Telephone	Subsidized lunch
Recreational facilities	Transport facility	Amount spent on training of employees
Sum payable by employer to a RPF	Privilege passes and privilege ticket	Leave travel concession
Medical facility	Rent free official residence	Rent free furnished residence
Conveyance facility		

PROFIT IN LIEU OF SALARY {SECTION 17(3)}

Profit in lieu of salary includes:

- ◆ Compensation received or due from employer or former employer in connection with termination or modification of employment.
- ◆ Provident fund or other fund se paise milna jo ki assessee contribute nahi kiya hai.
- ◆ Sum received under keyman insurance policy
- ◆ Any amount received before joining and after cessation of employment.

GRATUITY {SECTION 10(10)}

- 1) **Govt. employee** - exempt
- 2) **Other employees** (covered under gratuity act, 1972):

Least of following:

- ✚ ₹ 20 lacs or
- ✚ Actual gratuity received
- ✚ $15/26 \times \text{salary last drawn} \times \text{no. of completed years of service or part thereof in excess of 6 months.}$

(Salary = basic pay + D.A always included)

Seasonal establishment me 15 ke badale 7 days lena hai.

6m se upper hua toh full year lena hai.

3) **Other employees** (not covered under gratuity act, 1972):

Least of the following:

- ✚ ₹ 20 lacs
- ✚ Actual gratuity received
- ✚ $\frac{1}{2} \times \text{average salary} \times \text{completed year of service}$ (fraction of a year not to be considered)

(average salary = average of salary in last 10 months preceding the month of retirement)

Salary = Basic pay + D.A (forming part of retiring benefit) + % wiaese fixed commission on turnover.

Note:

- ✚ Gratuity received during employment is **fully taxable**.
- ✚ If received from more then one employer the aggregate of both employer to be taken for limit.
- ✚ If already claim exemption the reduce then amount claim exemption for next time.
- ✚ Old employer period to be included while computing period for new employer if gratuity is nor received from old employee.

EARNED LEAVE SALARY (SECTION 10(10AA)):

a) **Govt. employee** - exempt

b) **Other employee:**

Least of following:

- Actual amount received
- ₹ 250000
- 10th months average salary
- Average salary * leaves at the credit of an employee taking 30days in a year for completed years of service.(fraction to be ignored)

Salary = basic pay + D.A (forming part) + percentage-wise fixed commission on turnover.

Average salary = average of salary drawn in the last 10 months immediately preceding the date of retirement.

Leave standing at the credit of employee = annual leave entitlement(taking 30days in a year * completed year of service rendered) - leaves actually availed in service.

Note:

- ✓ Exemption is also available in case of resignation.
- ✓ No exemption during employment.
- ✓ Received from more than one employer the aggregate.
- ✓ If already claim exemption then can claim balance from next employer.
- ✓ Leave salary to widow/legal heirs/family member of the assessee during employment not taxable.

COMMUTED PENSION {SECTION 10 (10A)}

- ❖ Govt. employee - exempt
- ❖ Other employee:
 - a) In receipt of gratuity - exemption 1/3rd of commuted value of pension
 - b) Not In receipt of gratuity - exemption 1/2rd of commuted value of pension

Note:

- Commuted value of pension = pension received / % of pension commuted.
- Uncommuted pension taxable in case of alle employees even govt. employee.
- Pension received from UNO is exempt.
- Commuted pension from LIC or any other approved insurer is exempt.
- Family pension received by legal heirs is taxable as income from other source.

LEAVE TRAVEL CONCESSION {SECTION 10(5)}

Received to him or his family {spouse, children, brother and sister, parents (dependent upon him). In case of children born after 1/10/1998 the exemption is available for only two surviving children and in case of birth of multiple children born after on child, the multiple children shall be regarded as one child} during employment or after retirement/termination from former or current employer to any place in India is exempt.

Amount of exemption:

Situations	Exemption upto the amount not exceeding -
Journey by air	Economy fare of national carrier by shortest route
In case places are connected by rail and journey is performed other than air	1 st class AC rail fare by the shortest route

<p>If the places are not connected by rail and -</p> <ul style="list-style-type: none"> + Recognised means of transport exists + No recognised means of transport exists 	<p>1st deluxe class fare on such transport by shortest route 1st class AC rail fare by the shortest route</p>
<p>The amount of exemption shall not exceed the amount actually incurred</p>	

Claim of exemption:

- The assessee can claim exemption for any two journeys in a block of 4 calendar years.
- In case no concession or only one concession is availed in the previous block, then the assessee can claim one additional exemption in the first year of next block.

RETRENCHMENT COMPENSATION {SECTION 10(10B)}

Least of the following is exempt:

- a) Actual amount received
- b) ₹ 500000
- c) $15/26 \times \text{avg salary of last 3 months} \times \text{completed year of service and part thereof in excess of 6 months.}$

VOLUNTARY RETIREMENT/SEPERATION {SECTION 10(10C)}

Eligible assessee main sab a jaate hai.

Limit:

Least of the following:

- ◆ Actual amount received
- ◆ ₹ 500000

Amount of compensation does not exceed:

- 3 months * salary last drawn * completed year of service or
- Salary last drawn * balance of month left before retirement or superannuation

Salary = basic pay + D.A (forming part) + % wise fixed commission on turnover

(agar amount received amount of compensation se jayada hua toh toh entire amount taxable)

Guidelines for claiming exemption:

- a) The scheme applies to an employee who has completed 10 years of service or completed 40 years of age except in case of public sector company.
- b) It applies to all employees including workers and executive except directors of a company or co-operative society.
- c) The vacancy caused should not be filled up.

- d) Retiring employee is not employed in another company / concerns belonging to same management.
- e) Exemption is allowed only once.
- f) No exemption if relief claimed u/s 89.

EXEMPTION IN RESPECT OF TAX ON NON-MONETARY PERQUISITE BORNE BY THE EMPLOYER ON BEHALF OF EMPLOYEE {SECTION 10 (10CC)}

PROVIDENT FUND AND TAX RELIEF

Tax treatment of various provident fund

Tax incidence of	SPF	RPF	URPF
1) Employers contribution	Exempt	Exempt upto 12% of salary (note 1)	Not taxable when contribution is made
2) Employees contribution	Taxable	Taxable	Taxable
3) Deduction u/s 80C on employees contribution	Available	Available	Not Available
4) Interest credited to PF	Exempt (note 6)	Exempt upto interest calculated 9.5% p.a (note 2 & 6)	Not taxable when interest is credited
5) Lump sum payment at the time of retirement or termination of service	Exempt u/s 10(11)	Exempt from tax in some cases. When not exempt provident fund will be treated as unrecognised fund from the beginning. (note 3 & 4)	<ul style="list-style-type: none"> ➤ Employers contribution & interest : taxable as salary. ➤ Employees own contribution: exempt as taxed earlier. ➤ Interest on employees contribution: taxable as income from other source

It includes:

Contribution to RPF/NPS/Approved superannuation fund	The amount or the aggregate of amounts of any contribution made to the account of the assessee by the employer - <ul style="list-style-type: none"> a) In a recognised provident fund; b) In the scheme referred to in section 80CCD(1); and c) In an approved superannuation fund, To the extent it exceed ₹ 7,50,000 in a previous year.
Interest/Dividend etc. on taxable	The annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance

contributions under RPF/NPS/Approved superannuation Fund	at the credit of the fund or scheme referred above to the extent it relates to the contribution which is included in total income in any previous year computed in such manner as may be prescribed.
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Note:

1. Salary = basic + D.A (forming part) + percentage wise fixed commission on turnover.
2. The annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the fund or scheme referred above to the extent it relates to the contribution which is included in total income in any previous year computed in such manner as may be prescribed.

The CBDT has, vide Rule 3B, notified the following manner to compute the annual accretion by way of interest, dividend or any other amount of similar nature during the previous year

$$TP = (PC/2) * R + (PC1 + TP1) * R$$

TP	Taxable perquisite under section 17(2)(via) for the current previous year
PC	Amount or aggregate of amounts of employer's contribution in excess of ₹ 7.5 lakh to recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund during the previous year
PC1	Amount or aggregate of amounts of employer's contribution in excess of ₹ 7.5 lakh to recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund for the previous year or years commencing on or after 1 April, 2020 other than the current previous year
TPI	Aggregate of taxable perquisite under section 17(2)(via) for the previous year or years commencing on or after 1" April, 2020 other than the current previous year
R	1/ Fav _g
I	Amount or aggregate of amounts of income accrued during the current previous year in recognized provident fund, national pension scheme u/s 80CCD and approved superannuation
Fav_g	(Amount or aggregate of amounts balance to the credit of recognized provident fund, national fund pension scheme u/s 80CCD and approved superannuation fund on 1st April, 2021 + Amount or aggregate of amounts of balance to the credit of recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund on 31st March, 2022)/2

Where the amount or aggregate of amounts of TPI and PCI exceeds the amount or aggregate of amounts of balance to the credit of the specified fund or scheme on 1" April, 2021, then, the amount in excess of the amount or aggregate of amounts of the said balance shall be ignored for the purpose of computing the amount or aggregate of amounts of TP1 and PC1.

3. Lump sum payment at the time of retirement or termination of service is exempt from tax is:
 - a) Employee continuous service for 5 years or more.
 - b) Service is terminated due to ill health of employee or discontinuance of employers business or any other reason beyond his control.
 - c) On cessation of employment, RPF account is transfer from one employer to another.
 - d) The entire balance outstanding is credited under pension scheme under section 80CCD and notified by the CG.
4. Previous employer period will also be counted for 5 years counting.
5. In case, if UPRF is converted into RPF, then the amount to be taxed shall be the amount which is arrived by treating the fund as RPF from its inception i.e from the year of creation of fund.
6. **Taxability of accrued interest from SPF/RPF:** Exemption u/s 10(11)/10(12) shall not apply to the income by way of interest accrued during the previous year in the account of a person to the extent it relates to the amount or aggregate of amounts of contribution made by that person exceeding ₹ 2,50,000 (₹ 5,00,000 if no contribution by the employer of such person) in any previous year in that fund, on or after 1/4/2021 and computed in such manner as may be prescribed
It may be noted that interest accrued on contribution to such funds upto 31/3/2021 would be exempt without any limit, even if the accrual of income is after that date.

The CBDT has, vide Rule 9D, notified the manner to calculate taxable interest relating to contribution in a provident fund or recognized provident fund, exceeding threshold limit.

Interest income accrued during the previous year which is not exempt from inclusion in the total income of a person (taxable interest) shall be computed as the interest accrued during the previous year in the taxable contribution account.

For this purpose, separate accounts within the provident fund account shall be maintained during the previous year 2021-22 and all subsequent previous years for taxable contribution and non-taxable contribution made by a person.

(a) Non-taxable contribution account shall be the aggregate of the following, namely:-

- (i) closing balance in the account as on 31-03-2021;
- (ii) any contribution made by the person in the account during the previous year 2021-22 and subsequent previous years, which is not included in the taxable contribution account; and
- (iii) interest accrued on (i) and (ii), as reduced by the withdrawal, if any, from such account;

(b) Taxable contribution account shall be the aggregate of the following, namely:-

(i) contribution made by the person in a previous year in the account during the previous year 2021-2022 and subsequent previous years, which is in excess of the threshold limit; and

(ii) interest accrued on (i),

as reduced by the withdrawal, if any, from such account; and

(c) Yearly threshold limit is ₹ 5,00,000, if the contribution by such person/employee is in a fund in which there is no employer's contribution and ₹ 2,50,000 in other cases.

APPROVED SUPERANNUATION FUND {SECTION 10(13)}

- ✚ **Employers contribution** - exempt upto ₹ 150000.
- ✚ **Employee contribution** - deduction under section 80C
- ✚ **Interest** - Exempt. However The annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the fund or scheme referred above to the extent it relates to the contribution which is included in total income in any previous year computed in such manner as may be prescribed.
- ✚ **Exemption of payment from the fund:** if the payment are made to :-
 - To legal heirs on the death of the beneficiary or
 - To an employee in substitution of or in commutation of an annuity on his retirement at or after a specified age or if he becomes incapable prior to his retirement.
 - In form of refund of contribution on death of beneficiary. (point 1)
 - In the form of refund of contribution to an employee leaving the service in circumstances other than those mentioned in point 1 above, to the extent the payment does not exceed contribution made prior to commencement of this act and interest thereon.
 - By way of transfer to the account of the employee under a pension scheme referred to in section 80CCD and notified by the CG.

SECTION 89: RELIEF WHEN SALARY IS PAID IN ARREARS OR IN ADVANCE

(A) **Relief when available:** Section 89 read with Rule 21A grants relief to the assessee who receives -

- (a) salary, being paid in arrears or in advance; or
- (b) salary for more than 12 months in any one financial year; or
- (c) profits in lieu of salary under section 17(3); or
- (d) family pension as referred to in Section 57(iiia) being paid in arrears, due to which his total income is assessed at a rate higher than that at which it should have been assessed.

(B) **Calculation of relief:** The admissible relief will be calculated as per the following steps-

- (1) Calculate the tax payable on the total income, including the additional salary, of the previous year in which the same is received.
 - (2) Calculate the tax payable on the total income, excluding the additional salary of the previous year in which the same is received.
 - (3) Find out the difference between the tax at (1) and (2).
 - (4) Compute tax on total income after including the additional salary in the previous year to which such salary relates.
 - (5) Compute tax on total income after excluding the additional salary in the previous year to which such salary relates.
 - (6) Find out the difference between tax at (4) and (5).
 - (7) Relief under section 89 = Tax computed at (3) - Tax computed at (6).
- (C) **No relief, if exemption claimed u/s 10(10C) in respect of VRS compensation:**
No relief shall be granted under this section in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service under Voluntary Retirement or Separation Scheme if an exemption u/s 10(10C) has been claimed in respect of such or any other assessment year.

Effect: The cumulative effect of sections 10(10C) and 89 is

- (a) The assessee cannot avail of exemption u/s 10(10C) and simultaneously claim relief u/s 89 in respect of the un-exempt portion in the same assessment year,
- (b) Once exemption is claimed u/s 10(10C), no exemption u/s 10(10C) and no relief u/s 89 can be claimed for any other assessment year in respect of VRS compensation;
- (c) Once relief is claimed u/s 89 in respect of VRS compensation received, no exemption u/s 10(10C) can be claimed for any other assessment year. However, if any VRS compensation is received subsequently from any other employer, relief u/s 89 can be claimed. Therefore, relief u/s 89 can be claimed more than once.

CHAPTER - 4: INCOME FROM HOUSE PROPERTY

Conditions to be fulfilled for the purpose of charging any income under this head (SECTION 22):

- Property must consists of any **building or land appurtenant thereto** -
 - a) Building include building constructed on leasehold/rented land
 - b) Rent of vacant land - taxable under IOS.
- Assessee must be the **owner** of such property -
 - a) Free hold and leasehold rights and deemed owner also covered.
 - b) Ownership must exist in P.Y.
- The property can be used for any purpose **except for the purpose of business or profession of the assessee** -
 - a) If business of letting then taxable as business income.
 - b) If used for own business then not taxable under IHP or business income.
- Property held as stock in trade etc - **Annual value** in case of IHP. Builders ke pass **2 years** ka time hai tab tak vo **annual value NIL** claim kar sakte hai from the end of the financial year in which certificate of completion of construction was obtained.

Exemptions:

- ♣ **Sublet receipt** - taxable under IOS.
- ♣ **Principal of mutuality** - agar assessee ke upper apply hota hai toh IHP pe bhi applicable hoga.
- ♣ **Letting is incidental to main business** - taxable under PGBP
- ♣ **Assessee's property used for his partnership firm** - not taxable under this head. But if property is owned by HUF is given on rent to firm in which members of HUF are partners in their personal capacity, the taxable under IHP in the hands of HUF.

DISPUTED PROPERTY: person who receives income or enjoys the possession of property are assessable to tax under IHP.

COMPOSITE RENT:

Tax treatment:

- 1) **Composite rent including rent for letting out of property as well as rendering of services** -
 - ♣ **Two different line of activities** - apportioned as IHP and business income.
- 2) **Two activities they form single activity** -
 - ♦ **main intention letting** - IHP
 - ♦ **main intention to exploit the immovable property by way of commercial complex** - PGBP
- 3) **Composite rent including rent for letting out of building as well as other assets like P&M, furniture:**

- ✦ **If letting of property is inseparable:** entire income as PGBP or IOS
- ✦ **If letting of property is separable:** rent under IHP & rent from other property under PGBP or IOS.

COMPUTATION OF ANNUAL VALUE (SECTION 23)

Particulars	Amount (Rs)
Fair rent (a)	-
Municipal Rent (b)	-
Whichever is higher (a or b) (c)	-
Standard Rent (d)	-
Expected Rent /Whichever is lower (c or d) (e)	-
Actual rent received/receivable (ARR) (f)	-
(GAV) Gross annual value/whichever is higher (e or f)	-
Less : Municipal Taxes	-
Net annual value (NAV)	-
Less: Deduction u/s 24:	
Standard Deduction (30% of NAV)	-
Interest on loan	-
Income from House Property	-

Notes:

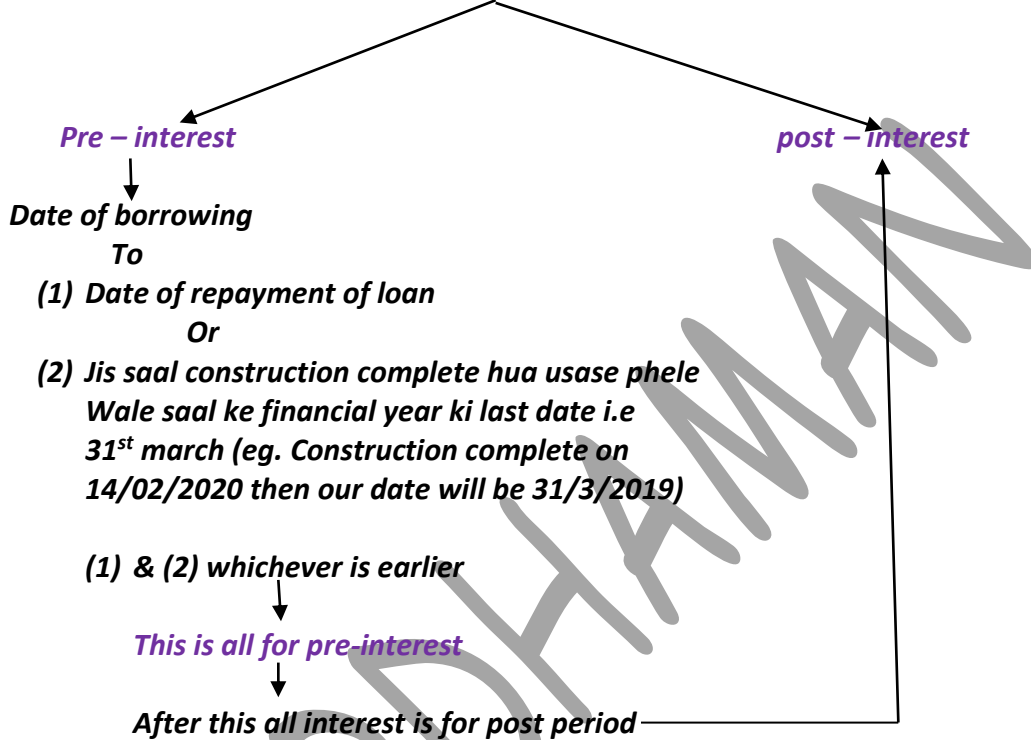
- Agar ARR, ER se cum hai due to vacancy (matlab khali rehene ke karan) toh **GAV = ARR**.
- Municipal taxes sirf jo owner pay karta hai vahi minus hota hai chahe jitney saal ka bhi pay kare (advance not allowed)
- **Unrealised rent(UR)** (jo dub gaya hai) shall be **deducted from ARR**. UR ki **4 conditions fulfill** honi chahiye tabhi deduct hoga.
- **ARR exceed PER** (proportionate expected rent) se due to vacancy toh **GAV = ARR**, PER ka matlab utne mahine ka proportionate expected rent jitney mahine property rent pe hi.
- **ARR less than PER** (vacancy ke alawa koi kaaran se eg: self occupied raha) then **GAV = ER for 12 months**.
- If property vacant for whole year then annual value shall be **NIL**.
- Section 23(2) ke hesab se **two ghar ka selfoccupied ya unoccupied house property ki annual value nil lenge. (individual, HUF)**
- Agar house property kuch samay let out and kuch samay self occupied toh annual value **NIL** nahi lenge. (eg: 4 months raha 8 months let out toh pura 12months let out mana jayega) and actual rent ko excepted rent of 12months se compare karke GAV nikalenge.
- Half portion let out/half portion self occupied the dono ko alag alag maan ke tax lagayenge.

DEDUCTION FROM ANNUAL VALUE(SECTION 24)

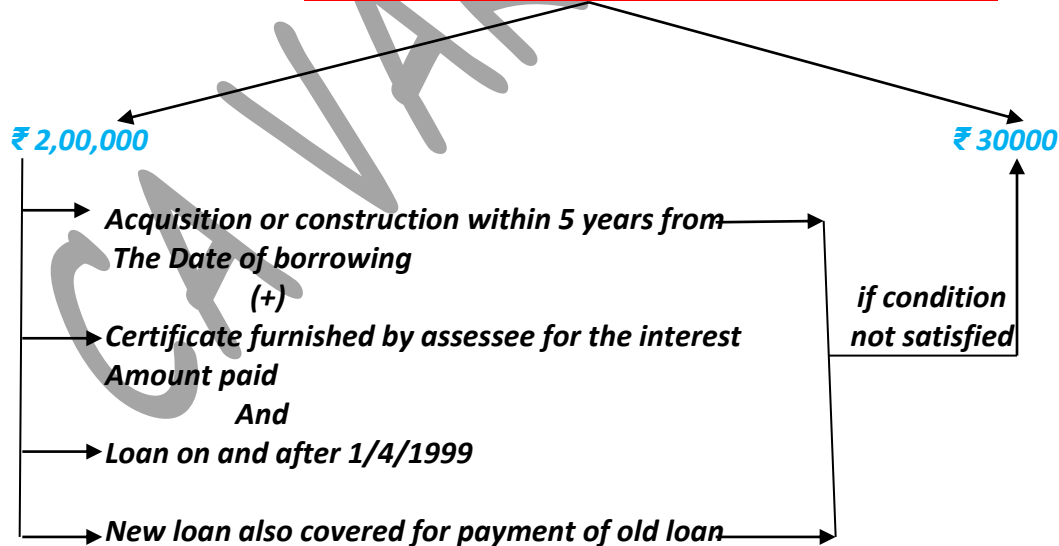
(I) Standard deduction - 30% of NAV

(II)

Interest on Loan



INTEREST ON LOAN LIMIT [SELF OCCUPIED]



- ✚ Repair, renewal or reconstruction main Rs 30000 milega.
- ✚ Interest include service fees or other charges in respect of money borrowed.
- ✚ Interest on unpaid interest is not deductible.

- ✚ Pre - interest 5 installements main milta hai from the date of completion.
- ✚ Friends se bhi liye loan pe interest mil jaata hai

AMOUNT NOT DEDUCTIBLE (SECTION 25):

Any interest payable (shall not be allowed)

- ♣ Which is payable outside India,
- ♣ On which tax has not been deducted or paid
- ♣ Jo non resident ka agent nahi hai

PROVISION FOR ARREARS OF RENT AND UNREALISED RENT RECEIVED SUBSEQUENTLY (SECTION 25A)

Amount received as Arrears of rent and unrealised rent -
Less: standard deduction 30% of such amount -
Income from house property -

Jis financial year me received hoga ussi financial year me taxable hoga chahе property ho ya nahi vo.

PROPERTY OWNED BY CO-OWNERS (SECTION 26)

- Shares are definite and ascertainable - each person will be treated as separate and will be taxable. (haar chije dono ki alag alag hogi jaise ki interest ki limit and self occupied ki limit)
- Unascertainable shares - then will be taxed as AOP.

DEEMED OWNERSHIP (SECTION 27):

- Transfer to spouse or minor child otherwise than for adequate consideration:
An individual who transfer otherwise than for adequate consideration his house property to -
 - ♣ His or her spouse, not being a transfer in connection with an agreement to live apart; or
 - ♣ Minor child, not being married daughter.
Shall be deemed to be the owner of the house property so transferred.
- Holder of an impartible estate.
- Property allotted under house building scheme.
- Possession on part performance of contract.
- Holder of substantial lease or other rights for not less than 12 years: A person who acquires any rights (excluding any right by way of a lease from month to month or for a period not exceeding one year) shall be deemed to be the owner of that building or part thereof.
{Transfer means -
 - ✚ Transfer of property by way of sale or exchange or lease for a term of not less than 12 years, and includes allowing the possession of such property to be taken or retained in part performance of a contract.

- ✚ Doing of anything which has the effect of transferring, or enabling the enjoyment of, such property.}

Exempted Properties

1. Any one place or part thereof of an ex-ruler, provided the same is not let out
2. House property of a local authority
3. House property of an approved scientific research association
4. House property of an educational institution
5. House property of a hospital
6. House property of a person being resident in Ladakh
7. House property of a political party
8. House property of a trade union
9. A farm house
10. House property held for charitable purpose
11. House property used for own business or profession

CHAPTER - 5: PROFIT AND GAINS FROM BUSINESS AND PROFESSION

CHARGING SECTION (SECTION 28):

- Profit and gains of any business or profession.
- **Compensation:** any compensation received or due to be received by-
 - ✚ Person managing **Indian company** in relation to termination or modification in terms and condition.
 - ✚ Person managing **other company** in relation to termination or modification in terms and condition.
 - ✚ Person holding **agency in India** in relation to termination or modification in terms and condition.
 - ✚ Person vesting in the government.
 - ✚ Person in relation to contract termination or modification in terms and condition.
- **Income derived by a trade, association or professional from specific services to its members.**
- **Incentive from export business:**
 - ✚ Profit on sale of import entitlement.
 - ✚ Cash assistance against export under any scheme of GOI.
 - ✚ Duty drawback
 - ✚ Profit on the transfer of DEPB
 - ✚ Profit on the transfer of DFRC.
- **Benefit or perquisite arising from business or profession.**
- **Partner's remuneration.**
- **Non-competing fees** and exclusivity receipt (compensation from multilateral fund of the montreal protocol on substances that deplete ozone layer is not taxable)
- Key man insurance policy receipt.
- FMV of inventory on its conversion as capital assets.
- Sale proceed of assets of specified business.

MODE OF COMPUTATION OF INCOME UNDER PGBP(SECTION 29)

PARTICLUARS	AMOUNT
Net profit as per P/L account	-
Add: expenses debited to P/L account not allowable under this Head	-
Less: allowable expenses under this head not debited to P/L a/c	-
Less: income not taxable under this head but credited to P/L a/c	-
Add: income not credited to P/L a/c but taxable under this head	-
Profit and gains of business and profession	-

BASIC REQUIREMENT FOR CHARGING ANY INCOME UNDER PGBP

- ◆ There should be **profit & gains**.
- ◆ Profit and gains may be of any business or profession.
- ◆ Business or profession must be carried on by assessee. (**pre incorporation profits not included**)
- ◆ Business or profession should be carried on at any time during the previous year.
- ◆ Income from letting of business assets.

SPECULATION TRANSACTION {SECTION 43(5)}

Speculation transaction means a transaction in which a contract for purchase and sale of any commodity, including stock and shares, is periodically or ultimately **settled otherwise than by the actual delivery or transfer of the commodity and scrips**.

Following transaction **will not be treated as speculative transactions**:

- ◆ Hedging contract in respect of raw material or merchandise.
- ◆ Hedging contract in respect of stock and shares.
- ◆ Forward contract.
- ◆ Trading on derivatives.
- ◆ Trading in commodity derivatives.

DEEMED SPECULATION BUSINESS (EXPLANATION TO SECTION 73):

Where any part of the business of a company consists of purchase and sale of shares of other companies, then such company shall be **deemed to be carrying on a speculation business** to the extent to which the business consists of the purchase and sale of such shares.

Exception: (in case main taxable nahi hoga)

- ♣ A company whose GTI consists mainly of income under the head IHP, CG and IOS.
- ♣ A company the principal business of which is the business of trading in shares or banking or the granting of loans and advances.

CLAIMING DEDUCTION OF LOSSES INCIDENTAL TO BUSINESS

- ♥ Loss should be real in nature.
- ♥ Loss should be revenue.
- ♥ Losses be actually occurred.
- ♥ Losses should be incidental to business.

ADMISSIBILITY OF DEDUCTION UNDER SECTION 30 TO 44DB.

- ❖ Expenditure should relate to the business of the assessee.
- ❖ Expenditure should relate to the P.Y in which business has been carried out.
- ❖ Burden to prove the admissibility of expenditure lies to the assessee.
- ❖ No expenditure allowed before setting up of the business.

DEDUCTION IN RESPECT OF RENT, RATES & TAXES ETC. OF BUILDING, MACHINERY AND FURNITURE - SECTION 30 & 31

1. Rent, rates, taxes, repairs and insurance of building (section 30):
 - ✓ Rent and repairs of premises:
 - ⊗ As a tenant: rent paid + cost of repair
 - ⊗ Otherwise as a tenant: amt paid for current repair.
 - ✓ Taxes: such as municipal taxes, local tax subject to section 43B.
 - ✓ Insurance premium: amount of premium paid.
2. Cost of repairs and current repairs of capital nature not deductible
3. Capital expenditure on leased building - lessee deemed owner - entitled for depreciation.(extra expense jo karega uspe)
4. Repairs and insurance of machinery, plant or furniture (section 31): same as above 3 points

DEPRECIATION, WDV AND ACTUAL COST

DEPRECIATION (SECTION 32)

1. Depreciation is available on "assets" and "block of assets" (not being goodwill of a business or profession)
2. Asset must be owned wholly or partly by assessee: depreciation is allowed only to the owner of asset, however registered ownership is not necessary.
Exception:
 - ✚ Lessee is entitled to claim depreciation on any superstructure, constructed by him.
 - ✚ In case of hire purchase: hire purchaser is allowed depreciation.
3. Asset must be used for the purpose of business or profession of the assessee.
4. Asset should be used during the relevant previous year: in order to claim depreciation, it is mandatory that the asset must be in use during the previous year (Trail run is use)
Amount of depreciation:
 - ⊗ Use for less than 180days: put to use less than 180 days then 50% depreciation.
 - ⊗ Use for 180 days or more: 100 % depreciation allowed.
 - ⊗ Subsequent year me jitne bhi din koi relevant nahi hai.
5. Claim for depreciation is mandatory.
6. Rate of depreciation read it from book.

ACTUAL COST {SECTION 43(1)}

Actual cost means the actual cost of the assets of the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority. However agar asset ke liye ₹ 10000 se jayada cash payment kiya hoga toh vo asset ki cost me add nahi hoga. [(a) credit card; (b) Debit

card; (c) Net banking; (d) IMPS (immediate payment service); (e) UPI (unified payment service); (f) RTGS (real time gross settlement); (g) NEFT (national electronic funds transfer), and (h) BHIM (bharat interface for money) Aadhar pay have been prescribed as mode of electronic payment]

COMPUTATION OF ACTUAL COST:

PARTICULARS	AMOUNT
Purchase price of the asset	-
Add: Direct cost attributable to bring asset to its present location and working condition for its intended use (i.e expenses incurred for acquiring the asset E.g. - freight, insurance, loading and handling etc. and expenses incurred in connection with the installation of asset.)	-
Add: Interest on capital borrowed in connection with the acquisition of asset before the asset is first put to use	-
Less: Amount of duty of excise or additional duties of custom levied on it and included in its cost, in respect of which claim of CENVAT credit has been made and allowed under the CENVAT credit rules 2004	-
Less: Portion of cost of asset which has been met directly or indirectly by the C.G in the form of subsidy or grant .	-
Add/Less: Increase/ Decrease in cost due to exchange rate fluctuation	-
Actual cost of the asset	-

WRITTEN DOWN VALUE(WDV)[SECTION 43(6)]

- In case of asset acquired in the P.Y: actual cost of the asset
- In case of asset acquired before the P.Y: actual cost - depreciation

WDV IN CASE OF BLOCK OF ASSETS [SECTION 43(6)(c)]

Particulars	Amount
WDV at the beginning of the year	-
Add: actual cost of the asset falling within the block, not being increase on account of acquisition of goodwill of a business or profession acquired during the previous year	-
Less:	-
(i) money payable (including scrap) in respect of any asset falling within that block which is sold, discarded, demolished or destroyed during the previous year, to the extent it does not exceed the sum of the above two	
(ii) where goodwill of a business or profession was part of the block of assets on which depreciation was allowed to the assessee upto previous year 2019-20, actual cost of the goodwill as reduced by amount of depreciation that would have been allowable to the	

assessee for such goodwill as if goodwill was the only asset in the block. However, the amount of reduction cannot exceed the WDV.	
WDV at the end of the year	-
Less: Depreciation at block rate	-
Depreciated value at the block at the end of the year	-

WDV IN CASE OF SLUMP SALE

PARTICULARS	AMOUNT
WDV of block of assets	-
Less: Deduction on account of slump sale to the extent of amount computed (below)	-

PARTICULARS	AMOUNT
Actual cost of assets failing in the block, which is transferred by slump sale	-
Less: Depreciation that would have been allowed if that asset was the only one in the block	-
Deduction on account of slump sale	-

For computing depreciation upward and downward revaluation of asset to be ignored.

WDV in case of assessee having partly agriculture and partly business income:
Depreciation shall be allowed only for business purpose.

WDV in case of block of asset transferred in succession of business and profession:
WDV in the hands of predecessor/transferor/amalgamating co/demerged co.

BLOCK EXIST BUT WDV CEASES TO EXIST: sale price > wdv - STCG, sale price < wdv - depreciation.

WDV EXIST BUT BLOCK CEASES TO EXIST: sale price > wdv - STCG, sale price < wdv - STCL.

SPECIAL PROVISIONS CONSEQUENTIAL TO CHANGE IN RATE OF EXCHANGE OF CURRENCY (SECTION 43A)

Applicability:

- ❖ Asset acquired from outside India for business & profession.
- ❖ Subsequently, there is change in exchange rate.

Treatment:

- ❖ The amount of liability so increased or decreased at the time of payment shall be added or reduced to the cost of asset or the amount of capital expenditure.

Other relevant point:

- ❖ Adjustment of only actual payment.
- ❖ Liability meet by other person no adjustment needed.

- ❖ Increase/decrease in liability of interest payment on account of exchange rate fluctuation will for part of the cost of asset.

TAXATION OF FOREIGN EXCHANGE FLUCTUATION [Section 43AA] [ONLY FOR CMA]

Any gain (or loss) being computed in accordance with ICDS, arising on account of any change in foreign exchange rates shall be treated as income (or loss)

APPORTIONMENT OF DEPRECIATION

Apportionment of depreciation in case of amalgamation/ demerger/business reorganization: in the ratio of the number of days of use of asset by them during that previous year.

ADDITIONAL DEPRECIATION [SECTION 32(1)(ia)]

Applicability: Is available on new machinery or plant (other than ship and aircraft), which has been acquired and installed after 31-05-2005.

- ✦ Assessee engaged in the business of manufacture or production of any article or thing or in the business of generation, transmission or distribution of power.
- ✦ Available in case of block of asset.

Deduction:

- ◆ 20% of actual cost of P&M. if put to use for less than 180 days, then only 10% will be allowed.
- ◆ Balance of additional depreciation will be allowed in succeeding P.Y

No deduction:

- ✦ P&M used outside India (second hand)
- ✦ Any official appliances or road transport vehicles.
- ✦ P&M installed in office premises or the residential accommodation (including guest house)
- ✦ P&M whose whole of the actual cost is deductible.

UNABSORBED DEPRECIATION [SECTION 32(2)]

- ♥ Shall be allowed to be carry forward.
- ♥ Can be carry forward even if business is not in existence.
- ♥ Return of loss is not required
- ♥ Brought forward loss shall be given priority over unabsorbed depreciation.
- ♥ Can be carry forward infinite.

DEPRECIATION IN CASE OF POWER GENERATING UNIT [SECTION 32(1)(i)]

- ⊗ **Applicability:** applies to power generating undertaking, but doesn't apply to undertaking only engaged in distribution of power.
- ⊗ **Claim for depreciation on SLM basis instead of WDV:** Depreciation dono methods se claim kar sakte hai but ek baar jo method claim karenge vo aage ke years ke liye bhi applicable hoga.
- ⊗ **Treatment in case of sale of assets:**

- Monies payable is less than WDV: **terminal depreciation**
- Monies payable exceed WDV not cost: **balancing charge**
- Monies payable exceed WDV and cost: **balance charge + capital gain.**

SITE RESTORATION FUND [Sec 33ABA & Rule 5AD] [only for CMA]

- **Applicable to** - all assessee engaged in business of -
 - a) Prospecting for petroleum or natural gas; or
 - b) Extraction or production of petroleum or natural gas; or
 - c) Both in India
- **Condition to be satisfied** -
 - (i) agreement with central government
 - (ii) deposit of amount
treatment of interest - shall be deemed to be deposit
 - (iii) time of deposit - before the end of previous year
 - (iv) audit of books of account - one month prior to due date of filing of return (audit under other will be sufficient compliance)
- **quantum of deduction** - minimum of the following:
 - a. Amount so deposited
 - b. 20% of profit of such business before brought forward business loss and deduction under this section
- **Other points**
 1. **Excess deposit** - not treated as deposit
 2. **Restriction on utilization of amount for certain purpose**
 - P&M installed in Any official appliances or road transport vehicles.
 - P&M installed in office premises or the residential accommodation (including guest house)
 - P&M whose whole of the actual cost is deductible.
 - P&M installed in industrial undertaking for producing and manufacturing item in Schedule XI
 3. **Withdrawal from account** - deemed as income
 4. Double deduction is not permissible
 5. **Restriction on sale of such asset** - 8 years

CERTAIN SPECIAL DEDUCTION - SECTION 35 TO 35DDA

DEDUCTION IN RESPECT OF EXPENDITURE INCURRED ON SCIENTIFIC RESEARCH[SECTION 35]

Section 35	Expenditure incurred	Amt of deduction	Conditions
(1)(i)	Revenue expenditure on scientific research related to business (before commencement of	100%	Expenditure incurred 3 years before commencement of

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	business)		business.
(1)(ii)	Sum paid to a research association, university, college or institution	100%	Deduction is allowed even if not allowed related to business.
(1)(ia)	Sum paid to company having its main objective of scientific research	100%	-
(1)(iii)	Sum paid for social science or statistical research	100%	Deduction allowed even if research is not related to business.
(1)(iv)/(2)	<ul style="list-style-type: none"> ✚ Capital expenditure (except expenditure on purchase of land) on scientific research ✚ Capital expenditure (except expenditure on purchase of land) incurred before the commencement of business 	100%	Expenditure incurred 3 years before commencement of business. No depreciation is allowable.
(2AA)	Sum paid to - <ul style="list-style-type: none"> ➤ National laboratory ➤ University ➤ IIT ➤ Specified person 	100%	-
(2AB)	<ul style="list-style-type: none"> ▪ Expenditure (not being in nature of cost of any land or building) incurred on in-house research and development facility incurred by a company engaged in the business of manufacture or production of any article or thing, not being an article or thing specified in the list of the eleventh schedule ▪ Expenditure on scientific research in relation to drugs and pharmaceuticals 	100%	-

Note:

- ❖ Deduction not to be denied even if approval withdrawn subsequently -
 - ✚ The approval granted to association, university, college, other institution referred to u/s 35(1)(ii)/(iii), or **the company referred u/s 35(1)(ia)** or

- the laboratory or specified person referred to under section 35(2AA) has been withdrawn; or
- ✚ The approval granted to the programme undertaken by the National laboratory, University, Indian institute of technology or specified person, has been withdrawn.
 - ✚ **Condition for claiming deduction:** The deduction in respect of any sum paid to the research associations, university, college or other institution referred to in Section 35(1)(ii)/(iii), or the company referred to in Section 35(1)(ia) shall not be allowed, unless such research association, university, college or other institution or company -
 - (i) Prescribed statement to be furnished
 - (ii) Certificate to be furnished to the donor.
 - ❖ Unabsorbed scientific research capital expenditure is carried forward and set off in the same manner as unabsorbed depreciation.
 - ❖ **Actual use for scientific research during the previous year** - not necessary.(there is no requirement for put to use, only installation is needed)
 - ❖ **Scientific research asset sold:**
 - **Without being used:**
 - Sale proceed upto amount of deduction is deemed as profit.
 - Sale proceed above cost is taxable as capital gain.
 - **After being used:**
 - At the time for business purpose: cost will be NIL(100% deduction allowed)
 - At the time for sale: capital gain

EXPENDITURE ON SPECIFIED BUSINESS (SECTION 35AD)

1. **Optional deduction:** An Assessee shall be allowed deduction under this section if he opts for the provisions of this section
2. **Meaning of specified business:**
 - ⊗ **Cold chain facilities:** on or after 1-4-2009
 - ⊗ **Warehousing facilities - agriculture produce:** on or after 1-4-2009
 - ⊗ **Hospitals:** atleast 100 beds on or after 1-4-2010
 - ⊗ **Housing project:** affordable house on or after 1-4-2011
 - ⊗ **Fertilizer plant:** production of fertilizer on or after 1-4-2011.
 - ⊗ **Cross -country natural gas pipeline network:** on or after 1-4-2007.
 - ⊗ **Hotel:** two star or above on or after 1-4-2010
 - ⊗ **Slum redevelopment housing project:** on or after 1-4-2010
 - ⊗ **ICD/CFS:** on or after 1-4-2012
 - ⊗ **Bee-keeping and production of honey and beeswax:** on or after 1-4-2012
 - ⊗ **Warehousing facility - sugar:** on or after 1-4-2012

- ☉ Slurry pipe line: on or after 1-4-2014
- ☉ Semi-conductor wafer-fabrication manufacturing unit: on or after 1-4-2014
- ☉ Infrastructural facility: on or after 1-4-2017.

Eligible Deduction: 100% of the capital expenditure incurred. Deduction in respect of expenditure incurred prior to commencement will be allowed. Capital expenditure exceed Rs 10000 or expenditure on land, goodwill and financial instrument not eligible. [(a) credit card; (b) Debit card; (c) Net banking; (d) IMPS (immediate payment service); (e) UPI (unified payment service); (f) RTGS (real time gross settlement); (g) NEFT (national electronic funds transfer), and (h) BHIM (bharat interface for money) Aadhar pay have been prescribed as mode of electronic payment]

3. Condition to claim deduction:

- a) It is not set up by splitting up, or the reconstruction, of a business already in existence.
- b) It is not set up by the transfer of P&M previously used for any purpose. However second hand P&M doesn't exceed 20% of total value of P&M or second hand P&M is the imported one and no depreciation is claimed on it.

4. Minimum use of capital asset for specified business - 8 years

5. Asset used for purpose other than specified business - consequences thereof: the total amount of deduction so claimed and allowed in one or more previous year as reduced by the amount of depreciation allowable in accordance of the provision of section 32, as if no deduction under this section was allowed, shall be deemed to be the income of the assessee chargeable under the head PGBP of the previous year in which the asset is so used.

6. In case of hotel operation can be transferred but the deduction will be allowed to the owner.

7. Deduction under this section will not be allowed under any other section - No deduction in respect of the expenditure shall be allowed to the assessee under any other section in any previous year or under this section in any other previous year, if the deduction has been claimed or opted by the assessee and allowed to him under this section

8. Carry forward and setoff of losses will be indefinite period.

AMMORTISATION OF TELECOM-LICENCE FEE [Sec 35ABB] [only for CMA/CS]

- x Applicable to - all assessee
- x Condition to be satisfied -
 - a) Assessee has incurred capital expenditure
 - b) Payment has actually been made (revenue expenditure shall be allowed u/s 37)

- × Deduction u/s 35ABB(1) - actual expenditure incurred and paid shall be allowed as deduction in equal installments over the period for which license remains in force starting from the year as under -

Case	Period starts from
Where the license fee is paid before the commencement of business	The previous year in which such business commenced
When license is acquired after commencement of business	The previous year in which license fee has been actually paid
No depreciation allowed	

- × Where such license is sold in full
 - a) Loss on sale shall be deductible as business loss
 - b) Profit on sale to the extent of aggregate deduction will be treated as business income
 - c) Excess of sale consideration over original cost is capital gain
- × Where such license is transferred in a scheme of amalgamation or demerger - amalgamated or resulting company will claim deduction

EXPENDITURE BY WAY OF PAYMENT TO ASSOCIATION AND INSTITUTION FOR CARRYING OUT RURAL DEVELOPMENT PROGRAMMES (SECTION 35CCA)

100% of the expenditure is allowed as deduction

EXPENDITURE INCURRED ON NOTIFIED AGRICULTURE EXTENSION PROJECT (SECTION 35CCC)

100% deduction allowed.

EXPENDITURE INCURRED BY COMPANIES ON NOTIFIED SKILL DEVELOPMENT PROJECT (SECTION CCD)

100% deduction allowed (not being expenditure in the nature of cost of any land or building)

AMORTIZATION OF CERTAIN PRELIMINARY EXPENSES (SECTION 35D)

1. Eligible assessee: Indian company or a person resident in india.
2. Deduction to be allowed in 5 equal installment: preliminary expenditure incurred before commencement of business (from the date of commencement of business) or after relating to extension of undertaking or setting up new unit (P.Y in which extension is completed or new unit commences production)
3. Expenditure eligible for deduction:
 - ✦ Expenditure in connection with -
 - ◆ Feasibility report
 - ◆ Project report
 - ◆ Conducting market or any other survey
 - ◆ Engineering services

The assessee has to furnish a statement containing the particulars of above expenditure within prescribed period to the prescribed income tax authority in the prescribed form and manner.

- ✦ Legal services for drafting any document
 - ✦ Assessee is a company, also expenditure of
 - ◆ Legal charges of MOA and AOA
 - ◆ Printing charges of MOA and AOA
 - ◆ Registration fees
 - ◆ Underwriting commission or brokerage etc.
 - ✦ Such other expenditure.
4. Amount qualifying for deduction: lower of the following:
- ✦ Aggregate of eligible expenditure or
 - ✦ Higher of (i) or (ii)-
 - (i) 5% of cost of project or
 - (ii) 5% of capital employed (only in case of Indian company)
5. Audit of accounts: where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible unless the account of the assessee for the year or years in which the expenditure is incurred have been audited by a Chartered Accountant before the specified date referred to in section 44AB and the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit by that date in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.
6. Transfer of undertaking in scheme of amalgamation/demerger: balance years ke liye samne wale ko milega.
7. No double deduction.
8. Service unit also eligible.

AMORTIZATION OF EXPENDITURE INCURRED UNDER VOLUNTARY RETIREMENT SCHEME (SECTION 35DDA)

1. Eligible assessee: any person.
2. Eligible expenditure: 100%
3. Deduction and period: $1/5^{\text{th}}$ of expenditure for 5 successive years starting from P.Y from year expenditure incurred.
4. Transfer of undertaking in scheme of amalgamation/demerger: balance years ke liye samne wale ko milega.
5. No double deduction.

AMMORTISATION OF EXPENDITURE ON PROSPECTING ETC. FOR DEVELOPMENT OF MINERALS [Sec 35E] [only for CMA]

- ♣ Applicable to - any Indian company and any other resident assessee

♣ **Condition to be satisfied** -

♦ **Assessee engaged in operations relating to prospecting for or extraction or production of mineral specified in Seventh Schedule**

♦ **Period during which expenditure is incurred** -

- In the previous year in which commercial production commences; and
- At any time during the period of 4 years preceding the year in which commercial production commences.

♦ **Expenditure which are not qualified for deduction** -

- ♣ Acquisition of site or any right
- ♣ Acquisition of deposits of minerals or any right
- ♣ Capital nature (being building, P&M, or furniture) depreciation is allowable u/s 32
- ♣ Any expenditure which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realized by the assessee.

♦ In case of non-corporate assessee, accounts of assessee audited by CA shall be uploaded one month prior to the due date of filing of return

♣ **Quantum of deduction** - 10 equal installment from the year of commercial production. Unabsorbed amount can carryforward for 10 years.

♣ **In case of amalgamation or demerger** - amalgamated or resulting will claim balance.

OTHER SPECIFIED DEDUCTION AND GENERAL DEDUCTION (SECTION 36 & 37)

Other deduction (section 36)

Section 36 (1)	Deductible expenditure	Conditions
(i)	Insurance premium on stock or store	Used for business purpose
(ia)	Insurance premium paid by federal milk cooperative society	-
(ib)	Health insurance premium paid by any mode of payment other than cash by an employer for employee	Scheme framed by GIC and other insurer approved by IRDA
(ii)	Bonus or commission paid to employee (otherwise as profit or dividend) subject to 43B	Bonus exceeding statutory limit will also be allowed
(iii)	Interest on capital borrowed for the purpose of business or profession (asset ke put to use phele ka interest cost of asset me include ho jaata hai and uske baad ka interest as revenue expenditure allowed ho jaata hai)	Interest on own capital is not deductible

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(iiia)	Discount on zero coupon bond ZCB issued by any infrastructure capital company/ fund or infrastructure debt fund or public sector or scheduled bank.	Allowed over the life of bond
(iv)	Contribution made by employer to RPF/approved superannuation fund	Subject to section 43B
(iva)	Deduction of contribution made by employer towards a pension scheme u/s 80CCD or 10% of salary of employee (WEL)	-
(v)	Sum paid by employer towards an approved gratuity fund	Subject to section 43B
(va)	Sum received by assessee from his employees as contribution to provident fund or employee state insurance fund or superannuation fund or any other welfare fund Sum received is treated as income first then allowed as deduction	Such sum should be credited by the assessee to the employee's account in the relevant funds on or before the due date Due date not to be determined as per Section 43B
(vi)	Loss in respect of animals, animals used for business or profession (otherwise than an stock in trade)	Deduction allowed = [actual cost of the animal - sale proceed of animals]
(vii)	Expenditure on promoting family planning Revenue expenditure - 100 % in year which it is incurred Capital expenditure - 1/5 th of the expenditure (5 years main allow hoga)	-
(viii)	STT paid will be allowed	-
(ix)	CTT paid will be allowed	-
(x)	Credit guarantee fund trust allowed [only for CMA]	

DEDUCTION IN RESPECT OF SPECIAL RESERVE [Sec 36(1)(viii)] [only for CMA]

The amount of deduction shall be **least** of following:

- + Amt transferred to the reserve account
- + 20% of the profit
- + Twice the amount of paid up capital and the general reserve

DEDUCTION IN RESPECT OF BAD DEPTS (SECTION 35(I)(vii) & 36(2))

- a) Bad debt written off irrecoverable shall be allowed. However provision for doubtful debt will not be allowed.
- b) Koi debt irrecoverable hogaya hai and usko ICDS ke basis me income liye the and vo bhale he books of accounts me record nahi hua hai uski deduction mil jayegi as bad debt.
- c) Deduction is allowed subject to conditions:
 - 1. There must be a debt and the debt must be incidental to the business or profession of the assessee.
 - 2. Such debt shall be taken while computing the income of the assessee.
- d) In case of bank agar provision se jayada bad debt hua toh excess amount ki deduction mil jayegi.
- e) Bad debt recovered is taxable in the P.Y which it is recovered.
- f) Successor of business - bad debt allowed business wise, not assessee wise.
- g) No requirement to prove bad debts..

GENERAL DEDUCTION (SECTION 37)

The expenditure should be in the nature of:

- ⊗ Should **not** be in the nature of **section 30 to 36**.
- ⊗ Incurred by assessee during the accounting year.
- ⊗ Should be in respect of business.
- ⊗ Should not be in the nature of **personal expenses**.
- ⊗ Not be in the nature of **capital expenditure**.
- ⊗ Should be **wholly and exclusively for business or profession**.

Expenditure for any offence or prohibited purpose - not allowable

Scope of expenditure for any offence or prohibited purpose [Explanation 3]:

Such expenditure shall include the expenditure incurred by an assessee, -

- (i) For any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or
- (ii) To provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person; or
- (iii) To compound an offence under any law for the time being in force, in India or outside India.

- **CSR expenditure** - not deductible
- **Advertisement expenditure in magazine published by political party** - not deductible.
- **Illegal business losses shall be allowed as deduction while computing income from illegal business.**

SPECIAL DISALLOWANCES - SECTION 40 & 40A

Amount not deductible (section 40):

Sec. 40(a)	Expenditure disallowed
(i)	<p>Payment outside India or to non-resident on which tax has not been deducted/paid.</p> <ul style="list-style-type: none"> ➤ Any interest, royalty, fees for technical services or any other sum chargeable in the hands of receipt under this act and payable- <ul style="list-style-type: none"> a) Outside India or b) In India to a non-resident, not being a company or to a foreign company On which tax is not deducted or after deduction is not paid on or before due date of filing return u/s 139(1). ➤ However, where in respect of any sum - <ul style="list-style-type: none"> i. Tax has been deducted in subsequent year or ii. Has been deducted during the P.Y but paid after the due date specified under 139(1). The such sum shall be allowed as deduction in computing the income of the subsequent P.Y in which TDS has been so paid. ➤ Where the assessee fails to deduct the whole or any part of the tax then such assessee shall not be assessee in default, if the such payee <ul style="list-style-type: none"> a) Has furnished return of income. b) Has taken such income in return. c) Has paid tax on that income, payer furnishes certificate from accountant. It would be deemed that the assessee has deducted and paid the tax.
(ia)	<p>Payment to residents on which tax has not been deducted/paid - 30 % of such sum shall be not allowed as deduction</p> <ul style="list-style-type: none"> ➤ 30% of any sum payable to a resident on which tax is not deducted or after deduction is not paid on or before due date of filing return u/s 139(1). ➤ However, where in respect of any sum- <ul style="list-style-type: none"> 1. Tax has been deducted in subsequent year or 2. Has been deducted during the P.Y but paid after the due date specified under 139(1). The such sum shall be allowed as deduction in computing the income of the subsequent P.Y in which TDS has been so paid. Where the assessee fails to deduct and pay tax and if the payee pays the same then the assessee will not be called as a

	assessee in default.
(ii)	Income tax "Tax" shall include any surcharge or cess, by whatever name called, on such tax
(iia)	Wealth tax
(iib)	Certain fees, royalty, service charges etc. payable by state government undertaking to the state government
(iii)	Payment of salary outside india or to non-resident on which tax has not been deducted and paid.
(iv)	Contribution towards employees welfare fund
(v)	Tax paid on non-monetary perquisites

PROVISION REALTING TO COMPUTATION OF PROFITS AND GAINS OF BUSINESS OR PROFESSION OF FIRM [SECTION 40(b)]

Following amount shall be disallowed -

- (i) Any payment of salary, bonus, commission or remuneration, to any partner who is not working, i.e. non-working partner
- (ii) Any interest paid to any partner in excess of 12% simple interest
- (iii) Any remuneration prior to deed not allowed
- (iv) Limit:

Book profit	Allowable remuneration
On first ₹ 3,00,000 of book profit, or in case of a loss	<ul style="list-style-type: none"> ➤ ₹ 1,50,000 or ➤ 90% of book profits, Whichever is more
On balance of the book profit	60% of book profits

- ✚ Explanation 1: individual capacity (representative capacity) main partner and interest individual capacity(representative capacity) main milega toh allowed hai.
- ✚ Exemption to partners in respect of their shares in firm's income
- ✚ Interest, salary, etc. received by a partner to be assessed as his business income.

PROVISION FOR COMPUTING BUSINESS INCOME OF ANY AOP/BOI [SECTION 40(ba)]

- ✚ Interest to members - not allowable [individual capacity (representative capacity) main member and interest individual capacity(representative capacity) main milega toh allowed hai.]
- ✚ Remuneration to members - not allowable

DISALLOWANCE OF PAYMENT MADE TO SPECIFIED PERSONS/RELATIVES IN EXCESS OF FAIR MARKET VALUE [SECTION 40A(2)]

Payment made to relative in excess of fair value - not deductibe: if the

- ❖ Payment made to specified persons and
- ❖ The assessing officer is of opinion that such expenditure is excessive or unreasonable.

So much of excessive or unreasonable will be disallowed

Meaning of specified persons:

(i)	Assessee is individual	Relative of assessee
(ii)	Assessee is a company, firm, AOP or HUF	Director of company, partner of firm, member of AOP or HUF and relative of above.
(iii)	Individual has substantial interest or relative of such individual	
(iv)	Assessee is a company, firm, AOP or HUF or Director of company, partner of firm, member of AOP or HUF and relative of above have substantial interest in other company.	

SECTION 40A(3)

Expenditure paid in aggregate exceeding ₹ 10000 in a day, otherwise than by account payee cheque or account payee bank draft. [(a) credit card; (b) Debit card; (c) Net banking; (d) IMPS (immediate payment service); (e) UPI (unified payment service); (f) RTGS (real time gross settlement); (g) NEFT (national electronic funds transfer), and (h) BHIM (bharat interface for money) Aadhar pay have been prescribed as mode of electronic payment]

1. Disallowance to be made in the year of payment for expenditure incurred in earlier years.
2. Enhanced limit of Rs 35000 in case of goods transport agencies.
3. No person to enforce that payment exceeding Rs 10000/35000 to be made in cash.
4. Cases where disallowance would not be attracted:
 - ✚ Loan transactions: sirf principal payment kar sakte hai but interest ke liye limit apply hogi he.
 - ✚ Payment made by commission agents: for purchase of goods or services. Ha agar khud apne side se supply karega toh limit applicable hogi.

PROVISIONS OF SECTION 40A(3) NOT TO APPLY IN CERTAIN CASES (EXCEPTION TO SECTION 40A(3) ARE GIVEN IN RULE 6DD)

- Payment made to RBI, SBI, banking co., LIC and other banks
- Payment made to government.
- Payment made through any bank, including foreign bank, by any of these modes-
 - ⊗ Any letter of credit arrangements
 - ⊗ A mail or telegraphic transfer
 - ⊗ A book adjustment between banks
 - ⊗ A bill of exchange made payable only to a bank

- ⊗ Electronic clearing system
- ⊗ A credit card
- ⊗ A debit card
- Payment is made for adjustment against liability
- Where payment is made to the cultivator, grower or producer of the following for purchase thereof-
 - ❖ Agriculture or forest produce
 - ❖ Produce of animal husbandry (including livestock, meat, hides, and skins) or dairy or poultry farming
 - ❖ Fish or fish products
 - ❖ The products of horticulture or apiculture
- Payment made for manufacture or production in cottage industry without the aid of power
- Payment is made in village or town where there is no bank.
- Payment made to agent who is required to make payment in cash
- Payment made to an authorized dealer or money changer against foreign currency.
- Where any payment is made to an employee of assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and aggregate of such sums payable to employee or his the heir does not exceed ₹ 50,000;
- Where the payment is made by an assessee by way of salary to his employee after deducting the income-tax at source, when such employee is temporarily posted for a continuous period of 15 days or more in a place other than his normal place of duty or on a ship, and does not maintain any account in any bank at such place or ship;

PROVISION MADE FOR GRATUITY [SECTION 40A(7)]

- ♥ **Provision made for unapproved gratuity fund** - not allowable: however provision made by the assessee towards approved gratuity fund which becomes payable during the P.Y will be allowable.
- ♥ **Payment of gratuity to retiring employee** - allowable (subject to section 43B).

PAYMENT MADE TO NON-STATUTORY FUNDS - NON DEDUCTIBLE (SECTION 40A(9))

DEEMED PROFITS - SECTION 41

SECTION	DEEMED PROFIT
41(1)	Recovery against a deduction allowed in any previous year: where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee and subsequently during any previous year-

	<ul style="list-style-type: none"> ➤ The assessee has obtained, whether in cash or in any other manner or whatsoever, ➤ Any amount in respect of such loss or expenditure or some benefits in respect of such trading liability by way of its remission or cessation thereof; <p>Then the amount obtained by such person or the value of benefit accruing to him shall be deemed to be PGBP and accordingly, taxable as the income of the that P.Y, whether the business or profession si in existence in that year or not.</p> <p>The same provisions shall apply in case of succession of business, in which the amount received shall be taxable in the hands of the successor.</p>
41(5)	<p>Set off of losses against incomes taxable under section 41(1)/(3)/(4)/(4A)</p>

CERTAIN DEDUCTIONS TO BE ALLOWED ONLY ON ACTUAL PAYMENT [SECTION 43B]

- ♣ Any sum payable by the assessee by way of **tax, duty, cess or fee, by whatever name called**, under any law for the time being in force or
 - ♣ Any sum payable by the assessee as an **employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund** for the welfare of employees or
 - ♣ Any **bonus or commission** to employees for services rendered.
 - ♣ Any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee or **(leave encashment)**
 - ♣ Any sum payable by the assessee to the Indian railways for the **use of railways assets.**
 - ♣ Any sum payable by the assessee as **interest on any loan or borrowing** from-
 1. Any public financial institution
 2. State financial corporations or state industrial investment corporations

In accordance with the terms and conditions of the agreement governing such loans or borrowing.
 - ♣ Any sum payable by the assessee as interest on any loan or borrowing **from notified class of non-banking financial companies**, in accordance with the terms and conditions of the agreement governing such loan or borrowing.
- Where a deduction in respect of any sum referred above is allowed in computing the income referred to in section 28, of the previous year in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

- ♣ Any sum payable by the assessee as interest on any loan or advances from a schedule bank or a co-operative bank other than a primary agriculture credit society or a primary co-operative agriculture and rural development bank in accordance with the terms and conditions of the agreement governing such loan and advance.
- ♣ Any sum payable by the assessee to a micro or small enterprise beyond the time-limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006.

Section 15 of the of the Micro, Small and Medium Enterprises Development Act, 2006 mandates payment of goods or services to supplier, being a micro or small enterprises by the buyer on or before the date agreed upon between them in writing i.e., as per the written agreement, which cannot be more than 45 days from the day of acceptance or the day of deemed acceptance of any goods or services by a buyer from a supplier. If there is no such written agreement, the payment shall be made before the appointed day i.e., within 15 days.

If the sum payable by the assessee to a micro or small enterprise is paid as per written agreement (maximum within 45 days) or within 15 days in case of no agreement, the deduction can be claimed on accrual basis if mercantile method of accounting is followed by the assessee.

However, if the sum payable by the assessee to a micro or small enterprise is not paid as per written agreement or within 15 days in case of no agreement, the deduction would be allowed in the previous year in which it is actually paid.

Example: Mr. A has purchased goods of ₹ 10,000 from A & Co., a micro enterprise on 1-3-2024. As per the written agreement between them, the payment has to be made by 5-4-2024. Mr. A follows mercantile method of accounting.

(i) If Mr. A paid the sum on 2-4-2024:

Since Mr. A paid the sum on or before 5-4-2024, the deduction would be allowed in P.Y. 2023-24.

(ii) If Mr. A paid the sum on 20-4-2024:

Since Mr. A paid the sum beyond the time limit, the deduction would be allowed in the year of actual payment i.e., P.Y. 2024-25.

Meaning of Micro and Small enterprise

S.No	Meaning	
(1)	In case of Enterprises engaged in the manufacture or production of good pertaining to specified industries	
	Micro enterprise	Small enterprise
	Where the investment in plant and	Where the investment in plant and

	machinery ≤ ₹ 25 lakhs	machinery > ₹ 25 lakhs ≤ ₹ 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	Small enterprise
	Where the investment in equipment ≤ ₹ 10 lakhs	Where the investment in equipment > 10 lakhs ≤ 2 crores

Manner of deduction:

Case	Year of allowance
If the sum relates to any previous year for which payment has been made on or before the due date of furnishing the return of income of that year	In the P.Y to which it relates
In any other case	In the year of payment

In case of conversion of interest into loan/borrowing/advance: in case if any interest is payable and such interest is converted into loan or borrowing or advance or debenture or any other instrument by which the liability to pay is deferred to a future date, then the same shall not be allowed as deduction in the year of conversion, but shall be allowed in the year in which such converted loan is as actually paid.

Employees contribution to staff welfare scheme not covered: This section shall not apply and shall be deemed never to have been applied to a sum received by the assessee from any of his employee to which the provisions of section 2(24)(x) applies. In effect, section 43B(b) covers only employer's contribution to provident fund, superannuation fund, gratuity fund or any other fund for welfare of employees, for remittance of which extended time limit upto due date of return u/s 139(1) is available; however, it does not include within its scope, employees contribution to such funds received by the employer, which has to be credited to the employee's account in the relevant fund on or before the due date specified under the relevant act, rule etc. amount credited after the said due date but on or before the due date under section 139(1) would not be eligible for deduction.

SPECIAL PROVISION FOR FULL VALUE OF CONSIDERATION FOR TRANSFER OF ASSETS OTHER THAN CAPITAL ASSETS IN CERTAIN CASES (SECTION 43CA)

- Stamp duty value deemed to be full value of consideration:** agar land and building ko transfer kiya as stock in trade (other than capital asset) SDV se kam me toh value SDV he transfer value hogi. But agar SDV aur consideration me **110%** of consideration se jayada ka difference nahi hai toh uss case main

consideration ko he le lenge otherwise SDV lenge.[Amended by Finance Act, 2020]

2. **Stamp duty value on the date of agreement to be considered:** agar agreement wale din kuch consideration other than cash me diya hoga toh SDV on the date of agreement lenge otherwise SDV on the date of registry.
3. **Other provision of section 50C applicable.**

COMPUTATION OF INCOME FROM CONSTRUCTION AND SERVICE CONTRACTS [Sec 43CB] [only for CMA]

❖ **Profit and gains arising from a contract for providing services:**

Case	Method
Not more than 90 days	Project completion method
A contract for providing services involving indeterminate number of acts over a specified period of time	Straight line method

❖ **For the purpose of percentage of completion method:**

- + The contract revenue shall include retention money
- + The contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.

SPECIAL PROVISION IN CASE OF INCOME OF PUBLIC FINANCIAL INSTITUTIONS, ETC. [Sec 43D] [only for CMA]

In case of	Nature of business	Tax treatment
A PFI, a scheduled bank, a co-operative bank other than a primary agriculture credit society or a primary co-operative agriculture and rural development bank, a state financial corporation or a state industrial investment corporation, a deposit taking NBFC, a systematically important non-deposit taking NBFC	Income by way of interest	Chargeable to tax in the previous year in which - ✓ It is credited to the profit and loss account; or ✓ It is actually received Whichever is earlier
Public company being registered with National housing bank		

MAINTENANCE OF BOOKS OF ACCOUNTS BY CERTAIN PERSONS ON BUSINESS OR PROFESSION (SECTION 44AA)

1. Person carrying on specified professions: jo log specified profession kar rahe hai unko books of accounts maintain karna padega jab-

- If the **gross receipt exceed ₹ 150000 in all the three immediately preceding year** or
- If new profession then ₹ 150000 in current year

Books of accounts to be maintained

- (i) Cash book
- (ii) Journal
- (iii) Ledger
- (iv) Carbon copies or counterfoils of bills exceeding ₹ 25
- (v) Original bill issued, in absence of bills payment exceed ₹ 50 then payment voucher.

Additional book in case of medical profession:

- (a) A daily case register in form no. 3C
- (b) An inventory as on the first and last day of P.Y

2. **Other assessee's:**

In case of existing business or profession	If- (a) His income from PGBP exceeds ₹ 120000 (₹ 250000 in case of individual or HUF) or; (b) Total sales/turnover/gross receipt thereof exceed ₹ 1000000 (₹ 2500000 in case of individual or HUF) In any of the three previous year immediately preceding the P.Y
In case of newly set up business or profession	If- (a) His income from PGBP is likely to exceed ₹ 120000 (₹ 250000 in case of individual and HUF) during the P.Y (c) Total sales/turnover/gross receipt thereof exceed ₹ 1000000 (₹ 2500000 in case of individual or HUF) during the P.Y
In case of deemed profits u/s 44AE, 44BB or 44BBB	If the assessee has claimed his income lower than the profits and gains so deemed, during the year
Where the provisions of section 44AD(4) are applicable	If his income exceed the maximum amount which is not chargeable to income tax in any previous year.

Notes:

- ❖ **Place at which books to be kept:** at principal place of business. However if separate book of account are maintained for each place of business , then the same are to be kept at their respective places.
- ❖ **Period for maintenance of books:** 6 years.

AUDIT OF ACCOUNTS OF CERTAIN PERSONS CARRYING ON BUSINESS OR PROFESSION (SECTION 44AB)

1. Tax audit: by CA in form 3CB along with prescribed particulars (form 3CD)

<p>In case of business</p>	<p>Total sales, turnover or gross receipt, as the case may be, exceed ₹ 1 crore in any previous year or However, in the case of a person whose - (a) Aggregate of all amounts received including amount received for sales, turnover or gross receipt during the previous year, in cash, does not exceed 5% of the said amount; and (b) Aggregate of all payment made including amount incurred for expenditure, in cash, during the previous year does not exceed 5% of the said payment, He will have to get his account audited if his total sales, turnover or gross receipt, as the case may be, exceeds Rs 10 crore in any previous year: The payment or receipt, as the case may be, by cheque drawn on a bank or by a bank draft which is not account payee, shall be deemed to be the payment or receipt, as the case may be, in cash Note: The requirement of audit u/s 44AB does not apply to a person who declares profits and gains for the previous year on presumptive basis u/s 44AD(1).</p>
<p>In case of profession</p>	<p>Gross receipt exceed Rs 50 lakh in any previous year Note: The requirement of audit u/s 44AB does not apply to a person who declares profits and gains for the previous year on presumptive basis u/s 44ADA(1).</p>
<p>In case the PGBP are deemed profits u/s 44AE, 44BB or 44BBB</p>	<p>If the assessee has claimed his income lower than the profits and gains so deemed, during the year</p>
<p>In case of business if the provisions of section 44AD(4) are applicable</p>	<p>If his income exceed the maximum amount which is not chargeable to income tax in any previous year.</p>
<p>In case the PGBP are deemed profit u/s 44ADA</p>	<p>He has claimed his income to be lower than the profit and gains so deemed and his income exceed the maximum amount not chargeable to tax in any P.Y</p>

2. Non-applicability: This section shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of

44AD(1) and hist total sales, turnover or gross receipt as the case may be in business **does not exceed ₹ 2 crore rupees in such previous year.**

3. Audit under other law.

SPECIAL PROVISIONS FOR COMPUTING PROFITS AND GAINS OF BUSINESS ON PRESUMPTIVE BASIS (SECTION 44AD)

1. Eligible assessee:

- Individual, HUF, partnership firm who is resident (not LLP)
- Not claimed deduction under section 10A, 10AA, 10B, 10BBA, 80-IA to 80RRB

2. Eligible business:

- Any business except section 44AE and
- Whose turnover or gross receipt does not exceed Rs 2 crore in P.Y
- It means -
 - (a) Any business, other than business referred to in section 44AE,
 - (b) whose total turnover/gross receipts in the P.Y. \leq ₹ 300 lakhs in the relevant P.Y., if aggregate cash receipts in the relevant PY \leq 5% of total turnover or gross receipts.In effect, if the turnover of business is $>$ ₹ 200 lakhs \leq ₹ 300 lakhs, the benefit of section 44AD can be availed only if aggregate cash receipts in relevant P.Y. \leq 5% of total turnover or gross receipts.

Note: For this purpose, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the receipt in cash.

3. Non applicability:

- Person carrying specified profession referred under section 44AA.
- A person earning income in the nature of commission or brokerage
- A person carrying agency business.

4. Presumptive income (section 28 to 43C would not apply):

5. A sum equal to **8% (6% in case business carried through any mode other than cash)** [(a) credit card; (b) Debit card; (c) Net banking; (d) IMPS (immediate payment service); (e) UPI (unified payment service); (f) RTGS (real time gross settlement); (g) NEFT (national electronic funds transfer), and (h) BHIM (bharat interface for money) Aadhar pay have been prescribed as mode of electronic payment]
- A sum higher claimed by assessee.

Shall be deemed to be the profit and gains of such business under PGBP.

5. No deduction under section 30 to 38.

6. **Determination of WDV:** jaise asset ki WDV nikalte hai vaise he nikalenge asset ki WDV pata karne ke liye but eska koi relevance nahi hai upper ki income nikalne main.
7. **Consequences of declaring lower income [section 44AD(4)]:** agar assessee 8% se bhi come income declare karta hai es section main toh vo next 5 assessment year ke liye ineligible ho jayega yeh section me income claim karne ke liye matlab section 44AD nahi le payega.
8. **In case profit claimed to be lower than the deemed profits - maintenance of audit and accounts:**
 - To whom provisions of section 44AD(4) is applicable (upper diya hai) and
 - Whose total income exceed the maximum amount not chargeable to income tax

Shall be required to keep and maintain books of accounts u/s 44AA and get audited u/s 44AB.
9. **Advance tax to be deposited upto 15th march of the relevant year.**
10. **In case of supply of material by contractee/purchaser - no profit is earned thereon by contractor/manufacturer, hence not included in turnover/ gross receipt.(value of material ko nahi lenge)**

SPECIAL PROVISION FOR COMPUTING PROFIT AND GAINS OF PROFESSION ON PRESUMPTIVE BASIS [SECTION 44ADA]

1. **Eligible assessee:**
 - ✦ Being an individual or a partnership firm other than a limited liability partnership, who is a resident in India,
 - ✦ Profession under section 44AA(1) and
 - ✦ Total gross receipt does not exceed Rs 50 lakh in a P.Y.[gross receipts \leq ₹ 75 lakhs in the relevant P.Y., if aggregate cash receipts in the relevant PY \leq 5% of total gross receipts.]

In effect, if the gross receipts from profession is $>$ ₹ 50 lakhs \leq ₹ 75 lakhs, the benefit of section 44ADA can be availed only if aggregate cash receipts in relevant P.Y. \leq 5% of total gross receipts.

Note: For this purpose, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the receipt in cash.
2. **Presumptive income:**
 - ✦ 50 % of the total gross receipt or,
 - ✦ Higher amount claimed by the assessee.
3. **No further deduction under section 30 to 38**
4. **WDV of asset:** jaise asset ki WDV nikalte hai vaise he nikalenge asset ki WDV pata karne ke liye but eska koi relevance nahi hai upper ki income nikalne main.
5. **Accounts and audit if profits claimed to lower than deemed profits:**

- ✦ Assessee who claims that his profits and gains are lower than the deemed profits and gains specified above and
- ✦ Whose total income exceed the maximum amount not chargeable to income tax
Shall be required to keep and maintain books of accounts u/s 44AA and get audited u/s 44AB.

6. Advance tax to be deposited upto 15th march of the relevant year.

SPECIAL PROVISION FOR COMPUTING PROFITS AND GAINS OF BUSINESS OF HIRING, PLYING OR LEASING GOODS CARRIAGE [SECTION 44AE]

1. **Eligible assessee (section 28 to 43C would not apply):** assessee who
 - ⊗ Owns not more than 10 goods carriage at any time during the P.Y and
 - ⊗ Is engaged in the business of plying, hiring or leasing such good carriages.
Income shall be charged under the head PGBP
Hire purchase deemed to be the owner of goods carriage.
Note: even if on a single day, the number of goods carriage (whether heavy goods vehicle or not) exceed 10, then, this section shall not apply to that assessee for that P.Y

2. Deemed profits:

	Particulars	Rs
1.	In case of goods carriage being a heavy goods vehicle : higher of ✓ Rs 1000 per ton of gross vehicle weight or unladen weight, as the case may be, per month per vehicle * no. of months or part of a month in the P.Y during which the heavy vehicle is owned by the assessee * no. of heavy goods vehicle ✓ An amount claimed to have been actually earned	-
2.	In case of goods carriage other than a heavy good vehicle: higher of- ✓ Rs 7500 p.m per vehicle * no. of month or part of a month in the previous year during which the vehicle is owned by the assessee * no of other goods carriages ✓ An amount claimed to have been actually earned	-
	Profit and gains from PGBP	-

Heavy goods vehicle means any good carriage, the gross vehicle weight of which exceeds 12000kg

Unladen weight means the weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working but excluding the weight of driver or attendant and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative body or part.

3. All other deductions deemed to be allowed under section 30 to 38.
4. Salary interest to partners is allowed.
5. Not requirement to maintain books of accounts and get the accounts audited
6. Option to claim lower profits: Shall be required to keep and maintain books of accounts u/s 44AA and get audited u/s 44AB.

AGRICULTURE INCOME

Instances of agriculture income:

- + Income from growing trade or commercial products like jute, cotton, etc. is an agriculture income.
- + Income from growing flowers is an agriculture income.
- + Plant sold in pots are an agriculture income provided basis operations are performed.
- + **Remuneration and interest to partner:** Any remuneration (salary, commission etc) received by partner from a firm engaged in agriculture operation is an agriculture income.

Instances of non-agriculture income:

- Salary received by an employee from any business (having agriculture income)
- Dividend received from a company engaged in agricultural operation.
- Income from fisheries
- Income from poultry farming
- Income from dairy farming, butter & cheese making etc.
- Breeding & rearing of livestock.
- Income earned by a cultivator from conversion of sugarcane (raised on own land) to jaggery is non-agricultural income to the extent to which income is related to such conversion only.
- Income from a land situated outside India is non-agriculture income and taxable under the head "Income from other sources"
- Income from sale of trees and grasses grown spontaneously (without any human effort)
- Proceeds from sale of cocoons are not agriculture income. Agriculture produce is mulberry leaves and not silkworms.

In case of rubber, coffee and tea business -

Particulars	Rubber [Rule 7A]	Coffee [Rule 7B]		Tea [Rule 8]
Income derived from sale of -	Latex/catex/block rubbers manufactured or processed from rubber plants grown by seller in India	Coffee grown & cured by seller in India	Coffee grown & cured, roasted and grounded by seller in India	Tea grown & manufactured by seller in India
Business income	35%	25%	40%	40%

Agriculture income	65%	75%	60%	60%
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In case of any other business [Rule 7]: The following mode will be adopted -

- ❖ **Agriculture income** = (market value of agriculture produce used as raw material for business + sale proceeds from direct sale of agriculture produce) - cost of cultivation.
- ❖ **Business income** = sale proceeds of the processed goods - market value of agriculture used as raw material for business - expenses for processing

Condition for applicability:

- (a) The taxpayer is a HUF, an individual, BOI or an AOP or artificial judicial person.
- (b) The non-agriculture income exceeds the maximum amount not chargeable to tax; and
- (c) Agriculture income exceeds ₹5,000.

Computation of tax

Step 1: Net agriculture income is to be computed as if it were income chargeable to income tax.

Step 2: compute tax on (agriculture + non-agriculture income)

Step 3: compute tax on (Net agriculture income + maximum amount not chargeable to tax)

Step 4: compute [Amount calculated in step 2 - amount calculated in step 3]

Step 5: total income tax payable = tax as computed under step 4 - tax rebate.

CHAPTER - 6: CAPITAL GAIN

CHARGING SECTION [SECTION 45]

Conditions:

- Capital asset
- Transfer
- Previous year
- Profit or gain/loss
- Should not be exempt

CAPITAL ASSET [SECTION 2(14)]

1. Capital asset means -

- a) **Property of any kind** held by the assessee, whether or not connected with business or not.
- b) Any securities held by FIIs
- c) Any unit linked insurance policy (ULIP) issued on or after 1/2/2021, to which exemption u/s 10(10D) does not apply on account of -
 - (i) Premium payable exceeding ₹ 2,50,000 for any of the previous year during the term of such policy; or
 - (ii) The aggregate amount of premium exceeding ₹ 2,50,000 in any of the previous year during the term of any such ULIP(s), in a case where premium is payable by a person for more than one ULIP issued on or after 01/2/2021

But does not include

- a) Any **stock in trade** (other than above point), consumable stores or raw material held for the purpose of business or profession.
- b) **Personal effect**, that is to say, movable property (including wearing apparel and furniture) held for personal use by the assessee or any member of his family dependent upon him, but excludes -
 - i. Jewellery
 - ii. Archaeological collection
 - iii. Drawing
 - iv. Painting
 - v. Sculptures
 - vi. Any work of art.

(matlab yeh sab capital asset hai)

- c) **Rural agriculture lands**: urban agriculture land capital asset hai.
 - i. Agriculture land situated in an area where population not less than 10000.
 - ii. Agriculture land situated within limit:

≤ 2 km	-	10000 ≤ 100000
≤ 6km	-	100000 ≤ 1000000

< 8 km - 1000000 <

- d) Specified gold bonds
 - e) Special bearer bonds, 1991
 - f) Gold deposit bonds (gold monetisation bond 2015)
2. Rights in or relation to an Indian company - included in property
3. Other aspects - silver utensils (in kitchen or dining room for personal use will not be treated as capital asset), silver bars, sovereign and rupee coins used for puja, festival etc is treated as capital asset. Gold articles are capital asset.

SHORT TERM CAPITAL ASSET [SECTION 2(42A)]

- a) security (other than a unit) listed in a recognized stock exchange in India (other than market linked debenture and unit of a specified mutual fund)
- b) Units of UTI or unit of equity oriented fund (units of debt oriented fund ke liye 36 months dekhte hai)
- c) Zero coupon bond
(Yeh tino ke liye 12 monnths dekhenge)

Note: Capital gains arising from transfer of market linked debentures and units of a specified mutual fund would always be capital gains arising from transfer of short term capital assets irrespective of the period of holding of such assets. This is provided in section 50AA.

- i. Shares of company (unlisted)
- ii. An immovable property, being land or building or both
(yeh dono ke liye 24 months dekhte hai)

Yo short term ki conditions ko satisfy nahi hai vo long term hoga

DETERMINATION OF PERIOD OF HOLDING

	CIRCUMSTANCES	PERIOD OF HOLDING
1.	Shares held in a company in liquidation	Period subsequent to liquidation will be excluded
2.	Capital asset acquired u/s 49(1) modes	Period for which asset held by previous owner will be included.
3.	Conversion of inventory into capital asset	Period from date of conversion shall be considered
4.	Shares held in amalgamated company	Period for which shares held in amalgamating company will also be considered
5.	Right shares a) Shares subscribed b) Right renounced	From the date of allotment
6.	Offer of right	Period from the date of offer of such

		right
7.	Bonus shares	From the date of allotment
8.	Shares held in resulting company	Period from the shares held in demerged company
9.	Units of mutual fund acquired under consolidating scheme of mutual fund	Period jab units consolidate hone ke phele wale time ko bhi include karenge
10.	Equity shares acquired on conversion of preference shares	Period of preference share will also be included
11.	Units of mutual fund acquired under consolidating plan of mutual fund scheme	Period for which units held in scheme before consolidating will also be included
12.	Sweat equity shares/ESOP	Period from the date of allotment
13.	(i) Where Electronic Gold Receipt is issued by a Vault Manager in respect of gold deposited [Conversion of gold into Electronic Gold Receipt as referred to in section 47(viid)]	The period for which such gold was held by the assessee prior to conversion into the Electronic Gold Receipt
	(ii) Where gold is released in respect of an electronic gold receipt [conversion of electronic gold receipt into gold as referred to in section 47(viid)]	The period for which such electronic gold receipt was held by the assessee prior to its conversion into gold

Property constructed on a land purchased earlier: then land and building ka period of holding alag alag compute karenge.

TRANSFER [SECTION 2(47)]

Transfer in relation to capital asset includes -

- ❖ Sale, exchange or relinquishment of the asset,
- ❖ Compulsory acquisition under any law,
- ❖ Extinguishment of any rights therein,
- ❖ Maturity or redemption of zero coupon bond,
- ❖ Capital asset converted into stock in trade,
- ❖ Any transaction involving allowing of possession of immovable property to be taken or retained in part performance of a contract of the nature referred under section 53A of transfer of property act, 1882,
- ❖ Any transaction (whether by way of acquiring shares in, or by way of becoming a member of, a cooperative society, company or other AOP or by way of any arrangement or agreement or in any other manner) that has the effect of transferring, or enabling the enjoyment of, any immovable property.

TRANSACTION NOT REGARDED AS 'TRANSFER' [SECTION 47]

SEC. 47	TRANSACTIONS
(i)	Any distribution of capital asset on the total or partial partition of HUF
(iii)	Any transfer of a capital asset under a gift or will or an irrevocable trust
(iv)	Any transfer of a capital asset by a company to its subsidiary co. if - a) Parent company or nominees hold 100% of the share capital of subsidiary co. b) Subsidiary co is an Indian company.
(v)	Any transfer of a capital asset by a subsidiary company to its holding co. if - c) Parent company hold 100% of the share capital of subsidiary co. d) holding co. is an Indian company.
(vi)	Any transfer, in a scheme of amalgamation , of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company.
(via) [only for CMA]	Any transfer in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company , by the amalgamating foreign company to the amalgamated foreign company , if - (a) at least 25% of the shareholder of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and (b) such transfer does not attract tax on capital gains in the country , in which the amalgamating company is incorporated
(viaa) [only for CMA]	Any transfer of a capital asset by a banking company to a banking institution in a scheme of amalgamating of such company with such banking institution
(viab) [only for CMA]	Any transfer in a scheme of amalgamation, of a capital asset being a share of foreign company , which derives directly or indirectly its value substantially form share or shares held in an Indian company , by the amalgamating foreign company to the amalgamated foreign company, if - (c) at least 25% of the shareholder of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and (d) such transfer does not attract tax on capital gains in the country , in which the amalgamating company is incorporated
(viiac) & (viiad) [only for	<ul style="list-style-type: none"> • any transfer, in a relocation, of a capital asset by the original fund to the resulting fund; • any transfer by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being a share or unit or interest held by him in the original fund in consideration for the share or unit or

CMA]	interest in the resultant fund .
(vii ae) [only for CMA]	Any transfer of capital asset by India Infrastructure Finance Company Ltd to an institution established for financing the infrastructure and development .
(vii af) [only for CMA]	Any transfer of capital asset, under a plan approved by the CG , by a public sector company to another notified public sector company or to the CG or a SG
(vib)	Any transfer, in a demerger , of capital asset by the demerged company to the resulting company, if the resulting company is an Indian company.
(vic) [only for CMA]	Any transfer, in a scheme of demerger, of a capital asset, being a share or shares held in an Indian company , by the demerged foreign company to the resulting foreign company if - <ul style="list-style-type: none"> + the shareholder holding not less than $\frac{3}{4}$ in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and + such transfer does not attract tax on capital gain in the country, in which the demerged foreign company is incorporated.
(vica) [only for CMA]	Any transfer in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank or to the converted banking company
(vicb) [only for CMA]	Any transfer by a shareholder , in a business reorganisation, of a capital asset by 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 or to the converted banking company
(vid)	Any transfer or issue of shares by the resulting company , in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking.
(vii)	Any transfer by a shareholder, in a scheme of amalgamation , of a capital asset being a share or shares held by him in the amalgamating company, if - <ul style="list-style-type: none"> a) the transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company except where the shareholder himself is the amalgamated company; and b) The amalgamated company is an Indian company. <p>However, if besides share(s) in amalgamated company, the shareholder is allotted something more, say bonds or debentures, in consideration of such transfer; the transfer will not be exempt. Composite consideration is not covered by section 47(vii). - CIT v. Gautam Sarabhai Trust [1988]</p>

	173 ITR 216 (Guj.)
(viiia)	Any transfer, made outside India, of a capital asset being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident.
(viiib)	Transfer of specified capital asset by a non-resident on a recognized stock exchange in any IFSC: Any transfer of a capital asset, being- (a) bond or Global Depository Receipt referred to in Section 115AC(1); or (b) rupee denominated bond of an Indian company; or (c) derivative; or (d) such other securities as may be notified by the Central Government in this behalf, made by a non-resident on a recognised stock exchange located in any International Financial Services Centre (IFSC) and where the consideration for such transaction is paid or payable in foreign currency.
(viiic)	Any transfer of a capital asset, being Government Security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another nonresident.
(viid)	Any transfer of Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an assessee being an individual.
(viie)	Conversion of gold into Electronic Gold Receipt or vice a versa: Any transfer of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold.
(ix)	Any transfer of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery, National Archives or any such other public museum or institution as may be notified by the Central Government in the Official Gazette to be of national importance or to be of renown throughout any State(s).
(x)	Any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company.
(xa)	Any transfer by way of conversion of bonds into shares or debentures of any company
(xb)	Any transfer by way of conversion of preference shares of a company into equity shares of that company.

(xii) [only for CMA]	Any transfer of a land of a sick industrial company, made under a scheme prepared and sanctioned u/s 18 of the sick industrial companies.
(xiii) [only for CMA]	Any transfer of a capital asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm subject to following conditions: a) all asset and liability of the firm become of company b) all the partners become shareholder in same proportion as if there capital contribution c) the partners of the firm do not receive any consideration directly or indirectly or any benefit other than allotment of shares d) partners holding should not be less than 50% of the total voting power in the company for period of 5 years from succession
(xiiia) [only for CMA]	Any transfer of a membership right of a recognized stock exchange in India for acquisition of shares and trading or clearing rights in that recognized stock exchange in accordance with a scheme for demutualisation or corporatization which is approved by SEBI
(xiiib) [only for CMA]	Any transfer of - a. a capital asset or intangible asset by a private company or unlisted public company to a LLP; or b. a shares held in the company by a shareholder as a result of conversion of the company into LLP. Shall not regarded as transfer, if following condition are satisfied: i. all the asset and liability becomes of LLP ii. all the shareholder become partner in same proportion as if there shareholding in company iii. the shareholder of the company do not receive any consideration directly or indirectly or any benefit other than share in profit and capital contribution in the LLP iv. partners profit sharing ratio should not be less than 50% at any time for a period of 5 years from succession v. the total sales, turnover or gross receipt in business of company does not exceed 60 lakhs in any of the 3 P.Y vi. total value of asset does not exceed 5 crores in any of the 3 P.Y vii. no amount is paid to any partner for a period of 3 years from date of conversion.
(xiv) [only for CMA]	Where a sole proprietary concern is succeeded by a company - a) all the asset and liability becomes of company b) proprietor holding should not be less than 50% of the total voting power in the company for period of 5 years from succession

	c) the proprietor do not receive any consideration directly or indirectly or any benefit other than allotment of shares
(xv) [only for CMA]	Any transfer in a scheme for lending of any securities under an agreement or arrangement, which the assessee has entered into with the borrower of such securities
(xvi)	Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government.
(xvii) [only for CMA]	Any transfer of a capital asset, being share of a SPV to a business trust in exchange of units
(xviii)	Any transfer by a unit holder of capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund , made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund: However, the consolidation is of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund. (equity se equity chalega, debt se debt chalega but equity se debt nahi chalega)
(xix)	Any transfer by a unit holder of capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme , made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of mutual fund.
	The roll over of units of mutual funds under the fixed maturity plans will not amount to transfer as the scheme remains the same. However capital gains will arise at the redemption of the units or opting out of the scheme.

COMPUTATION OF CAPITAL GAINS (Section 48)

Short term capital gains

Particulars	Amount
Full value of consideration	-
Less: expenses in connection to transfer	-
Net consideration	-
Less: Cost of acquisition (COA)	-
Cost of improvement (COI)	-
Short term capital gain	-
Less: exemptions	-
Taxable short term capital gain	-

Long term capital gains

Particulars	Amount
Full value of consideration	-
Less: expenses in connection to transfer	-
Net consideration	-
Less: Indexed Cost of acquisition (COA)	-
Indexed Cost of improvement (COI)	-
long term capital gain	-
Less: exemptions	-
Taxable long term capital gain	-

Notes:

1. Computation of indexed COA or COI -

Indexed COA = COA * CII of the year of transfer

CII for [(i) first year in which asset was held by the assessee or
(ii) for the year beginning on 1-4-2001, whichever is later]

Indexed COI = COI * CII of the year of transfer

CII for the year in which cost of improvement took place

2. STT paid is not allowed.

3. COMPUTATION OF CAPITAL GAINS- SHORT TERM AND LONG TERM

The cost of acquisition of the asset or the cost of improvement thereto would not include the deductions claimed on interest u/s 24(b) or under the provisions of Chapter VI-A.

4. Interest on loan taken for acquisition, construction, repairs, reconstruction of house property is allowable as deduction under section 24(b). Sections 80EE and 80EEA in Chapter VI-A provide for deduction of interest payable on loan taken for acquisition of house property, subject to fulfillment of certain conditions.

5. The interest allowed as deduction under section 24(b) while computing income from house property and interest allowed as deduction under section 80EE or 80EEA of Chapter VI-A would not be included in the cost of acquisition or cost of improvement while computing capital gains on transfer of house property.

6. Indexation benefit will not be available in computing the long-term capital gain arising from the transfer of a long-term capital asset, being a bond or debenture other than-

(a) Capital indexed bonds issued by the Government; or

(b) Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015.

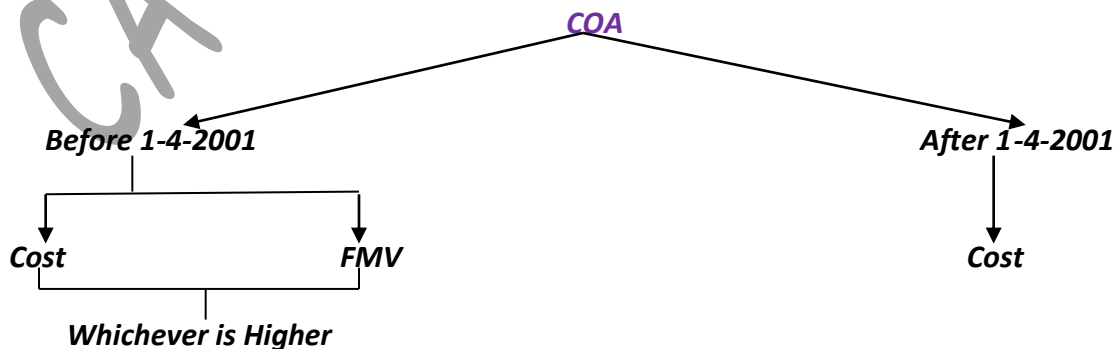
In case of depreciable assets, unit of a specified mutual fund and marked linked debenture (discussed later), there will be no indexation and the capital gains will always be short-term capital gains.

7. In case of assessee being a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of a Indian company held by him, shall be ignored for the purpose of computation of full value of consideration under this section.
8. CII for 23-24 is 348.

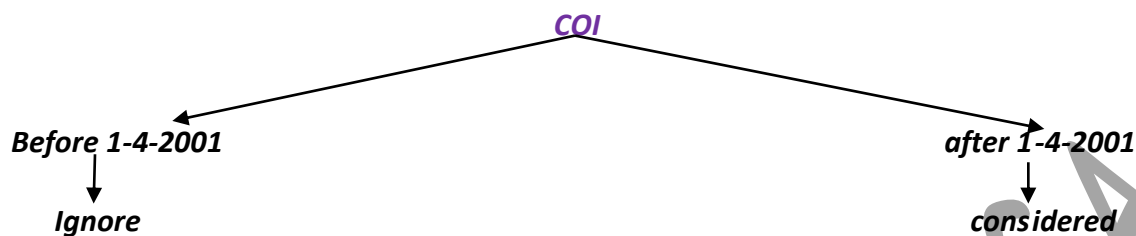
SPECIAL PROVISION FOR NON - RESIDENTS [FIRST PROVISIO TO SECTION 48 AND RULE 115A]

PARTICULARS	AMOUNT
Full Value of consideration is converted into foreign currency by applying average exchange rate as on the date of transfer	-
Less: Expenses incurred wholly and exclusively on transfer is converted into foreign currency by applying average exchange rate as on date of transfer.	-
Less: Cost of acquisition is converted into foreign currency by applying average exchange rate as on date of acquisition. (No indexation benefit is available)	-
Resultant Capital Gains in foreign currency to be reconverted into Indian Currency by applying telegraphic transfer buying rate on date of transfer.	-
Note: (1) Average exchange rate [Telegraphic transfer buying rate + Telegraphic transfer selling rate (as per SBI)] + 2 (2) This manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares/debentures of an Indian company.	

SECTION 55



In case of a capital asset, being land or building or both, the fair market value of such asset on 01-04-2001 shall not exceed the stamp duty value, whenever available, of such asset as on 01-04-2001.



COST WITH REFERENCE TO CERTAIN MODES OF ACQUISITION (SECTION 49)

Sec. 49	Mode of acquisition	Cost
(1)	Where the capital asset became the property of the assessee under modes specified in Section 49(1). [Note-1]	Cost of previous owner + cost improvement of previous owner (note 2)
(2)	Where the share(s) of an amalgamated Indian company became the property of the assessee in consideration of a transfer in scheme of amalgamation.	COA amalgamating co. Wali
(2A)	Where the shares or debentures of a company became the property of the assessee by way of conversion of bonds or debentures, debenture-stock or deposit certificates, referred to in Section 47(x)/ (xa).	Jo cost bonds or debenture ki thi
(2AA)	Transfer of specified security/stock options or sweat equity shares, referred to in Section 17(2)(vi).	FMV is taken
(2AD)	Where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the assessee in consideration of a transfer property of referred to in Section 47(xviii).	COA shall be the COA of units to him.(jitne me acquire kiya unit ko)
(2AE)	Where the capital asset, being equity share of a company, became the property of the assessee in consideration of a transfer referred to in Section 47 (xb).	Jo cost preference share ki hai vahi equity ki hogi
(2AF)	Where the capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, became the property of the assessee in	COA shall be the COA of units to him.(jitne me acquire kiya unit ko)

	consideration of a transfer referred to in Section 47(xix).	
(2C)/(2D)	Where the share(s) of resulting company became the property of the assessee in scheme of demerger.	Cost of shares in resulting company : jitne ki asset phele thi usko proportionate karke batana padega dono company main.
(4)	Transfer of been a property, the value of which has subject to tax under section 56(2)(vii)/ (viiia)/ (x) (i.e. taxable gifts of movable/immovable property).	Value which has been taken under 56(2)(vii)/ (viiia)/ (x)
(9)	Where the capital gain arises from the transfer of a capital asset referred to in Section 28(via)	Cost of acquisition of such asset shall be deemed to be in the fair market value which has been taken into account for the purpose of section 28(via)
10	Where a capital asset, being an Electronic Gold Receipt issued by a Vault Manager became the property of the person as consideration for transfer of gold [Section 47(viid)]	The cost of gold in the hands of the person in whose name Electronic Gold Receipt is issued.
	Where gold is released against an Electronic Gold Receipt, which became the property of the person as consideration for transfer of Electronic Gold Receipt [Section 47(viid)]	The cost of the Electronic Gold Receipt in the hands of such person.

Notes:

(1) The various modes specified under section 49(1):

Where the capital asset become the property of the assessee -

- (i) On any distribution of assets on the total or partial partition of a Hindu undivided family;
- (ii) Under a gift or will;
- (iii) (a) by succession, inheritance or devolution, or
(b) on any distribution of assets on the liquidation of a company, or
(c) under a transfer to a revocable or an irrevocable trust, or
(d) under any such transfer as is referred to in Section 47(iv)/(v)/(vi)/(via)/(viiia)/(viib)/(vib)/(vic)/(vica)/(vicb)/(vicc)/(xiii)/(xiiib)/(xiv).

(iv) In case of HUF-assessee, by conversion of member's individual property into HUF property.

(2) 'Previous owner' means the last previous owner of the asset who acquired it by a mode of acquisition other than that referred to under section 49(1).

(3) Indexation benefits in respect of the gifted asset to apply from the year in which the asset was first acquired by the previous owner.

Capital asset	COA	COI
Goodwill of business or profession or any other intangible asset of business or right to manufacture/ produce/ process any article/ thing, or right to carry on any business or profession or any other right.	If self generated - NIL If purchased from previous owner - purchase price	NIL
Trademark /brand name associated with business or tenancy rights or stage carriage permits / loom hours	If self generated - NIL If purchased from previous owner - purchase price	Expenses incurred by assessee or previous owner after 31-3-2001

However, in case of a capital asset, being goodwill of a business or profession, in respect of which depreciation u/s 32(1) has been obtained by the assessee in any previous year (upto P.Y 2020-21), the cost of acquisition of such goodwill would be the amount of the purchase price as reduced by the total amount of depreciation (upto P.Y 2020-21) obtained by the assessee u/s 32(1).

BONUS SHARE [SECTION 55]

- * Allotted before 1-4-2001 - COA = cost of acquisition
- * Allotted after 1-4-2001 - COA = NIL
- * Bonus share allotted before 1-2-2018, on which STT has been paid at the time of transfer -

Step 1: COA

Step 2: (1) FMV on 31/3/2018 or

(1) Sale consideration

(1) Or (2) whichever is lower

Step 1 and step 2 [whichever is higher]

RIGHT SHARE [SECTION 55]

- * COA - purchase price
- * Rights are renounced - COA = purchase price + amount paid for renounced
- * Offer for right shares - NIL

SHARES/STOCK OF COMPANY ACQUIRED ON CONSOLIDATION & DIVISION OF SHARES OF LARGER OR SMALLER AMOUNT / CONVERSION OF SHARES INTO STOCK OR VICE - VERSA / CONVERSION OF ONE KIND OF SHARES IN OR OTHER

COA = cost calculated with reference to the cost of acquisition of the shares or stock from which such share or stock is derived.

CAPITAL GAIN IN SPECIAL CASES

CAPITAL GAINS IN CASE OF DAMAGE OR DESTRUCTION OF CAPITAL ASSET [section 45(1A)]:

Where any person receives, at any time during any previous year, any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of -

- a) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or
- b) riot or civil disturbance; or
- c) accidental fire or explosion; or
- d) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

then, any profits or gains arising from receipt of such money or other assets shall be taxable as capital gains, where-

- Sale consideration - value of money + FMV of asset received
- Year of taxability - P.Y in which money or asset is received
- Other than above cases damages to asset will not be taxable.

CAPITAL GAIN IN CASE OF TRANSFER OF SHARES HELD BY DEPOSITORY [SECTION 45(2A)]

COA AND PERIOD OF HOLDING shall be determined on the basis of FIFO method

CAPITAL GAIN ON TRANSFER OF CAPITAL ASSETS BY A PARTNER/MEMBER TO FIRM/AOP/BOI AS CAPITAL CONTRIBUTION [Sec 45(3)] [only for CMA]

- Sale consideration - the amount recorded in books of account
- FMV is irrelevant

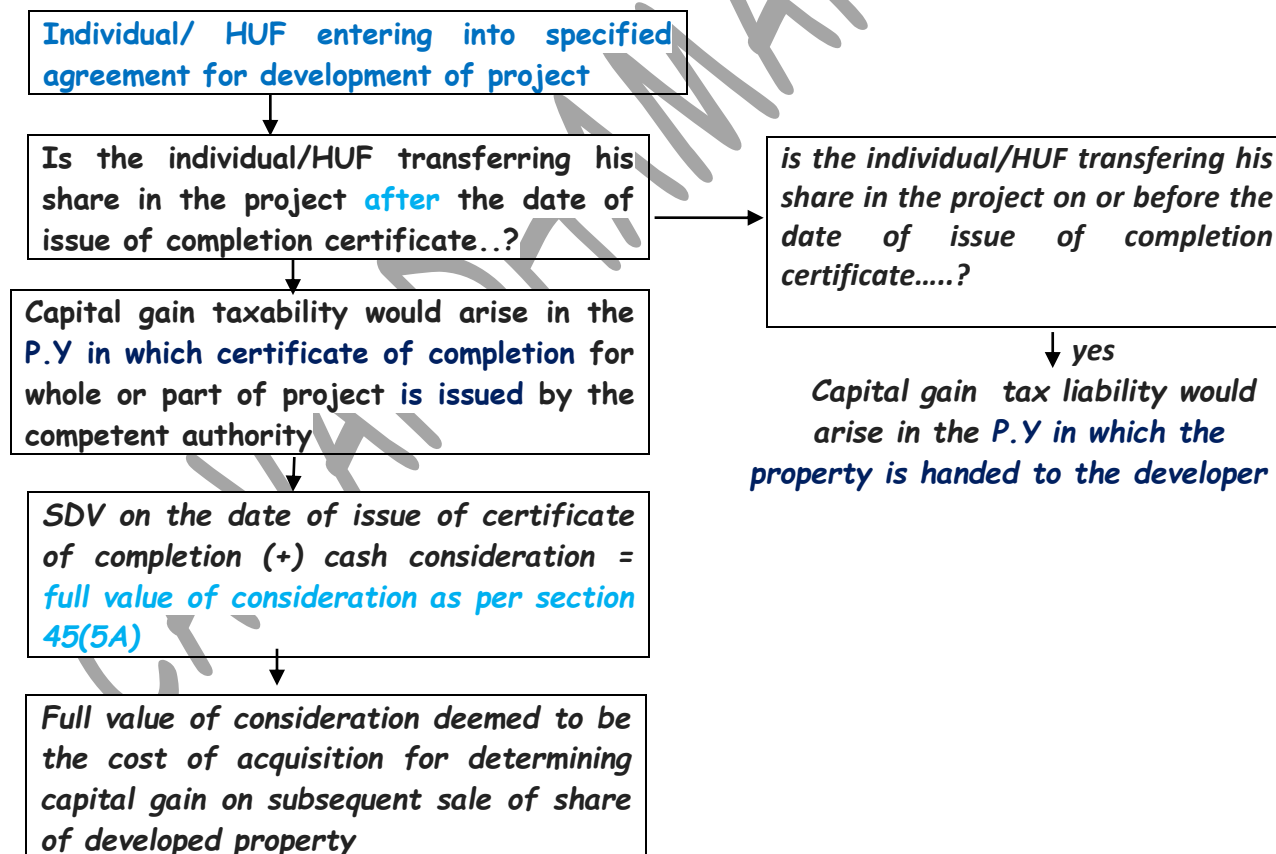
CAPITAL GAIN ON TRANSFER OF CAPITAL ASSETS BY A FIRM/AOP/BOI TO PARTNER/MEMBER BY WAY OF DISTRIBUTION ON ITS DISSOLUTION [Sec 45(4)] [only for CMA]

- ♣ FMV of the capital asset or stock in trade or both on the date of receipt by the specified person shall be deemed to be full value of consideration and taxable under CAPITAL GAIN or PGBP

COMPULSORY ACQUISITION OF ANY CAPITAL ASSET UNDER ANY LAW [SECTION 45(5)]

- ✦ Sale consideration - amt. of compensation
- ✦ Year of taxability - P.Y in which compensation is first received by assessee
- ✦ In case compensation is enhanced -
 - ❖ Sale consideration - full value of consideration
 - ❖ COA/COI - NIL
 - ❖ Compensation received by interim order - taxable when final compensation is received
- ✦ Interest received on compensation/ enhanced compensation - 50% is taxable.
- ✦ Compulsory acquisition of urban agriculture land - exempt [section 10(37)]
 - ❖ Land in urban area
 - ❖ 2 years before transfer used for agriculture purpose by individual / HUF
 - ❖ There is compulsory acquisition by govt.
 - ❖ Income arisen after 1-4-2004.
- ✦ Capital gains on transfer of specified asset under land pooling scheme - exempt [section 10(37A)]

SPECIAL PROVISIONS FOR COMPUTATION OF CAPITAL GAIN IN CASE OF JOINT DEVELOPMENT AGREEMENT [SECTION 45(5A)]



CAPITAL GAIN ON DISTRIBUTION OF ASSET BY COMPANY IN LIQUIDATION (SECTION 46)

❖ **Taxability:**

In the hands of company: shall not be regarded as transfer

In the hands of shareholder: taxable as capital gain

Computation of capital gain

Particulars	Amount
Money so received or market value of the other asset received on liquidation on the date of distribution	-
Less: amount assessed as deemed dividend under section 2(22)(c) to the extent of accumulated profits as on the date of liquidation	-
Full value of consideration for the purpose of section 48	-
Less: ICOA (or COA) of the shares held in that co.	-
LTCG/STCG	-

❖ Cost of acquisition of assets received on liquidation in hands of shareholders: FMV on the date of distribution.

CAPITAL GAINS ON PURCHASE BY COMPANY OF ITS OWN SHARES OR OTHER SPECIFIED SECURITIES [SECTION 46A]

Taxability in the hands of	Buyback of shares by domestic companies	Buyback of shares by company, other than domestic companies	Buyback of specified securities by any company
Company	23.296% (unlisted bhi covered hai)	No tax	No tax
Shareholders	Income arising to shareholders of listed / unlisted companies is exempt under section 10(34)	Taxable as capital gain u/s 46A	Taxable as capital gain u/s 46A

CAPITAL GAIN IN CASE OF DEPRECIABLE ASSET U/S 50. (yeh apan PGBP me block ke concept me padte hai so yaha vapis padhne ki jarurt nahi hai)

SPECIAL PROVISION FOR COMPUTATION OF CAPITAL GAIN IN CASE OF SLUMP SALE [SECTION 50B]

Slump sale [section 2(42C)]: it means transfer of one or more undertakings, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such transfer.

Computation of capital gain:

Full value of consideration being Fair Market value of the capital assets as on the date of transfer, calculated in the prescribed manner	-
Less: expenditure incurred	-
Less: Net worth	-

Short term/long term capital gain	-
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Computation of net worth:

Aggregate value of total asset of undertaking (ignore revaluation):-	-
In case of depreciable asset, the WDV of the block	-
In case asset section 35AD wali hai	-
In the case of capital asset being goodwill of a business or profession, which has not been acquired by the assessee by purchase from a previous owner	-
In case of other asset, the book value	-
Less: value of liabilities	
Net worth	-

- No indexation
- Certificate by chartered accountant

COMPUTATION OF CAPITAL GAINS IN CASE OF DEBENTURES [SECTIONS 50AA] MARKET LINKED

(1) **Transfer of unit of a Specified Mutual Fund or Market Linked Debenture:** Section 50AA provides for the computation of capital gains in case of transfer of unit(s) of -

- (i) a Specified Mutual Fund acquired on or after 1-4-2023 or
- (ii) a Market Linked Debenture.

Section 50AA will have an over-riding effect in spite of anything contained in section 2(42A) which defines a short-term capital asset.

Accordingly, capital gain arising from the transfer or redemption or maturity of unit of a Specified Mutual Fund acquired on or after 1-4-2023 or Market Linked Debenture would be deemed to be short term capital gains and chargeable to tax at normal rate of tax.

(2) **Computation of capital gains:** The full value of consideration received or accruing as a result of the transfer or redemption or maturity of unit of a Specified Mutual Fund or Market Linked Debenture as reduced by the cost of acquisition of the debenture or unit and the expenditure incurred wholly and exclusively in connection with such transfer or redemption or maturity would be deemed to be the capital gains.

(3) **No deduction in respect of STT:** No deduction would be allowed in computing the income chargeable under the head "Capital Gains" in respect of any sum paid on account of securities transaction tax (STT) under Chapter VII of the Finance (No.2) Act, 2004.

(4) **Meaning of certain terms:**

Term	Meaning
Market Linked Debenture	<p>A security</p> <p>(i) which has an underlying principal component in the form of debt security; and</p> <p>(ii) where the returns are linked to market returns on other underlying securities or indices.</p> <p>It includes any security classified or regulated as a market linked debenture by the SEBI.</p>
Specified Mutual Fund	<p>A Mutual Fund where not more than 35% of its total proceeds is invested in the equity shares of domestic companies.</p> <p>However, the percentage of equity shareholding held in respect of the Specified Mutual Fund shall be computed with reference to the annual average of the daily closing figures.</p>

FULL VALUE OF CONSIDERATION IN CERTAIN CASES [SECTION 50C]

1. Stamp duty value deemed to be full value of consideration in case it exceed actual consideration:

- ❖ SDV > sale consideration - SDV
- ❖ SDV < sale consideration - sale consideration

Sale consideration on the date of agreement to be considered: Agar any mode other than cash main date of agreement wale din payment kiya hai toh date of agreement wale din ki SDV otherwise SDV date of registry ki lenge. [(a) credit card; (b) Debit card; (c) Net banking; (d) IMPS (immediate payment service); (e) UPI (unified payment service); (f) RTGS (real time gross settlement); (g) NEFT (national electronic funds transfer), and (h) BHIM (bharat interface for money) Aadhar pay have been prescribed as mode of electronic payment]

2. Stamp duty value not be full value of consideration: Agar sale consideration and SDV me difference 110% se jayada ka nahi hai toh apan SDV lenge

3. Reference to valuation officer: the assessing officer may refer to valuation officer where -

- ❖ The assessee claim SDV > FMV and
- ❖ SDV has not been disputed

4. Where the value ascertained by valuation officer exceeds the value assessed by stamp valuation authority:

- ❖ SDV > valuation officer ki determined value - valuation officer ki determined value lenge
- ❖ SDV < valuation officer ki determined value - SDV lenge.

5. FMV as on 01-04-2001 not to exceed SDV as on that date: in case of a capital asset, being land or building or both, the fair market value of such asset on 01-04-2001 shall not exceed the stamp duty value, wherever available, of such asset as on the 1-04-2001.

SPECIAL PROVISION FOR FULL VALUE OF CONSIDERATION FOR TRANSFER OF SHARE OTHER THAN QUOTED SHARE [SECTION 50CA]

Agar unquoted shares and value of consideration FMV se kam hai toh bhi value of consideration ko deemed full value of consideration manege

However, the provision of this section shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions as may be prescribed.

BONUS STRIPPING [Sec 94(8)] [only for CMA]

Condition and applicability

Where -

- ✚ Any person buys or acquires any securities or units within a **period of 3 months** prior to the record date,
- ✚ Such person is allotted bonus share on such date
- ✚ Such person sells or transfer all or any of the original securities or original units **within a period of 9 months** after such date, while continue to hold or any of additional securities or units

Tax treatment

- ♥ Loss, if any shall be ignored and
- ♥ The amount of loss ignored shall be deemed to be cost of purchase or acquisition of additional securities

CAPITAL GAIN ON VIRTUAL DIGITAL ASSETS (VDA) [Sec 115BBH] [only for CMA]

Tax treatment

Rate of tax - 30%

Computation of income on transfer of such assets

Cost of acquisition	Allowed (without indexation)
Other expenditure (like improvement, expenses on transfer)	Not allowed
Loss on transfer of VDA	No adjustment
Carry forward of loss	Not allowed
VDA held as investment	Capital gain
VDA held as stock in trade	Business income

FAIR MARKET VALUE DEEMED TO BE FULL VALUE OF CONSIDERATION IN CERTAIN CASES [SECTION 50D]

Jaha pe consideration is not ascertainable or cannot be determined toh FMV will be deemed to be full value of consideration.

ADVANCE MONEY FORFEITED [SECTION 51]

If advance was received and forfeited Before 1-4-2014

Advance forfeited to be deducted while determining COA for computing capital gain

Taxability is postponed to the year of actual of Transfer of capital asset

if advance was received and forfeited on or after 1-4-2014

advance forfeited to be taxed as IOS

tax liability is attracted in the year of forfeiture of advance

S.no	Particulars	Section 54	Section 54B	Section 54D	Section 54EC	Section 54F
1.	Eligible assessee	Individual/HUF	Individual/HUF	Any assessee	Any assessee	Individual/HUF
2.	Asset transferred	Residential house (LTCA)	Urban agriculture land	Land & building forming part of an industrial undertaking	Land or building or both (LTCA)	Any LTCA other than residential houses.
3.	Other conditions	Income from such house should be chargeable under the head "income from house property"	Land should be used for agriculture purposes by assessee or his parents or HUF for 2 years immediately preceding the date of transfer.	Land & building have been used for business of undertaking for at least 2 years immediately preceding the date of transfer. The transfer should be by way of compulsory acquisition of the industrial	-	Assessee should not own more than one residential house on the date of transfer. He should not purchase within 2 years or construct within 3 years after the

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				undertaking		date of transfer, another residential house.
4.	Qualifying assets i.e., asset in which capital gain is to be invested	One residential house situated in India/Two residential houses in India, at the option of the assessee, where capital gains does not exceed Rs 2 crore	Land for being used for agriculture purpose (urban/rural)	land or building or right in land or building	Bonds of NHAI or RECL or any other bond notified by C.G (redeemable after 5 years)	One residential unit situated in India
5.	Time limit for purchase/construction	Purchase within 1 year or before 2 years after the date of transfer or construct within 3 years after the date of transfer	Purchase within a period of 2 years after the date of transfer.	Purchase/construct within 3 years after the date of transfer, for shifting or re-establishing the exiting undertaking or setting up a new industrial undertaking	Purchase within a period of 6 months after the date of transfer.	Purchase within 1 year or before 2 years after the date of transfer or construct within 3 years after the date of transfer
6.	Amount of exemption	Cost of new residential house or two houses,	Cost of new agriculture land or capital gain, whichever	Cost of new asset or capital gain whichever is lower	Capital gain or amount specified in bonds, whichever is	Cost of new residential house > net sale

		<p>as the case may be or capital gain, whichever is lower, is exempt.</p> <p>However, if the cost of new residential house(s) exceeds ₹ 10 crores, the amount exceeding ₹ 10 crore would not be taken into account for exemption.</p> <p>It means the maximum exemption that can be claimed by the assessee under section 54 is ₹ 10 crore."</p>	<p>lower is exempt.</p>		<p>lower. Maximum permissible investment out of capital gain arising in any financial year is Rs 50lacs, whether such investment is made in the current F.Y or subsequent F.Y or both.</p>	<p>consideration of original asset, entire capital gain is exempt. Cost of new residential house < net consideration of original asset, proportionate capital gain is exempt.</p> <p>However, if the cost of new residential house(s) exceeds ₹ 10 crores, the amount exceeding ₹ 10 crore would not be taken into account for exemption. It means the maximum exemption</p>
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						that can be claimed by the assessee under section 54 is ₹ 10 crore."
	Lock in period	3 years	3 years	3 years	5 years	3 years

Capital Gains Accounts Scheme (CGAS), 1988: The assessee availing exemption under this section has to comply with the provisions of this scheme, which are as follows -

(i) Exemption available only if amount deposited in the Deposit A/c before due date of return: The exemption is available if the investment in new asset is made within the time allowed. In case, the amount of capital gains could not be appropriated for the specified purposes before the due date of furnishing return of income, then, the same is to be deposited by him, before furnishing such return, in deposit account in any such bank or institution as may be specified. Such return shall be accompanied by proof of such deposit.

However, the capital gain in excess of ₹ 10 crore would not be taken into account for the purpose of deposit in CGAS.

EXTENSION OF TIME FOR ACQUIRING NEW ASSET OR DEPOSITING OR INVESTING AMOUNT OF CAPITAL GAIN [SECTION 54H]

Where the transfer of the original assets referred to in sections 54, 54B, 54D, 54EC, and 54F is by way of compulsory acquisition under any law and the amount of compensation awarded for such acquisition is not received by the assessee on the date of transfer, then the period for acquiring the new asset by the assessee referred to in those sections or, as the case may be, the period available to the assessee under those sections for depositing or investing the amount of capital gain in relation to such compensation as is not received on the date of the transfer, shall be reckoned from the date of receipt of such compensation.

REFERENCE TO VALUATION OFFICER [SECTION 55A]

With a view to ascertaining the fair market value of a capital asset, the Assessing Officer may refer the valuation of a capital asset to a Valuation Officer in following cases-

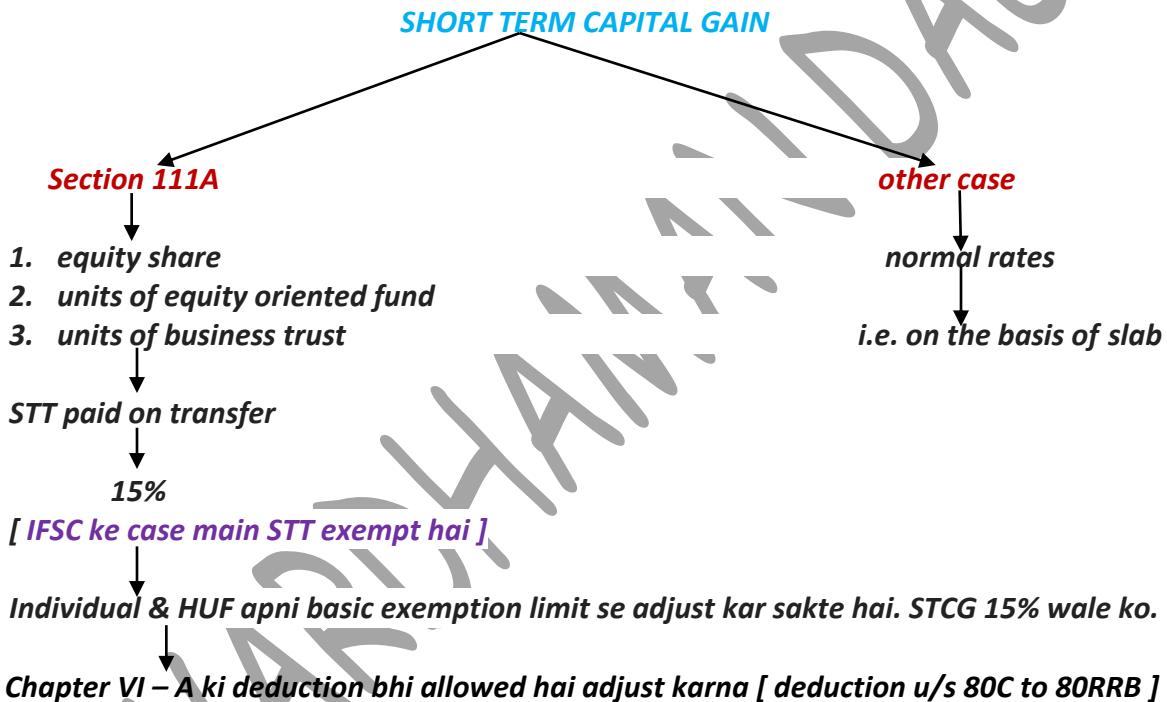
- (1) in a case where the value of the asset as claimed by the assessee is in accordance with the estimate made by registered valuer, if the Assessing

Officer is of opinion that the value so claimed is at variance with its fair market value.

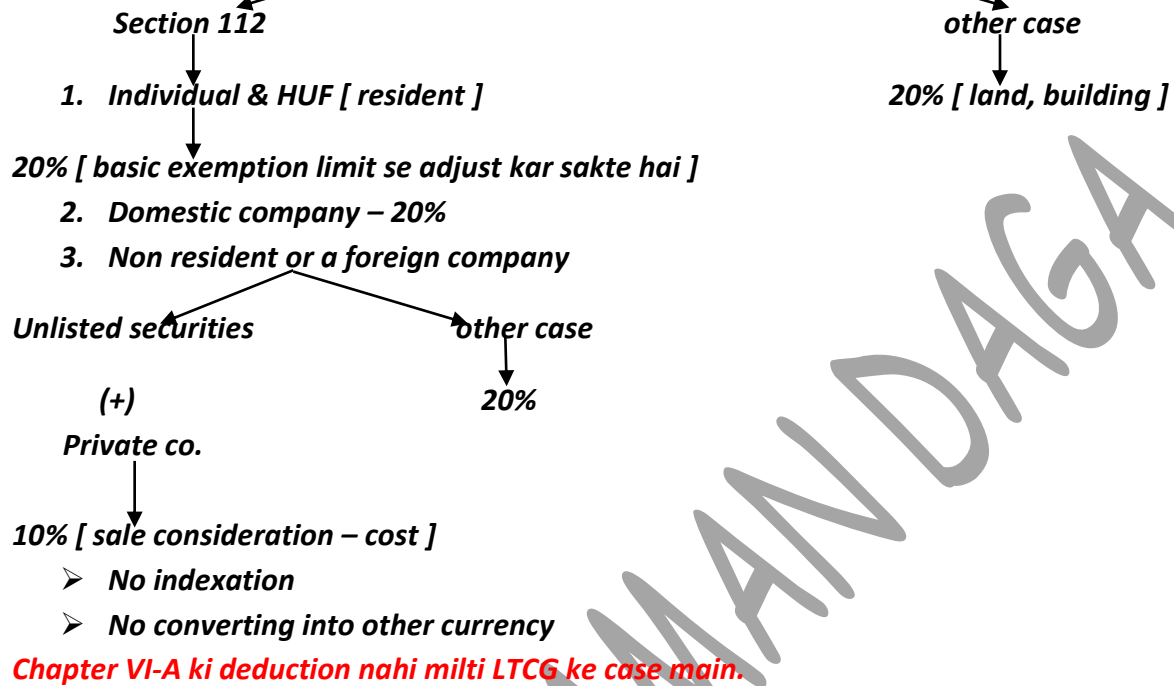
(2) in any other case, if the Assessing Officer is of opinion

- (i) that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by -
 - (a) Rs 25,000; or
 - (b) 15% of the value claimed by the assessee;
- (ii) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do.

TAXABILITY OF CAPITAL GAIN



LONG TERM CAPITAL GAIN



Note: [sabke liye applicable]

Proviso to section 112 [exception to section 112]

Tax on listed securities (other than units) + ZCB

- (i) 10% of gross capital gain [sale – cost] [no indexation]
 - (ii) 20% of LTCG [sale – ICOA]
- Lower of two (i or ii)**

Jo 111A wale short term the jisme 15% tax tha vahi agar LTCG hue toh section 112A main cover honge.

Section 112A

LTCG

(2) Equity share (2) equity oriented fund (3) business trust

STT paid on acquisition and transfer [equity share]

Or

STT paid on transfer [equity oriented fund or business trust]

STT not applicable in case of IFSC

Tax [LTCG] agar 1 lacs se exceed hue toh 10% ke hesab se tax lagega [1 lacs tak exempt]

Individual & HUF esme basic exemption limit ka fayada utha sakte hai and balance main 10% ke hesab se tax denge

(1) No indexation

(2) No converting into other currency

(3) Tax rebate [section 87A] not available

(4) No deduction u/s chapter VI-A

Computation of COA [section 112A]

Step 1: COA

Step 2: (1) FMV on 31/1/2018 or

(3) Sale consideration

(2) Or (2) whichever is lower

Step 1 and step 2 [whichever is higher]

Meaning of FMV:

	Circumstance	FMV
(i)	In a case where the capital asset is listed on any recognized stock exchange as on 31-01-2018	<p>If there is trading in such asset on such exchange on 31-01-2018 The highest price of the capital asset quoted on such exchange on the said date</p> <p>If there is no trading in such asset on such exchange on 31-01-2018 The highest price of such asset on such exchange on a date immediately preceding 31-01-2018 when such asset was traded on such exchange.</p>
(ii)	In a case where the capital asset is a unit which is not listed on any recognized stock exchange as on 31-01-2018	The net asset value of such unit as on the said date
(iii)	In a case where the capital asset is an equity share in a company which is not listed on a recognized stock exchange as on 31-01-2018 but listed on such exchange on the date of transfer listed	$FMV = \frac{COA * CII \text{ of } 2017-18 \text{ i.e. } 272}{CII \text{ for the first year in which the Asset was held by the assessee or } 2001-02 \text{ whichever is later.}}$

<p>on a recognized stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on 31-01-2018 by way of transaction not regarded as transfer under section 47</p>	
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CBDT clarification imp for exam

No.	Question	Answer
1.	What is the meaning of long term capital under the new tax regime for long term capital gains...?	<p>Long term capital gains mean gains arising from the transfer of long-term capital asset.</p> <p>It provides for a new long-term capital gains tax regime for the following assets-</p> <ul style="list-style-type: none"> i) Equity Shares in a company listed on a recognised stock exchange; ii) Unit of an equity oriented fund; and iii) Unit of a business trust. <p>The new tax regime applies to the above assets, if-</p> <ul style="list-style-type: none"> (a) the assets are held for a minimum date of acquisition; and period of twelve months from the date of acquisition; and (b) the STT is paid at the time of transfer. However, in the case of equity shares acquired after 1-10-2004, STT is required to be paid even at the time of acquisition (subject to notified exemptions)
2.	What is the point of chargeability of the tax?	The tax will be levied only upon transfer of the long-term capital asset on or after 1st April, 2018, as defined in clause (47) of section 2 of the Act.
3.	What is the method for calculation of long-term capital gains?	The long-term capital gains will be computed by deducting the cost of acquisition from the full value of consideration on transfer of the long-term capital asset.
4.	How do we determine the cost of acquisition for assets acquired on or before 31st January, 2018?	The cost of acquisition for the long-term capital asset acquired on or before 31st of January, 2018 will be the actual cost. However, if the actual cost is less than the fair market value of such asset as on 31st of

		<p>January, 2018, the fair market value will be deemed to be the cost of acquisition. Further, if the full value of consideration on transfer is less than the fair market value, then such full value of consideration or the actual cost, whichever is higher, will be deemed to be the cost of acquisition.</p>
<p>5.</p>	<p>Please provide illustrations for computing long-term capital gains in different scenarios, in the light of answers to questions 4.</p>	<p>The computation of long-term capital gains in different scenarios is illustrated as under</p> <p>Scenario 1 - An equity share is acquired on 1st of January, 2017 at Rs 100, its fair market value is Rs 200 on 31st of January, 2018 and it is sold on 1st of April, 2018 at Rs 250. As the actual cost of acquisition is less than the fair market value as be taken as on 31st of January, 2018, the fair market value of Rs 200 will $Rs\ 50 < 250$ the cost of acquisition and the long-term capital gain will be, Rs 200).</p> <p>Scenario 2 - An equity share is acquired on 1st of January, 2017 at & 100, its fair market value is Rs 200 on 31st of January, 2018 and it is sold on 1st of April, 2018 at Rs 150. In this case, the actual cost of acquisition is less than the fair market value as on 31st of January, 2018. However, the sale value is also less than the fair market value as on 31st of January, 2018. Accordingly, the sale value of Rs 150 will be taken as the cost of acquisition and the long term capital gain will be NIL (Rs150 - 150).</p> <p>Scenario 3 - An equity share is acquired on 1st of January, 2017 at Rs 100, its fair market value is Rs 50 on 31st of January, 2018 and it is sold on 1st of April, 2018 at Rs 150. In this case, the fair market value as on 31st of January, 2018 is less than the actual cost of acquisition, and therefore, the actual cost of Rs 100 will be taken as actual cost of acquisition and the long-term capital gain will be Rs 50 (150 -</p>

		100). Scenario 4 - An equity share is acquired on 31st of January, 2017 at Rs 100, its 1st fair market value is Rs 200 on 31 st of January, 2018 and it is sold on 1st of April, 2018 at Rs 50. In this case, the actual cost of acquisition is less than the fair market value as on 31st January, 2018. The sale value market value as on 31st of January, 2018 and also is less than the fair acquisition. Therefore, the actual cost of Rs 100 will be taken as the cost of acquisition in this case. Hence, the long-term capital loss will be Rs 50 (50 - 100) in this case
6.	Whether the cost of acquisition will be inflation indexed...?	Third proviso to Section 48, provides that the long-term capital gain will be computed without giving effect to the provisions of the second provisos of section 48. Accordingly, it is clarified that the benefit of inflation indexation of the cost of acquisition would not be available for computing long-term capital gains under the new tax regime.
7.	What will be the tax treatment of transfer on or after 1 st april 2018..?	The long-term capital gains exceeding Rs 1 lakh arising from transfer of these assets made on or after 1st April, 2018 will be taxed at 10%. However, there will be no tax on gains accrued upto 31st January, 2018.
8.	What is the date from which the holding period will be counted?	The holding period will be counted from the date of acquisition.
9.	Whether tax will be deducted at source in case of gains by resident tax payer?	No. There will be no deduction of tax at source from the payment of longterm capital gains to a resident tax payer.
10.	What will be the cost of acquisition in the case of bonus shares acquired before 1 st February 2018?	The cost of acquisition of bonus shares acquired before 31st January, 2018 will be determined as per Section 55(2)(ac). Therefore, the fair market value of the bonus shares as on 31st January, 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans 5), and hence, the gains accrued upto 31 st January, 2018

		will continue to be exempt.
11.	What will be the cost of acquisition in the case share acquired of right before 1 st February 2018?	The cost of acquisition of right share acquired before 31st January, 2018 will be determined as per section 55(2)(ac). Therefore, the fair market value of right share as on 31 st January, 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans 5), and hence, the gains accrued upto 31st January, 2018 will continue to be exempt.
12.	What will be the treatment of long-term capital loss arising from transfer made on or after 1 st April, 2018?	Long-term capital loss arising from transfer made on or after 1st April, 2018 will be allowed to be set-off and carried forward in accordance with existing provisions of the Act. Therefore, it can be set-off against any other long-term capital gains and unabsorbed loss can be carried forward to subsequent eight years for set-off against long-term capital gains.

DEDUCTION FROM CAPITAL GAIN ON TRANSFER OF CAPITAL ASSETS IN CASE OF SHIFTING OF INDUSTRIAL UNDERTAKING FROM URBAN AREAS [Sec 54G] [only for CMA]

- × applicable to - all assessee
- × conditions
 1. assessee must have transferred a capital asset, being -
 - a machinery or plant or building or land; or
 - any right in building or land,
 - used for the purpose of the business of an industrial undertaking situated in an urban area
 2. shifting from urban area
 3. assessee has within a period of 1 year before, or 3 years after, the date of transfer -
 - ♣ purchased new P&M
 - ♣ acquired building or land or constructed building
 - ♣ shifting the original asset
 - ♣ incurred expenditure for the purpose
- × amount of deduction - minimum of the following
 - ◆ amount expended
 - ◆ capital gain
- × lock in period - 3 years

DEDUCTION FROM CAPITAL GAIN ON TRANSFER OF CAPITAL ASSETS IN CASE OF SHIFTING OF INDUSTRIAL UNDERTAKING FROM URBAN AREAS TO SEZ [Sec 54GA] [only for CMA]

- × **applicable to** - all assessee
- × **conditions**
 - a) assessee must have transferred a capital asset, being -
 - a machinery or plant or building or land; or
 - any right in building or land,
 - used for the purpose of the business of an industrial undertaking situated in an urban area
 - b) shifting to SEZ
 - c) assessee has within a period of 1 year before, or 3 years after, the date of transfer -
 - ♣ purchased new P&M
 - ♣ acquired building or land or constructed building
 - ♣ shifting the original asset
 - ♣ incurred expenditure for the purpose
- × **amount of deduction** - **minimum** of the following
 - ◆ amount expended
 - ◆ capital gain
- × **lock in period** - 3 years

DEDUCTION FROM CAPITAL GAIN ON TRANSFER OF RESIDENTIAL PROPERTY FOR INVESTMENT IN ELIGIBLE COMPANY [Sec 54GB] [only for CMA]

- ✓ **applicable to** - individual & HUF
- ✓ **conditions** -
 1. Assessee must have transferred a long term capital asset being residential property (house or plot of land)
 2. Transfer during 1/4/2012 - 31/3/2022
 3. Assessee must subscribe in the equity shares of an eligible company within the due date of furnishing income tax return
 - ◆ **Eligible company** -
 - It is an Indian company
 - The company should be incorporated during the period from the 1st day of april of the previous year relevant to the assessment year in which the capital gain arises.
 - The company is engaged in the business of manufacturing of an article or a thing or in eligible business
 - It is a company in which assessee has more than 25% share capital
 - Company qualifies as SME
 4. The company should have utilized for purchasing new asset

New asset does not include -

- ✚ P&M used outside India (second hand)
 - ✚ Any official appliances including computer and computer software
 - ✚ case of eligible start-up
 - ✚ P&M installed in office premises or the residential accommodation (including guest house)
 - ✚ P&M whose whole of the actual cost is deductible.
 - ✚ Any vehicle
- ✓ Time limit for acquiring of new asset - within 1 year from the date of subscription in equity share
- ✓ Amount of deduction - minimum of following
- ♣ Investment in new asset of the company*capital gain ÷ net consideration
 - ♣ Capital gain
- ✓ Revocation of benefit and its treatment - if the newly acquired asset is transferred or equity share is transferred within 5 from date of its acquisition

CHAPTER - 7: INCOME FROM OTHER SOURCES

INCOME FROM OTHER SOURCES [SECTION 56]

Conditions:

- (1) Receipt of income
- (2) Income must not be exempt
- (3) Income must not be charged under any other head

Sec. 56(2)	Income taxable under the head "income from other resources"
(i)	Dividends
(ib)	Lottery income
(ic)	Employees contribution towards staff welfare fund : if not taxable under head PGBP
(id)	Interest on securities
(ii)	Hire income of plant, machinery and furniture: if not taxable under head PGBP
(iii)	Hire income of plant, machinery and furniture along with building: if not taxable under head PGBP
(iv)	Keyman insurance policy receipt: if not taxable under head PGBP, salary
(viib)	<p>Shares issued by Private limited Company - Issue price exceeds FMV of shares [Section 56(2)(viib)]</p> <p>Where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares.</p> <p>The person from whom the consideration is received may be a resident or non-resident.</p> <p>Explanation:</p> <p>(a) The fair market value of the shares shall be the value -</p> <p>(i) as may be determined in accordance with such method as may be prescribed; or</p> <p>(ii) as may be substantiated by the company to the satisfaction of the Assessing Officer,</p> <p>based on the value, on the date of issue of shares, of its assets, including intangible assets being goodwill, knowhow, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar</p>

	<p>nature,</p> <p>Whichever higher,</p> <p>(b) "Venture capital company", "venture capital fund" and "venture capital undertaking" shall have the meanings respectively assigned to them in Section 10(23FB).</p> <p>(c) "Specified fund" - means a 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 the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012 made under the SEBI Act, 1992 or regulated under the International Financial Services Centre Authority (Fund Management) Regulations, 2022 made under the International Financial Services Authority Act, 2019.</p> <p>(d) "Trust" means a trust established under the Indian Trusts Act, 1882 or under any other law for the time being in force.</p>
(viii)	Interest on compensation
(ix)	Advance money forfeited
(x)	<p>Sum received, including the amount allocated by way of bonus, under a LIP other than under a ULIP and keyman insurance policy, which is not exempt u/s 10(10D) [Section 56(2)(xii)]</p> <p>Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy would not be included in the total income of a person [Section 10(10D)].</p>

The following table summarizes the exemption available under section 10(10D) vis-a-vis the date of issue of such policies and the corresponding condition to be satisfied for exemption -

Particulars	Exemption u/s 10(10D)
In respect of policies issued before 1.4.2013	Any sum received under a LIP including the sum allocated by way of bonus is exempt.
In respect of policies issued between 1.4.2003 and 31.3.2021	Any sum received under a LIP including the sum allocated by way of bonus exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 20% of "actual capital sum assured".
In respect of	Any sum received under a LIP including the sum allocated by

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<p>policies issue on or after 1.4.2012 but before 1.4.2013</p>	<p>way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 10% of actual capital sum assured.</p>
<p>In respect of policies issue on or after 1.4.2013</p>	<p>(a) Where the insurance is on the life of a person with disability or severe disability as referred to in section 80U or a person suffering from disease or ailment as specified under section 80DDB.</p>
	<p>Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 15% of "actual capital sum assured"</p>
	<p>(b) Where the insurance is on the life of any person, other than mentioned in (a) above</p>
	<p>Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 10% of "actual capital sum assured".</p>
<p>In respect of policies issued on or after 1.4.2023</p>	<p>Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 10% or 15%, as the case may be, of "actual capital sum assured." Further, exemption would also not be available if the amount of premium payable exceeds ₹ 5,00,000 for any of the previous years during the term of such policy. In a case where premium is payable by a person for more than one LIP (other than ULIP) and the aggregate of premium payable on such policies exceed ₹ 5,00,000 for any of the previous years during the term of any such policy(ies), exemption would be available in respect of any of those LIPS (other than ULIP), at the option of the assessee, whose aggregate premium payable does not exceed ₹ 5,00,000 for any of the previous years during their term.</p>
<p>Any sum is received on the death of a person is exempt irrespective of the annual premium payable on the policy. The condition of payment of premium of 10% or 15% or 20% or ₹ 5,00,000 would not be applicable.</p>	

Exemption is not available in respect of amount received from an insurance policy taken for disabled person under section 80DD: Any sum received under section 80DD(3) shall not be exempt under section 10(10D). Accordingly, if the dependent disabled, in respect of whom an individual or the member of the HUF has paid or deposited any amount in any scheme of LIC or any other insurer, predeceases the individual or the member of the HUF, the amount so paid or deposited shall be deemed to be the income of the assessee of the previous year in which such amount is received. Such amount would not be exempt u/s 10(10D).

Exemption is not available in respect of the sum received under a Keyman insurance policy: Any sum received under a Keyman insurance policy shall also not be exempt.

Explanation 1 to section 10(10D) defines "Keyman insurance policy" as a life insurance policy taken by one person on the life of another person who is or was the employee of the first- mentioned person or is or was connected in any manner whatsoever with the business of the first- mentioned person. The term includes within its scope a keyman insurance policy which has been assigned to any person during its term, with or without consideration. Therefore, such policies shall continue to be treated as a keyman insurance policy even after the same is assigned to the keyman. Consequently, the sum received by the keyman on such policies, being "keyman insurance policies", would not be exempt u/s 10(10D).

Taxability of sum received under a LIP which is not exempt u/s 10(10D): Where any sum is received (including the amount allocated by way of bonus) at any time during a previous year, under a life insurance policy, other than the sum -

(i) received under a ULIP

(ii) received under a Keyman insurance policy

which is not exempt under section 10(10D), the sum so received as exceeds the aggregate of the premium paid during the term of such life insurance policy, and not claimed as deduction under any other provision of the Act, computed in the prescribed manner, would be chargeable to tax under the head "Income from other sources".

DEEMED DIVIDENED AND ITS TAXABILITY

SECTION 2(22)

(a) Distribution of accumulated profits, entailing release of assets: Any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company.

Bonus shares: The bonus shares issued by a company to its equity shareholders is not treated as dividend since it does not involve any release of assets. However, if the bonus shares are redeemed (if such bonus shares are preference shares), then it will be treated as dividend at the time of such redemption since there involves release of assets.

- (b) Distribution of debentures/ deposit-certificates to shareholders or bonus shares to preference shareholders : Any distribution by a company of
- (i) Debentures, debenture-stock, or deposit certificates in any form, whether with or without interest, to its shareholders; and
 - (ii) Bonus shares to its preference shareholders, to the extent to which the company possesses accumulated profits, whether capitalised or not.
- (c) Distribution to shareholders on liquidation: Any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not.
- (d) Distribution to shareholders on reduction of share capital: Any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits, whether capitalised or not.
- (e) Loan/ advances by a private company to its substantial shareholder/ concern: Any payment made by a company, not being a company in which the public are substantially interested, of any sum by way of advance or loan, to the extent of accumulated profits (capitalised accumulated profits not included here), -
- (i) To a **shareholder** who is the beneficial owner of equity shares holding not **less than 10% of the voting power**.
 - (ii) To any **concern (HUF/Firm/AOP/BOI/Company)** in which the shareholder referred to in (i) above is a member or a partner and in which he has a substantial interest.
 - (iii) To **any person on behalf, or for the individual benefit**, of shareholder referred to in (i) above.

Exclusions: Dividend does not include -

- (a) Any payment made by a company on **purchase of its own shares** from provisions of Section 68 a shareholder in accordance with the of the Companies Act, 2013.
- (b) Any distribution of **shares pursuant to a demerger** by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).
- (c) Any dividend paid by a company which is **set-off by it against whole or any part of deemed dividend** under section 2(22)(e), to the extent it is so set-off.
- (d) Any **advance or loan made to shareholder** or such concern by a company in **ordinary course of its business**, where lending of money is substantial part of business of company.

- (e) Any **distribution made in accordance with Section 2(22)(c)/(d) in respect of any share issued** for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets.

Taxability of deemed dividend/income from units of mutual fund: Deemed dividend under section 2(22)(a) to 2(22)(e) and income from units of mutual fund shall be taxed as follows -

(1) In hands of shareholders/unit-holder:

- (a) **Taxable:** It shall be chargeable to tax since exemption available u/s 10(34)/10(35) has been withdrawn from assessment year 2021-22.
- (b) **Deduction:** No deduction shall be allowed from the dividend income, or income in respect of units of a Mutual Fund specified under section 10(23D) or income in respect of units from a specified company defined in the explanation to section 10(35), **other than deduction on account of interest expense, and in any previous year such deduction shall not exceed 20%** of the dividend income, or income in respect of such units, included in the total income for that year, without deduction under this section.
- (c) **Grossing up:** Since dividend income/income from units of mutual fund is subject to **TDS u/s 194/194K @10%**, hence such income is to be grossed up before being included in the total income of assessee.

The net income shall be grossed up as follows -

$$\text{Gross dividend} = \frac{\text{Net Dividend} * 100}{\{100 - (\text{Rate of TDS i.e } 10)\} \text{ i.e } 90}$$

- (2) **In hands of company/mutual fund:** The company/mutual Fund will not be liable to pay tax on distributed profit under section 115-0/115R. However, company/mutual fund shall be liable to deduct tax at source @ 10% under section 194/194K.

However, no such deduction shall be made u/s 194 in the case of a shareholder, being an individual, if -

- (a) The dividend is paid by the company by any mode other than cash; and
- (b) The amount of such dividend or, as the case may be, the aggregate of the amount of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, **does not exceed Rs 5000.**

Similarly in case of mutual fund, TDS provisions will not be applicable where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person responsible for making the payment to the account of, or to, the payee not exceed Rs 5000.

TAX ON WINNINGS FROM LOTTERIES, CROSSWORD PUZZLES, RACES INCLUDING HORSE RACES, CARD GAMES AND OTHER GAMES OF ANY SORT OR

GAMBLING OR BETTING OF ANY FORM OR NATURE WHATSOEVER [SECTION 115BB]

Winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature whatsoever, shall be taxable @ 30% (plus surcharge, as applicable and HEC) under Section 115BB. However, income by way of winnings from any online game would not be taxed under this section.

Grossing up of income: Income in form of winnings from lotteries, crossword puzzles, card games or other game of any sort or from gambling or betting of any form or nature or other games of any sort is subject to TDS under section 194B if it if the amount or aggregate of amounts of payment exceeds ₹ 10,000 during the financial year and income from horse races is subject to TDS under section 194BB if it if the amount or aggregate of amounts of payment exceeds 10,000 during the financial year. Thus, such income is to be grossed up before being included in the total income of the assessee.

TAX IN RESPECT OF WINNINGS FROM ONLINE GAMES [SECTION 115BBJ]

- (1) This section provides that net winnings from any online game would be taxed at a flat rate of 30% plus surcharge, if applicable, plus health and education cess @ 4%.
- (2) 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
- (3) No expenditure or allowance can be allowed from such income.
- (4) Deduction under Chapter VI-A is not allowable from such income.
- (5) Adjustment of unexhausted basic exemption limit is also not permitted against such income.

INTEREST ON SECURITIES [Section 2(28B)]: "Interest on securities" means_-

- (a) Interest on any securities of the CG/SG.
- (b) Interest on debentures or any other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central state or provincial act.

Grossing up of interest: income in form of interest on securities is subject to TDS under section 193 @ 10% if it exceed ₹ 5000. However, no TDS is deducted from government securities except from 7.75% saving (taxable) bonds, 2018 if the interest exceed Rs 10000.

TAXBALITY OF GIFTS

- (1) **Cash gifts, or gifts of movable property, or gifts of immovable property [section 56(2)(x)]**: where any person receives, in any P.Y, from any person or persons on or after 01-04-2017 -

	Case	Amount taxable
(a)	Cash gifts : any sum of money, without consideration, the aggregate value of which exceed Rs 50000	The Whole of the aggregate value of such sum (matlab Rs 50000 se ek rupee bhi jayada hua toh pura taxable hoga)
(b)	<p>Immovable property without consideration or for inadequate consideration: any immovable property -</p> <p>(i) without consideration, the stamp duty value of which exceeds Rs 50000</p> <p>(ii) for a consideration, the stamp duty of such property as exceeds such consideration, if the amount of such excess is more than the higher of the following amounts, namely -</p> <p>(a) the amount of Rs 50000 and</p> <p>(b) the amount equal of 10% of the consideration.</p> <p>Stamp duty value on the date of agreement to be considered: agar agreement wale din kuch consideration other than cash me diya hoga toh SDV on the date of agreement lenge otherwise SDV on the date of registry. Agar disputed value hai toh jo section 50C me jo provisions hai vo applicable honge disputed property se related. (section 50C ko saath me connect karke padhna chahiye) [(a) credit card; (b) Debit card; (c) Net banking; (d) IMPS (immediate payment service); (e) UPI (unified payment service); (f) RTGS (real time gross settlement); (g) NEFT (national electronic funds transfer), and (h) BHIM (bharat interface for money) Aadhar pay have been prescribed as mode of electronic payment]</p> <p>[Amended by Finance Act, 2020]</p>	<p>The stamp duty value of such property.</p> <p>The stamp duty value of such property - such consideration.</p>
(c)	Movable property without consideration or for inadequate consideration : any property, other	

<p>than immovable property -</p> <p>(i) without consideration, the aggregate fair market value of which exceeds Rs 50000,</p> <p>(ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding Rs 50000</p>	<p>The whole of the aggregate fair market value of such property.</p> <p>The aggregate fair market value of such property - such consideration.</p>
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Exception: this clause shall not apply to any sum of money or any property received -

- (i) From any relative
- (ii) On the occasion of the marriage of the individual; or
- (iii) Under a will or by way of inheritance; or
- (iv) In contemplation of death of the payer or donor; or
- (v) From any local authority as defined in explanation to section 10(20); or
- (vi) From any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in section 10(23C); or
However, the exemption shall not be available where any sum of money or any property has been received by any person referred to in Section 13(3);
- (vii) From any trust or institution registered under section 12A or Section 12AA or 12AB; or
However, the exemption shall not be available where any sum of money or any property has been received by any person referred to in Section 13(3);
- (viii) By any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in section 10(23C)(iv)/(v)/(vi)/(vii); or
- (ix) By way of transaction not regarded as transfer u/s 47(i)/(iv)/(v)/(vi)/(vii)/(viii)/(ix)/(x)/(xi)/(xii); or
- (x) From an individual by a trust created or established solely for the benefit of relative of the individual; or
- (xi) From such class of persons and subject to such conditions, as may be prescribed.
- (xii) By an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for illness related to COVID-19 subject to such conditions, as

the central government may, by notification in the official Gazette, specify in this behalf.

(xiii) By a member of the family of a deceased person -

(a) From the employer of the deceased person; or

(b) From any other person or persons to the extent that such sum or aggregate of such sum does not exceed ₹ 10 lakh,

Where the cause of death of such person is illness related to COVID-19 and the payment is -

(i) Received within 12 months from the date of death of such person; and

(ii) Subject to such other conditions, as the central government may, by notification in the official Gazette, specify in this behalf.

Explanation: for the purposes of clause (xii) and (xiii), "family", in relation to an individual means -

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

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

(2) 'Relative' means -

* Individual + spouse (dono ke parents + parents ke bhi brother and sister + individual and spouse ke brother and sister + eske upper ya niche kitne bhi linear ascendant and descendant (eg dadaji ya individual ke bache) + yeh jitne bhi log hai un sab ke spouse)

* In case of HUF - any family member.

Meaning of various terms:

(a) "Property" means the following capital asset of the assessee, namely -

(i) Immovable property being land or building or both;

(ii) Share and securities

(iii) Jewellery

(iv) Archaeological collection

(v) Drawing

(vi) Painting

(vii) Sculptures

(viii) Any work of art; or

(ix) Bullion

(x) virtual digital asset.

DEDUCTION [SECTION 57]

The income chargeable under the head "Income from other sources" shall be computed after making the following deductions -

- (1) In the **case of dividends** or interest on securities - any reasonable **sum paid by way of commission or remuneration** to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee.
However, no deduction shall be allowed from the dividend income, or income in respect of units of a mutual fund specified under section 10(23D) or income in respect of units from a specified company defined in the explanation to section 10(35), other than deduction on account of interest expense, and in any previous year such deduction shall not exceed 20% of the dividend income, or income in respect of such units, included in the total income for that year, without deduction under this section.
- (2) Where any **sum is received by an employer from employees as contribution** to any provident fund, superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act - **a deduction will be allowed in accordance with the provisions of section 36(1)(va)** i.e. to the extent the contribution is remitted to the employees account before the due date under the respective Acts.
- (3) Where the **income is from letting on hire of machinery, plant and furniture**, with or without building, the following deductions as provided in section 30, 31, 32 read with section 38 shall be allowed :
 - (a) the amount paid on account of any current repairs to the machinery, plant or furniture.
 - (b) the amount of any premium paid in respect of insurance against risk of damage or destruction of the machinery or plant or furniture.
 - (c) the normal depreciation allowance in respect of the machinery, plant or furniture, due thereon.
- (4) **In the case of family pension a deduction of a sum equal to one-third of such income or Rs 15,000, whichever is less, is allowable.**
- (5) **Any other expenditure** (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income is deductible.
The said expenditure is allowed as a deduction even if the income for which it is incurred is not actually earned. Thus, interest on loan borrowed to purchase investments, is deductible even if there is no income derived from the investments in a particular year.
- (6) **A deduction of 50% of income by way of interest on compensation/enhanced compensation received chargeable to tax under section 56(2)(viii).**

AMOUNT NOT DEDUCTION [SECTION 58]

- Any personal expense

- Any interest on which TDS is not deducted.
- Salaries paid outside India on which TDS is not deducted.
- Disallowance specified u/s 40
- Any sum paid on account of wealth tax
- All disallowance under section 40A.

Bond washing transactions [Sec 94(1)] [only for CMA]

Where an assessee transfers the securities before the due date of interest and reacquires the same, then the interest received by the transferee will be deemed to be the income of the transferor

Income on deep discount bond [only for CMA]

Treatment

Income on deep discount bond (issued on or after 15/2/2002):	
If such bond is neither transferred nor matured	Income = MV at the end of the year - MV at the beginning of the year
If such bond is redeemed	Interest income = redemption price - value as on the last date immediately preceding the maturity date
If the bond is redeemed before maturity	Taxable as capital gain

CHAPTER - 8: CLUBBING OF INCOME

Transfer of income where there is no transfer of asset [section 60]: Income shall be included in the income of transferor.

Recoverable transfer of assets [section 61]: Income shall be included in the income of transferor.

Exception to section 61 [section 62]: The provisions of section 61 shall not apply in the following cases:

(a)	Transfer not recoverable during the life time of the beneficiary or the transferee	Income from the transferred asset will not be included in the total income of transferor provided transferor receives no direct or indirect benefit from such income. (if receives then will be included in transferor income)
(b)	Transfer made before April 1, 1961 and not revocable for a period exceeding 6 years	
In both the cases, as and when the power to revoke the transfer arises, the income arising by virtue of such transfer will be included in the total income of the transferor.		

(1) **Remuneration received by spouse from concern in which individual has substantial interest [section 64(1)(ii)]:** Income will be clubbed in individual income.

Exception: This provision shall not apply in case spouse have technical or professional qualification.

In case of husband and wife both have substantial interest in a concern and both are in receipt of remuneration: income shall be clubbed whose, total income is greater.

(2) **Income from assets transferred to spouse without adequate consideration [section 64(1)(iv)]:** Income arising to the spouse of such individual from assets transferred directly or indirectly by such individual otherwise than for adequate consideration or in connection with an agreement to live apart, subject to the provision of section 27(i). shall be clubbed in the income of transferor. There must be relationship of husband and wife at the time of both transfer of asset and accrual of income from such asset.

Investment of assets, received by spouse, in any business or as a capital contribution in firm: where the asset transferred directly or indirectly by an individual to his spouse are invested by the spouse, then proportionate income shall be clubbed.

(3) **Income from assets transferred to person/AOP without adequate consideration for benefit of spouse:** Income shall be clubbed to the extent of benefit received.

(a) Income arising from investment of clubbed income: will not be clubbed.

(b) Skill, experience and competence equivalent to professional qualification.

(c) Capital gain income will also be clubbed.

- (4) **Income from assets transferred to son's wife without adequate consideration [section 64(1)(vi)]**: Income shall be clubbed in transferor total income. Provided relationship exist both transfer of asset and accrual of income.
- (5) **Income from assets transferred to person/AOP without adequate consideration for benefit of son's wife [section 64(1)(vii)]**: Income shall be clubbed to the extent of benefit received.

INCOME FROM INDIVIDUAL TO INCLUDE INCOME OF MINOR CHILD [SECTION 64(1A)]:

All income accruing or arising to a minor child ('child' includes step child and adopted child) shall be included in the income of his parents. However income shall not be clubbed in case minor child is suffering from disability under section 80U.

(a) No clubbing in certain cases:

- (i) Manual work done by him or
- (ii) Activity involving application of his skill, talent or specialised knowledge and experience.

(b) Clubbing in whose hands:

- (i) If marriage of parents subsist, then whose total income is greater.
- (ii) If marriage does not subsists, the who maintain child.

(c) **Exemption upto ₹1,500 per child**. Income received by minor child on compulsory acquisition of land will be taxable in the hands of parents.

CONVERSION OF A SELF OCCUPIED PROPERTY INTO THE HUF PROPERTY [SECTION 64(2)]: Shall be deemed to be income of individual not of HUF.

CROSS TRANSFER

- ♣ If the two transfers are inter-connected and are parts of the same transactions in such a way that a circuitous method has been adopted to evade tax, then the implications of clubbing provisions would be attracted.
- ♣ It is not necessary that there is transfer of same assets, the assets may be changed deliberately into assets of a like value of another person, but such a chain of transfers is covered by the word 'indirectly'.

CHAPTER - 8: AGGREGATION OF INCOME AND SET-OFF OF LOSS

INTER SOURCE ADJUSTMENT UNDER THE SAME HEAD OF INCOME

If in any year, the assessee has incurred loss from any source under a particular head of income, then he is allowed to adjust such loss against income from any other source falling under the same head. This may also be referred as Intra Head adjustment.

INTER HEAD ADJUSTMENT IN THE ASSESSMENT YEAR

As explained above, any loss from one source of income is firstly set off against any gain from other source within the same head. Any remaining loss can then be set off against income from any other head. This process is to be done in same previous year. This is known as Inter Head Adjustment.

Exceptions:

- ♣ **Losses from speculation business** will only be set off against the profit of speculation business only. However losses from general business can be set off against profits from speculation business.
- ♣ **Long term capital loss** can be set off against long term capital gains only. However, short term capital loss can be set off against short term capital gain and long term capital gain.
- ♣ **Loss from owing & maintaining race horses** can be set off against profit from owing & maintaining race horses.
- ♣ **Loss from business income** cannot be set off against salary.
- ♣ Loss from winning from lotteries, crosswords, puzzles, card game or any other gambling can be set off against gains from winning from lotteries, crosswords, puzzles, card game or any other gambling.
- ♣ Losses from specified business [Section 73A(1)]: **In case of an assessee exercising the option of shifting out of the default tax regime provided under section 115BAC(1A), loss in any specified business referred in section 35AD can be set-off only against any other specified business.**
However, losses from other business can be set-off against profits from specified business.

CARRY FORWARD & SET OFF OF LOSSES

If the losses could not be set off under the same head or under different head of income in the same assessment year, such losses are allowed to be carried forward to be claimed as set off from the income of subsequent years.

Nature of losses	Set off against which	Max.	Mandatory
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	income	period loss can be carry forward	filing of return of income
Loss from house property	Income from house property	8 years	No
Loss from normal business under the head PGBP	Profit from any normal business	8 years	Yes
Loss from speculation business	Profit from any speculation business	4 years	Yes
Loss from specified business u/s 35AD	Profit from specified business	Indefinite	Yes
STCL	STCG or LTCG	8 years	Yes
LTCL	LTCG	8 years	Yes
Loss from owing and maintaining race horse	Income from owing and maintaining race horse	4 years	Yes

Loss from House property: The loss under the head "Income from house property" would not be allowable to be set-off against income under the other head if the assessee pays tax at concessional rate under section 115BAC.

However, if the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A) and there is a loss under the head "Income from house property" and the assessee has income assessable under any other head of income, the maximum loss from house property which can be set-off against income from any other head is ₹ 2 lakhs. In other words, in such case, the amount of such loss exceeding ₹ 2 lakhs would not be allowable to be set-off against income under the other head.

CARRY FORWARD AND SET OFF OF LOSS FROM HOUSE PROPERTY [SECTION 71B]

(a) **If the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A):** In any assessment year, if there is a loss under the head "Income from house property", such loss will first be set-off against income from any other head to the extent of ₹ 2,00,000 during the same year. The unabsorbed loss will be carried forward to the following assessment year to be set-off against income under the head "Income from house property".

(b) **If the assessee pays tax at concessional rate u/s 115BAC:** The loss under the head "Income from house property" would not be allowable to be set-off against income under any other head. The unabsorbed loss will be carried forward to the following assessment year to be set-off against income under the head "Income from house property".

Beside the above, the following can also be carried forward indefinitely although these are not business losses as per IT act:

1. Unabsorbed depreciation
2. Unabsorbed capital expenditure incurred scientific research;
3. Unabsorbed expenditure on family planning.

Carry forward & set off of loss in case of closely held companies [Sec 79] [only for CMA]

Conditions

- × Assessee must be closely held company
- × 51% of equity share are held on the last day in which loss is incurred and last day in which b/f loss is sought to be set-off

Option for eligible start-up company

- ♣ All the shareholder should have same voting power
- ♣ Such loss should be incurred during 7 years from the incorporation

Exception

1. Transfer due to death
2. Transfer by way of gift
3. Amalgamation or demerger of foreign company
4. Insolvency and bankruptcy code 2016
5. Relocation of fund
6. Distressed company
7. Strategic disinvestment

No set off of losses consequent to search, requisition and survey [Sec 79A] [only for CMA]

Set off loss (unabsorbed depreciation) shall not be allowed from the undisclosed income while computing total income during the previous year if following conditions are satisfied -

- a) Total income of assessee include undisclosed income
- b) Such undisclosed income is consequent to a search u/s 132 or a requisition u/s 132A or a survey u/s 133A [other than u/s 133A(2A)]

CHAPTER - 10: DEDUCTION FROM GROSS TOTAL INCOME

EXEMPTION VS DEDUCTIONS

(1) **Exemptions:** The various items of income referred to in the different clauses of section 10 are excluded from the total income of an assessee. These incomes are known as exempted incomes. "Exemption" means exclusion. A particular income exempt from tax under section 10 shall not enter into the computation of taxable income. However, there are certain items of income referred to in section 10 which are not exempted if the assessee pays concessional rates of tax under the default tax regime u/s 115BAC, namely, -

10(5)	Leave travel concession
10(13A)	House Rent Allowance
10(14)	Special Allowances except - (a) Travelling allowance (b) Daily allowance (c) Conveyance allowance (d) Transport allowance to blind/deaf and dumb/ orthopedically handicapped employee
10(17)	Daily allowance/ Constituency allowance received by any Member of Parliament or of State Legislatures
10(32)	Exemption in respect of income of minor child included in assessee's total income

(2) "Deduction" in relation to Chapter VI-A and section 10AA refers to the amount that is reduced from gross total income to arrive at the total income. There are incomes which are included in gross total income but are wholly or partly allowed as deduction under Chapter VI-A in computation of total income, if the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A) and pays tax as per the optional tax regime under the normal provisions of the Act.

Deduction is allowed on specific investments or expenses incurred by the taxpayer to promote the culture of savings and investments. This could include medical expenditure, donations made to charities, investments made in specific avenues such as Public Provident Fund (PPF), National Pension Scheme (NPS) etc.

However, if the assessee pays concessional rates of tax under default tax regime u/s 115BAC, only deduction in respect of employer's contribution to NPS u/s 80CCD(2),

Central Government's contribution to Agnipath Scheme u/s 80CCH(2) and deduction in respect of employment of new employees u/s 80JJAA would be allowed to the assessee. He cannot claim deduction under any other provision in Chapter VI-A under the default tax regime.

Section 10AA also provides for a deduction in respect of units established in SEZ from the total income of the assessee. It is available only if the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

This deduction is not available if the assessee pays concessional rates of tax under the default tax regime u/s 115BAC.

The tax liability is calculated on the "total income" which is arrived after reducing permissible deductions from gross total income.

Students should note this very important difference between exemption under section 10 and the deduction under Chapter VI-A/10AA.

Difference between Deduction under Chapter VI-A & section 10AA and Exemption under section 10

Particulars	Deduction (in relation to Chapter VI-A and section 10AA)	Exemption (contained in section 10)
Meaning	Investment /contributions in certain instruments (as prescribed under Income tax Act). Payments made for certain purposes.	incomes which are Income-exempt u/s 10 will not be included in computing gross total income.
Relevant Sections	Sections 80C to 80U in chapter VI-A and section 10AA of the Income-tax Act.	Section 10 of the Income-tax Act.
Manner of treatment	First included in the Gross Total Income and then deductions will be allowed form Gross Total Income.	Not included in the Gross Total Income.

The important point to be noted here is that if there is no gross total income, then no deductions will be permissible. This Chapter contains deduction under Chapter VI-A which includes deductions in respect of certain payments, deductions in respect of certain incomes, deductions in respect of other income and other deductions. It also includes deduction under section 10AA.

Deduction to be made in computing total income [section 80A]

✚ Deduction cannot exceed GTI.

- ✚ No double deduction under two simultaneous provisions
- ✚ No deduction u/s 10A or 10AA or 80-IA to 80-RRB, if not claimed in the return of income.
- ✚ No deduction u/s 35AD, if deduction claimed u/s 80-IA to 80-RRB.
- ✚ Deduction not to be allowed unless return furnished.
- ✚ **No deduction under Chapter VI-A is allowed from the following income -**
 - (a) Long term capital gain u/s 112 and 112A
 - (b) Short term capital gain u/s 111A
 - (c) Winnings from lotteries, races, etc u/s 115BB
 - (d) Income u/s 115A(1)(a), 115BAC, 115ACA, 115AD, 115BBA, 115BBD, 115BBDA, 115BBE, 115BBF, 115BBG, **115BBJ** and 115D.

DEDUCTION UNDER SECTION 80C

Quantum of deduction: The amount so deposited / invested or ₹1,50,000 whichever is less.

Eligible deposits or investments:

	Particulars	Notes
	Category A: Applicable to Individual & HUF both	In case of individual: individual, spouse and child In case of HUF: any member of HUF
(1)	Life insurance premium	Maximum deduction: <ul style="list-style-type: none"> ➤ Premium on insurance policy 10% of the actual sum assured on or after 1-04-2012 ➤ Premium on insurance policy 20% of the actual sum assured before 1-04-2012 ➤ Premium on insurance policy 15% of the actual sum assured on or after 1-4-2013, where the policy, is for insurance on life of any person, who is - <ol style="list-style-type: none"> (i) A person with disability u/s 80U or (ii) Suffering from disease u/s 80DDB.
(2)	PPF	-
(3)	ULIP	-
(4)	Annuity plan	-
	Category B: Applicable to individual	
(1)	Deferred annuity plan	-
(2)	Deferred annuity plan of government	-
(3)	SPF/RPF	-
(4)	TUTION FEES	Only for 2 children not in nature of donation

INCOME TAX Summary Book (Applicable for MAY'24/JUNE'24/NOV'24/DEC'24)

		or development fees.
(5)	Repayment of housing loan	Any expenditure which is deductible u/s 24 is not deductible.
(6)	Approved superannuation fund	
(7)	Notified deposit scheme	Sukanya samriddhi account
(8)	NSC	-
(9)	Units of UTI or Mutual fund	-
(10)	Notified pension fund	-
(11)	Notified deposit scheme of NHB	-
(12)	Notified subscriptions to housing finance companies/housing boards	-
(13)	Equity shares, or debenture, units, etc. of infrastructure undertakings	-
(14)	5-year FDR's of Bank	-
(15)	Notified bonds of NABARD	-
(16)	Deposit in an account under the senior citizen saving scheme rules, 2004	-
(17)	5-year FDR's of post offices	-
(18)	NPS (Tier-II) contribution	Employee of central government

CONTRIBUTION TO CERTAIN PENSION FUNDS [SECTION 80CCC]

- ♣ **Eligible assessee:** Individual
- ♣ **Nature of payment:** Annuity plan fo LIC or other insurer under section 10(23AAB)
- ♣ **Amount of deduction:** Amount paid or ₹ 1,50,000 whichever is less.
- ♣ Amount received as pension or on surrender of annuity plan - **Taxable.**
- ♣ Double deduction not admissible under section 80C.

CONTRIBUTION TO PENSION SCHEME OF CENTRAL GOVERNMENT [SECTION 80CCD]

- ♣ **Eligible assessee:** Individual employed by CG or employed by any other employer or other individual assessee.
- ♣ **Nature of payment:** Employee's or Employer's contribution to Approved Pension Scheme of CG and amount deposited by other individual.
- ♣ **Amount of deduction:**
 1. In case of salaried employee:

Employee's contribution [section 80CCD(1)] : amount paid or 10% of salary, whichever is lower.	-
Employer's contribution [section 80CCD(1)] : amount paid or 10% of	-

salary, (14% of salary where contribution is made by CG or SG), whichever is lower.	
Salary includes dearness allowance	

2. In case of any other individual assessee [section 80CCD(1)]: Sum paid or 20% of his gross total income.

3. Additional deduction of ₹ 50,000 in respect of contribution to NPS of CG [section 80CCD(1B)].

- ♣ Amount received as pension or on closure of pension scheme - Taxable. However in case of death, not taxable in hands of nominee.
- ♣ Pension from the NPS Trust to an assessee on closure or opting out of the pension scheme - exempt upto 60%.
- ♣ Payment from NPS trust to an employee on partial withdrawal - exempt upto 25%.
- ♣ No taxability if sum is invested in annuity plan.

LIMIT ON DEDUCTION UNDER SECTION 80C, 80CCC AND 80CCD [SECTION 80CCE]: is restricted to ₹1,50,000. (50,000 pe yeh limit applicable nahi hogi).

DEDUCTION IN RESPECT OF CONTRIBUTION TO AGNIPATH SCHEME [SECTION 80CCH]

(1) Meaning of Agnipath Scheme: Agnipath scheme is a Central Government scheme launched in 2022 for enrolment of Indian youth in the Indian Armed Forces.

(2) Meaning of Agniveer Corpus Fund: The Agniveer Corpus Fund means a fund in which consolidated contributions of all the Agniveers and matching contributions of the Central Government along with interest on both these contributions are held.

(3) Features of the Agnipath Scheme: Each Agniveer is to contribute 30% of his monthly customized Agniveer Package to the individual's Agniveer Corpus Fund. Further, the Government will also contribute a matching amount to the Agniveer Corpus Fund". The Government will also pay to the subscriber interest as approved from time to time on the contributions standing in his account.

(4) Deduction: Section 80CCH provides deduction in respect of contribution made in the Agniveer Corpus Fund by the individual enrolled in the Agnipath Scheme and the Central Government.

(5) Quantum of deduction:

(i) Section 80CCH(1) provides a deduction for the amount paid or deposited by an assessee, being an individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund on or after 1-11-2022, in his account in the Agniveer Corpus Fund.

Deduction u/s 80CCH(1) would be available to an individual only if he has exercised the option of shifting out of the default tax regime provided u/s 115BAC(1A).

(ii) Under section 80CCH(2), the whole amount of contribution made by the Central Government to the said account of an assessee in the Agniveer Corpus Fund, is allowed as a deduction in computation of the total income of the assessee.

(iii) The entire Central Government's contribution to the Agniveer Corpus Fund would be included in the salary of the assessee. However, deduction under section 80CCH(2) would be available for the same.

Deduction under section 80CCH(2) would be available to an individual irrespective of the regime under which he pays tax.

Exemption on payment from Agnipath Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee [Section 10(12C)]

Any payment from the Agnipath Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee would be exempt from tax.

DEDUCTION IN RESPECT OF HEALTH INSURANCE PREMIA [SECTION 80D]

S.no	Nature of payment/expenditure	Expenditure on behalf of	Admissible deduction
1.	(i) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health (ii) Contribution to CGHS (iii) Preventive health check up expenditure	In case of Self, spouse and dependent children	₹ 25,000
		In case of HUF Family member	
		IN CASE ANY OF THE ABOVE PERSONS IS OF THE AGE OF 60 YEARS OR MORE+ RESIDENT IN INDIA	₹ 50,000
2.	(i) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health (ii) Preventive health check up	For parents	₹ 25,000
		IN CASE OF EITHER OR BOTH THE PARENTS IS OF THE AGE OF 60 YEARS OR MORE + RESIDENT IN INDIA	
	Maximum ₹5,000 allowed as deduction for aggregate of preventive health check up expenditure mentioned in 1 & 2 (subject to overall limit of ₹25,000 or ₹50,000, as the case may be)		
3.	Amount paid on account of Medical Expenditure	For self/spouse/parents + who is the age of 60 years or more + Resident in India + no payment has been made to keep in force an insurance on health of such person	₹ 50,000

Note: In case the individual or any of his family members is a senior citizen, the aggregate of deduction, in respect of payment of premium, contribution to CGHS and medical expenditure incurred, as specified in 1 & 3 above, cannot exceed ₹ 50,000.

In case the parents are senior citizen, the aggregate of deduction, in respect of payment of medical insurance premium and medical expenditure, as specified in 2 above, cannot exceed ₹ 50,000

DEDUCTION IN RESPECT OF MAINTENANCE INCLUDING MEDICAL TREATMENT OF A DEPENDENT WHO IS A PERSON WITH DISABILITY [SECTION 80DD]

- ♥ **Eligible assessee:** Resident individual or HUF
- ♥ **Nature of payment:** Expenditure incurred for medical treatment of dependent, being a person with disability
- ♥ **Amount of deduction:** General ₹75,000, special ₹1,25,000 (severe disability 80% or more)
- ♥ **Meaning of dependant:**
 - 1) **In case of individual:** spouse, children, parents, brothers and sisters of individual
 - 2) **In case of HUF:** any member of family
- ♥ Disability certificate to be furnished
- ♥ **Condition of scheme:**
 - (a) The scheme provides for payment of annuity or lump sum amount for the benefit of a dependent, being a person with disability, -
 - (i) In the event of the death of the individual or the member of the HUF in whose name subscription to the scheme has been made; or
 - (ii) On attaining the age of 60 years or more by such individual or the member of the HUF, and the payment or deposit to such scheme has been discontinued;
 - (b) The assessee must nominate either the dependant, being person with disability, or any other person or a trust to receive the payment on his behalf, for the benefit of such dependant.
- ♥ **Taxability of amount received on death of dependant:** if the dependant disabled predeceases such individual or member of HUF, the amount paid or deposited under the scheme shall be deemed to be income of assessee of the previous year in which it is received by the assessee and accordingly be chargeable to tax as the income of that previous year.

However, the taxability shall not arise to the amount received by the dependant, being a person with disability, before his death, by way of annuity or lump sum by application of the condition referred to in point no 1(a)(ii)

DEDUCTION IN RESPECT OF MEDICAL TREATMENT, ETC. [SECTION 80DDB]

- ◆ **Eligible assessee:** Resident individual or HUF
- ◆ **Condition to be satisfied:** Expenditure on medical treatment of prescribed disease of
 - 1) In case of individual: spouse, children, parents, brothers and sisters of individual
 - 2) In case of HUF: any member of family
- ◆ **Amount of deduction:** Sum so paid or ₹40,000 or ₹1,00,000 in case of senior citizen.
- ◆ Medical prescription to be obtained.

DEDUCTION IN RESPECT OF INTEREST ON LOAN TAKEN FOR HIGHER EDUCATION [SECTION 80E]

- ✚ **Eligible assessee:** Individual
- ✚ **Nature of payment:** Interest on loan taken from any financial institution or any approved charitable institution for higher education or higher education of relative.
- ✚ **Amount of deduction:** 100%.
- ✚ **Period of deduction:** 8 years or until interest is paid whichever is earlier.
- ✚ Relative means individual, spouse and children.

DEDUCTION IN RESPECT OF INTEREST ON LOAN TAKEN FOR RESIDENTIAL HOUSE PROPERTY [SECTION 80EE]

- **Eligible assessee:** Individual.
- **Nature of payment:** Interest payable on loan taken from financial institution
- **Amount of deduction:** Interest payable or ₹50,000 whichever is less beginning with A.Y 2017-18 and subsequent assessment years.
- **Conditions to be satisfied:**
 - 1) Loan sanctioned **between 1-4-2016 and 31-3-2017**
 - 2) Amount of loan **does not exceed ₹35,00,000**
 - 3) Value of residential property **does not exceed ₹50,00,000**
 - 4) Assessee does not own any residential house property on the date of sanction of loan.
- **No double deduction.**

DEDUCTION IN RESPECT OF INTEREST ON LAON TAKEN FOR CERTAIN HOUSE PROPERTY [SECTION 80EEA]

- ♣ **Eligible assessee:** Individual not claiming deduction u/s 80EE
- ♣ **Nature of payment:** Interest payable on loan taken from financial institution
- ♣ **Amount of deduction:** Interest payable or ₹1,50,000 whichever is less beginning with A.Y 2021-22 and subsequent assessment years.
- ♣ **Conditions to be satisfied:**
 1. Loan sanctioned **between 1-4-2019 and 31-3-2022**

2. Value of residential property does not exceed ₹45,00,000

3. Assessee does not own any residential house property on the date of sanction of loan.

♣ No double deduction.

DEDUCTION IN RESPECT OF PURCHASE OF ELECTRIC VEHICLE [SECTION 80EEB]

♣ **Eligible assessee:** Individual

♣ **Nature of payment:** Interest payable on loan taken from financial institution

♣ **Amount of deduction:** Interest payable or ₹1,50,000 whichever is less.

♣ **Conditions to be satisfied:** Loan sanctioned between 1-4-2019 and 31-3-2023.

♣ No double deduction.

DEDUCTION IN RESPECT OF DONATIONS TO CERTAIN FUNDS, CHARITABLE INSTITUTIONS, ETC. [SECTION 80G]

♣ **Eligible assessee:** All assessee

In case of an individual, HUF, AOP (other than a co-operative society) or BoI or an artificial juridical person, deduction would be available only if they have exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). It would not be available if they pay concessional rates of tax under the default tax regime u/s 115BAC.

In case of companies and co-operative societies, deduction would not be available if they opt for the special provisions u/s 115BAA/115BAB and section 115BAD/115BAE, respectively. In other words, deduction would be available only if they pay tax under the normal provisions of the Act.

♣ **Conditions to be satisfied:**

i. Donation in kind not eligible

ii. No deduction for cash donation exceeding ₹2,000.

♣ **Amount of deduction:**

1. **Funds eligible for 100% deduction without any qualifying limit -**

(a) National defence fund

(b) The Prime Minister National Relief Fund or the Prime Minister's Citizen assistance and relief in Emergency Situtaion Fund (PM CARES FUND)

(c) Swachh Bharat Kosh

(d) Clean Ganga Fund

(e) Chief Minister relief Fund.

(f) National children fund

2. **Funds eligible for 50% deduction without any qualifying limit -**

~~(a) The Jawaharlal Nehru Memorial Fund~~

~~(b) The Indira Gandhi Memorial Trust~~

(c) The Prime Minister's Drought Relief Fund

~~(d) The Rajiv Gandhi Foundation~~

3. Funds eligible for 100% of qualifying amount -

- (a) Promoting family planning
- (b) Indian Olympic association (only to company)

4. Funds eligible for 50% of qualifying amount -

- (a) Charitable purpose
- (b) Charitable institution
- (c) House accommodation for planning, development or improvement of cities
- (d) Promoting interest of minority

- + Qualifying limit: 10% of adjusted total income
- + Adjusted total income: Gross Total income - deduction under 80C to 80U other than 80G - income included in gross total income no which no tax is payable - incomes referred u/s 111A, 112, 112A, 115BB, 115(1)(a), 115AC, 115ACA, 115AD, 115BBA, 115BBD, 115BBDA, 115BE, 115BBF, 115BBG, 115BBH, 115BBJ and 115D included in gross total income.
- + Deduction admissible to done on the basis of information furnished by the donor to prescribed authority.
- + Statement to be furnished to prescribed authority
- + Certificate to the donor.

DEDUCTION IN RESPECT OF RENTS PAID [SECTION 80GG]

- ◆ Eligible assessee: Individual
- ◆ Condition for eligibility: Must not receipt HRA.
- ◆ Amount of deduction: least of the following -
 1. Rent paid - 10% of adjusted total income
 2. 25% of adjusted total income
 3. ₹5,000 p.m.

Adjusted total income means total income computed before allowing the deduction under this section but excluding incomes from which deduction under this chapter is not allowed.

DEDUCTION IN RESPECT OF CERTAIN DONATIONS FOR SCIENTIFIC RESEARCH OR RURAL DEVELOPMENT [SECTION 80GGA]

- ♥ Eligible assessee: All assessee excluding whose GTI is from PGBP
- ♥ No deduction for cash donation exceeding ₹2,000.
- ♥ Amount of donation : 100%
- ♥ Deduction not deniable even if approval withdrawn subsequently.
- ♥ Deduction admissible on the basis of information furnished by the payee to prescribed authority.

DEDUCTION IN RESPECT OF CONTRIBUTION GIVEN BY COMPANIES TO POLITICAL PARTY [SECTION 80GGB]

- ♣ **Eligible assessee:** Indian company
- ♣ **Nature of payment:** Contribution to a political party
- ♣ **Amount of deduction:** 100%
- ♣ Cash contribution not eligible.

DEDUCTION IN RESPECT OF CONTRIBUTION GIVEN BY ANY PERSON TO POLITICAL PARTY [SECTION 80GGC]

- ♣ **Eligible assessee:** Any person (other than local authority and an artificial juridical person, wholly or partly funded by the government)
- ♣ **Nature of payment:** Contribution to a political party
- ♣ **Amount of deduction:** 100%
- ♣ Cash contribution not eligible.

DEDUCTION IN REPECT OF PROFITS AND GAINS FROM INDUSTRIAL UNDERTAKING OR ENTERPRISES ENGAGED INFRASTRUCTURE DEVELOPMENT, etc [sec 80-IA] [only for CMA]

Infrastructure facility

- × **Applicable to** - Indian company or body established under central or state act
- × **Condition to be satisfied** - developing, operating and maintaining any infrastructure facility
- × **Agreement** - with government
- × **Commencement of business** - after 1/4/1995 before 1/4/2017

Case	Quantum of deduction	Period of deduction
For infrastructure facility being		
A port, airport, inland port or inland waterway	100%	10 consecutive years out of 15 years
Housing and other developmental activities which are part of highway project	100%	10 consecutive years out of 20 years
Any other facility	100%	10 consecutive years out of 20 years

Industrial park or SEZ

- ♣ **Applicable to** - all assessee
- ♣ **Condition to be satisfied** - developing, operating and maintaining industrial park or SEZ
- ♣ **Commencement of business** - industrial park (1/4/1997 to 31/3/2011), SEZ (1/4/2001 to 31/6/2006)
- ♣ **Quantum of deduction** - 100% of profit for 10 consecutive years out of 15 years.

Power generation, transmission and distribution

- ♣ **Applicable to** - all assessee

- ♣ **Condition to be satisfied** - generation or generation and distribution of power
- ♣ **Quantum of deduction** - 100% of profit for 10 consecutive years out of 15 years.

DEDUCTION IN RESPECT OF PROFITS AND GAINS BY AN UNDERTAKING OR ENTERPRISE ENGAGED IN DEVELOPMENT OF SEZ [SEC 80-IAB] [only for CMA]

- ✦ **Applicable to** - all assessee
- ✦ **Condition to be satisfied** - on or after 1/4/2005 before 1/4/2017
- ✦ **Quantum of deduction** - 100% of profit for 10 consecutive years out of 15 years.

DEDUCTION IN RESPECT OF ELIGIBLE START-UP [SEC 80-IAC] [only for CMA]

- a) **Applicable to** - an eligible start up (company or LLP) incorporated on or after 1/4/2016 - 1/4/2022, total turnover does not exceed ₹100 crore engaged in eligible business.
- b) **Quantum of deduction** - 100% of profit for 3 consecutive years out of 15 years.

DEDUCTION IN RESPECT OF PROFITS AND GAINS FROM CERTAIN INDUSTRIAL UNDERTAKINGS OTHER THAN INFRASTRUCTURE DEVELOPMENT UNDERTAKINGS [SEC 80-IB] [only for CMA]

Industrial undertaking

- ◆ **Applicable to** - all assessee
- ◆ **Conditions to be satisfied**
 - ♣ Manufacture or produces article specified under 11th schedule
 - ♣ Operates cold storage plant
 - ♣ Manufacture or production of article or thing does not include construction of dam, bridge, road or building
 - ♣ Undertaking located in the state of J&K
- ◆ **No of workers** - with the aid of power (10 workers), without the aid of power (20 workers)
- ◆ **Commencement of business** -

Case	Time period
Industrial undertaking located in the backward State being Jammu and Kashmir	1/4/1993 to 31/3/2012
Industrial undertaking located in other industrial backward States	1/4/1993 to 31/3/2004
Industrial undertaking including cold storage plant located in industrial backward district of category 'A' or 'B'	1/10/1994 to 31/3/2004
Cold chain facility for agricultural produce	1/4/1999 to 31/3/2004
Small scale undertaking	1/4/1991 to

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	31/3/2002
Any other industrial undertaking or cold storage plant	1/4/1991 to 31/3/1995

Quantum of deduction

Nature of undertaking	Deduction where undertaking is owned by		
	Company	Co-operative society	Any other person
Located in industrial backward State			
Located in industrial backward district of category 'A'	100% for 5 years and 30% for next 5 years	100% for 5 years and 25% for next 7 years	100% for 5 years and 25% for next 5 years
Operating cold chain facility for agricultural produce			
Located in industrial backward district of category 'B'	100% for 3 years 30% for next 5 years	100% for 3 years and 25% for next 9 years	100% for 3 years and 25% for next 5 years
Any other undertaking including small scale undertaking	30% for 10 years	25% for 12 years	25% for 10 years

DEDUCTION IN RESPECT OF PROFITS AND GAINS FROM HOUSING PROJECTS [SEC 80-IBA] [only for CMA]

✚ **Applicable to** - all assessee

✚ **Conditions to be satisfied** -

- Housing project 1/6/2016 on or before 31/3/2022
- Project to be completed within 5 years
- SDV does not exceed ₹45 lakh
- Single residential house allotted to individual (ek jahn ko ek he allowed hai)

✚ **Quantum of deduction** - 100% of profit

SPECIAL PROVISIONS IN RESPECT OF CERTAIN UNDERTAKINGS IN NORTH-EASTERN STATES [SEC 80-IE] [only for CMA]

▪ **Applicable to** - all assessee

▪ **Conditions to be satisfied** - during 1/4/2007 and 31/3/2017

Nature of the business

- manufacture or production of any article or thing (other than pan masala, tobacco, plastic bags, goods produced by petroleum oil or gas refineries)

- undertakes substantial expansion
- carry on any eligible business (hotel, adventure and leisure sports including ropeways, health services, running old age home etc.)
- **Location** - north-eastern states (Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura.)
- **quantum of deduction** - 100% of profit for a period of 10 consecutive years

DEDUCTION U/S 80JJA IN RESPECT OF PROFITS AND GAINS OF BUSINESS OF COLLECTING AND PROCESSING OF BIO-DEGRADABLE WASTE [only for CMA]

- ❖ **Applicable to** - all assessee
- ❖ **Condition to be satisfied** - engaged in business of collecting and processing or treating of bio-degradable waste
- ❖ **Quantum of deduction** - 100% of profit for 5 consecutive years

DEDUCTION IN RESPECT OF EMPLOYMENT OF NEW EMPLOYEE [SECTION 80JJAA]

- ♣ **Eligible assessee**: All assessee, whose GTI includes PGBP and to whom provision of section 44AB.
- ♣ **Quantum and period of deduction**: 30% of additional employee cost incurred and for 3 years
 - 1) **"Additional employee cost"** means total emoluments paid or payable to additional employee employed during the P.Y.
However, in the case of an existing business, the additional employee cost shall be nil, if -
 - (a) No increase in number of employees
 - (b) emoluments are paid otherwise than by account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed. [(a) credit card; (b) Debit card; (c) Net banking; (d) IMPS (immediate payment service); (e) UPI (unified payment service); (f) RTGS (real time gross settlement); (g) NEFT (national electronic funds transfer), and (h) BHIM (bharat interface for money) Aadhar pay have been prescribed as mode of electronic payment] [Amended by Finance act 2020]
 - 2) Additional employee cost in case of new business shall of previous year.
 - 3) **Additional employee means** increase in total number of employee in P.Y, but does not include -
 - (a) An employee whose **total emoluments are more than ₹25,000 p.m.** or
 - (b) An employee for whom the entire contribution is paid by the government
 - (c) An employee employed for a period of **less than 240 days in P.Y, in case of manufacturing of apparel or footwear or leather products less than 150 days in P.Y.**
 - (d) An employee who **does not participate in the recognised provident fund.**

- 4) **Emoluments means** any sum paid or payable but does not include -
- (a) Any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee and
 - (b) Any lump-sum payment paid or payable to an employee at a time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encasement, voluntary retrenchment benefits, commutation of pension and the like.
- ♣ **Conditions for claiming deduction:** No deduction under shall be allowed -
- (i) If the business is formed by splitting up, or the reconstruction of an existing business (except in case of section 33B)
 - (ii) In case of business reorganisation
 - (iii) Unless the assessee furnishes the report of CA before the specified date referred to in section 44AB.

DEDUCTION in respect of certain income of offshore banking [Sec 80LA] [only for CMA]

- ✓ Assessee must be a scheduled bank
- ✓ It has a branch in India located in SEZ.
- ✓ **Quantum of deduction** -
 - a) In case of unit of an IFSC - 10 consecutive years out of 15 years - 100% of the income
 - b) In any other case - 5 consecutive year - 100% of the income & next consecutive year - 50% of income

DEDUCTION IN RESPECT OF INTER-CORPORATE DIVIDEND [Sec 80M] [only for CMA]

- **Applicable** - domestic company
- **Quantum of deduction** - minimum of following -
 - i. Dividend so received by the assessee
 - ii. Dividend distributed by the assessee within due date

DEDUCTION IN RESPECT OF INCOME OF PRODUCER COMPANIES [Sec 80PA] [only for CMA]

- ✚ **Applicable to** - producer company
- ✚ **Conditions to be satisfied** -
 - ♣ Turnover - less than ₹100 crore
- ✚ **Quantum of deduction** - 100%

DEDUCTION IN RESPECT OF ROYALTY INCOME, ETC., OF AUTHORS OF CERTAIN BOOKS OTHER THAN TEXT BOOKS [SECTION 80QQB]

- ✚ **Eligible assessee:** Resident Individual (GTI includes eligible income)
- ✚ **Eligible income:** Income, on account of -
 - (a) Lump sum consideration
 - (b) Royalty or copyright fees

Book shall not include brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlet, text-books for schools, tracts and other publications of similar nature.

- ✚ **Amount of deduction:** lower of 100% of such eligible income or ₹3,00,000.

Note: The amount of eligible income (before allowing expenses attributable to such income) shall not exceed 15% of the value of the books sold during the previous year. However, this condition is not applicable where the royalty or copyright fees is receivable in lump sum in lieu of all rights of the author in the book.

- ✚ Royalty income earned from foreign sources is taxable.

DEDUCTION IN RESPECT OF ROYALTY INCOME ON PATENTS [SECTION 80RRB]

- ✚ **Eligible assessee:** Resident Individual (GTI includes eligible income)
- ✚ **Eligible income:** Royalty income on patent
- ✚ **Amount of deduction:** lower of 100% of such eligible income or ₹3,00,000.
- ✚ Royalty income earned from foreign sources is taxable.

DEDUCTION IN RESPECT OF INTEREST ON DEPOSITS IN SAVINGS ACCOUNTS [SECTION 80TTA]

- **Eligible assessee:** Individual or HUF (other than the assessee referred in section 80TTB)
- **Eligible income:** Any income by way of an interest on deposits in a saving account (not being time deposit) from a banking company, a co-operative society or a post office
- **Amount of deduction:** 100% of interest income or 10,000. Whichever is lower.
- No deduction in case of accounts held by/ on behalf of firm/ AOP/ BOI.

DEDUCTION IN RESPECT OF INTEREST ON DEPOSITS IN CASE OF SENIOR CITIZENS [SECTION 80TTB]

- **Eligible assessee:** Individual being senior citizen
- **Eligible income:** Any income by way of an interest on deposits from a banking company, a co-operative society or a post office
- **Amount of deduction:** 100% of interest income or 50,000. Whichever is lower.
- No deduction in case of accounts held by/ on behalf of firm/ AOP/ BOI.

DEDUCTION IN CASE OF PERSON WITH DISABILITY [SECTION 80U]

- **Eligible assessee:** Resident individual is certified by the medical authority to be person with disability.
- **Amount of deduction:** A deduction of ₹75,000 in respect of person with disability and ₹1,25,000 in respect of a person with **severe disability** (having disability over 80%).
- Prescribed certificate to be furnished.

CHAPTER - 13: ASSESSMENT OF INDIVIDUAL

GENERAL RATES OF INCOME-TAX

(1) Individual/ Hindu Undivided Family (HUF)/ Association of Persons (AOP)/ Body of Individuals (BOI)/ Artificial Juridical Person

Default tax regime under section 115BAC of the Income-tax Act, 1961:

I. Concessional tax rates

Individuals/HUF/AOPs/ BOIs or artificial judicial persons, other than those who exercise the option to opt out this regime under section 115BAC(6), have to pay tax in respect of their total income (other than income chargeable to tax at special rates under Chapter XII such as section 111A, 112, 112A, 115BB, 115BBJ etc.) at the following concessional rates, subject to certain conditions specified under section 115BAC(2) -

	Total Income	Rate
(i)	Upto ₹ 3,00,000	Nil
(ii)	From ₹ 3,00,001 to ₹ 6,00,000	5%
(iii)	From ₹ 6,00,001 to ₹ 9,00,000	10%
(iv)	From ₹ 9,00,001 to ₹ 12,00,000	15%
(v)	From ₹ 12,00,001 to ₹ 15,00,000	20%
(vi)	Above ₹ 15,00,000	30%

✚ Rate of surcharge applicable to Individual/HUF

	Particulars	Rate of surcharge on income tax
(i)	Where the total income (including income u/s 111A, 112 and 112A) exceed ₹ 50 Lakhs but does not exceed ₹ 1 crore	10%
(ii)	Where the total income (including income u/s 111A, 112 and 112A) exceed ₹ 1 crore but does not exceed ₹ 2 crore	15%
(iii)	Where the total income (including income u/s 111A, 112 and 112A) exceed ₹ 2 crore but does not exceed ₹ 5 crore	25%
	The rate of surcharge on the income tax payable on the portion of income chargeable to tax u/s 111A, 112 and 112A	Not exceeding 15%
(iv)	Where the total income (including income u/s 111A, 112 and 112A) exceed ₹ 5 crore	37%
	The rate of surcharge on the income tax payable on the	Not

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	portion of income chargeable to tax u/s 111A, 112 and 112A	exceeding 15%
(v)	Where total income (including income u/s 111A, 112 & 112A) exceed ₹ 2 crore in cases not covered under (iii) and (iv) above	15%

II. Conditions to be satisfied

The following are the conditions to be satisfied:

(i)	Certain deductions/exemptions not allowable: Section 115BAC(2) provides that while computing total income, the following deductions/exemptions would not be allowed:	
	Section	Provision
	10(5)	Leave travel concession
	10(13A)	House rent allowance
	10(14)	Exemption in respect of special allowances or benefit to meet expenses relating to duties or personal expenses (other than those as may be prescribed for this purpose)
	10(17)	Daily allowance or constituency allowance of MPs and MLAs
	10(32)	Exemption in respect of income of minor child included in the income of parent
	10AA	Tax holiday for units established in SEZ
	16	(i) Entertainment allowance (ii) Professional tax
	24(b)	Interest on loan in respect of self-occupied property
	32(1)(iia)	Additional depreciation
	35(1)(ii), (ii a), (iii)/35(2AA)	Deduction in respect of contribution to- <ul style="list-style-type: none"> ▪ notified approved research association/ university/ college/ other institutions for scientific research [Section 35(1)(ii)] ▪ approved Indian company for scientific research [Section 35(1) (iia)] ▪ notified approved research association/ university/ college/ other institutions for research in social science or statistical research [Section 35(1)(iii)] ▪ An approved National laboratory/ University/ IIT/ Specified person for scientific research undertaken under an approved programme [Section 35(2AA)]
	35AD	Investment linked tax incentives for specified businesses
	80C to 80U	Deductions under Chapter VI-A (other than employers contribution towards NPS u/s 80CCD(2), Central Government contribution

	towards Agnipath Scheme under section 80CCH(2) and deduction in respect of employment of new employees under section 80JJAA).
(ii)	<p>Certain losses not allowed to be set-off: While computing total income, set-off of any loss-</p> <p>(a) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in (i) above; or</p> <p>(b) under the head house property with any other head of income;</p> <p>would not be allowed.</p>
(iii)	<p>Depreciation or additional depreciation: Depreciation u/s 32 is to be determined in the prescribed manner. Depreciation in respect of any block of assets entitled to more than 40%, would be restricted to 40% on the written down value of such block of assets. Additional depreciation u/s 32(1)(ia), however, cannot be claimed.</p>
(iv)	<p>Exemption or deduction for allowances or perquisite: While computing total income, any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being force in India would not be allowed.</p>

Additional points:

Total income under default tax regime should be computed without set-off of any loss brought forward or depreciation from any earlier assessment year, where such loss or depreciation is attributable to any of the deductions listed in (1) above. Such loss and depreciation would be deemed to have been already given effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year. Where income-tax on total income of the assessee is computed under this section and there is a depreciation allowance in respect of a block of asset from an earlier assessment year attributable to additional depreciation under section 32(1)(a), which has not been given full effect to prior to A.Y. 2024-25 and which is not allowed to be set-off in the A.Y. 2024-25 due to section 115BAC, corresponding adjustment shall be made to the WDV of such block of assets as on 1.4.2023 in the prescribed manner i.e., the WDV as on 1.4.2023 will be increased by the unabsorbed additional depreciation not allowed to be set-off.

Example: Let us consider the case of Mr. X, who carries on business of manufacturing of steel. He has unabsorbed depreciation as on 1.4.2023, which includes amount attributable to additional depreciation u/s 32(1)(a) of P.Y. 2022-23 or any earlier previous year in respect of block of plant and machinery. If he pays tax under default tax regime under section 115BAC for P.Y. 2023-24 relevant to A.Y. 2024-25, the amount so attributable to additional depreciation of earlier year remaining unabsorbed as on 1.4.2023 would not be eligible for set-off against current year income and no further deduction for such loss or depreciation shall be allowed for any subsequent

year. Accordingly, the WDV of the block as on 1.4.2023 has to be increased by the said amount not allowed to be set-off.

III. Time limit for exercising the option to shift out of the default tax regime

(i) **In case of an assessee having no income from business or profession:** Where such individual/HUF/AOP/BOI or Artificial Juridical person is not having income from business or profession, he/it can exercise an option to shift out/opt out of the default tax regime under this section and such option has to be exercised along with the return of income to be furnished under section 139(1) for a previous year relevant to the assessment year. In effect, such individual/HUF/AOP/BOI or Artificial Juridical person can choose whether or not to exercise the option of shifting out of the default tax regime in each previous year. He may choose to pay tax under default tax regime under section 115BAC in one year and exercise the option to shift out of default tax regime in another year.

(ii) **In case of an assessee having income from business or profession:** Such individual/HUF/AOP/BOI or Artificial Juridical person having income from business or profession has an option to shift out/ opt out of the default tax regime under this section and the option has to be exercised on or before the due date specified under section 139(1) for furnishing the return of income for such previous year and once such option is exercised, it would apply to subsequent assessment years.

Such person who has exercised the above option of shifting out of the default tax regime for any previous year shall be able to withdraw such option only once and pay tax under the default tax regime under section 115BAC for a previous year other than the year in which it was exercised.

Thereafter, such person shall never be eligible to exercise option under this section, except where such person ceases to have any business income in which case, option under (i) above would be available.

AMT liability not attracted: Individual/HUF/AoP/Bol or Artificial Juridical person paying tax under default tax regime under section 115BAC is not liable to alternate minimum tax under section 115JC. Such person would not be eligible to claim AMT credit also.

Note: It may be noted that in case of Individual/HUF/AOP/Bol or Artificial Juridical person not having income from business or profession, the total income and tax liability (including provisions relating to AMT, if applicable under normal provisions) may be computed every year both in accordance with the regular provisions of the Income-tax Act, 1961 and in accordance with the provisions of section 115BAC, in

order to determine which is more beneficial and accordingly such person may decide whether to pay tax under default tax regime under section 115BAC or exercise the option to shift out and pay tax under normal provisions of the Act for that year.

Rebate to resident individual paying tax under default tax regime under section 115BAC Section 87A1

In order to provide tax relief to the individual tax payers, section 87A provides a rebate from the tax payable by an assessee, being an individual resident in India. The rebate shall be provided as under-

- (a) **If total income of such individual does not exceed ₹ 7,00,000**, the rebate shall be equal to the amount of income-tax payable on his total income for any assessment year or an amount of ₹ 25,000, whichever is less.
- (b) **If total income of such individual exceeds ₹ 7,00,000** and income-tax payable on such total income exceeds the amount by which the total income is in excess of ₹ 7,00,000, the rebate would be as follows:
 - Step 1** - Total income (-) ₹ 7 lakhs (A)
 - Step 2** - Compute income-tax liability on total income (B)
 - Step 3** - If B>A, rebate under section 87A would be a B-A.

The amount of rebate under section 87A shall not exceed the amount of income-tax (as computed before allowing such rebate) on the total income of the assessee.

ALTERNATIVE MINIMUM TAX

- ❖ **Applicability** - to a person, other than company
- ❖ 15% of adjusted total income in case of cooperative society
- ❖ **Levy of AMT @18% on Adjusted total income**: adjusted total income shall be the total income as increased by -
 - (a) Deduction claimed under section 80LA to 80RRB (other than section 80P)
 - (b) Deduction under section 10AA; and
 - (c) Deduction claimed, if any, under section 35AD as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction under section 35AD was allowed in respect of the assets on which the deduction under that section is claimed.
- ❖ **Non applicability** -
 - (i) An individual or HUF or an AOP/BOI, whether incorporated or not, or an artificial judicial person, if the adjusted total income of such person does not exceed ₹ 20 lakhs.
 - (ii) A person who has exercised the option referred to in 115BAC or section 115BAD.
- ❖ **Obtaining report from CA.**

- ❖ Applicability of interest and penal provisions: provisions relating to self assessment under section 140A, advance tax, interest under sections 234A, 234B and 234C, penalty etc. would also apply to a person who is subject to AMT.
- ❖ **Tax credit for alternative minimum tax:**
 - (a) Tax credit to be allowed = AMT paid - regular income tax payable
 - (b) No interest shall be payable on tax credit
 - (c) Tax credit for 15 subsequent assessment years
 - (d) Regular tax > AMT, then credit used
- ❖ Tax credit allowable even if adjustable total income does not exceed ₹ 20 lakh in the year of set off

Exemption to political party [Sec 13A]

Condition to claim exemption

- + Maintenance of books of account
- + Record of voluntary contribution in excess of ₹ 20000
- + Audit of accounts
- + Cap on cash donation - ₹ 2000
- + Return of income
- + Submission of report
- + Income by way of voluntary contribution is exempt
- + Income from IHP, IOS, CG is not included

Income of electoral trust [Sec 13B]

Condition to claim exemption

- ✦ Trust approved by CBDT
- ✦ Trust distributes 95%
- ✦ Any voluntary contribution exempted

Co-operative society

Deduction u/s 80P in respect of co-operative societies

Income derived from	Deduction
Specified activities	100% of income from such activities
Activity other than specified activities	Assessee is a consumer's co-operative society - ₹ 100000 In any other case - ₹50000
Following income of any co-operative society is also exempt -	
<ul style="list-style-type: none"> ▪ Interest or dividend from its investments with any other co-operative society ▪ Letting of godowns or warehouse for storage, processing or facilitating the marketing of commodities; and ▪ Interest on securities or any IHP, provided certain conditions are satisfied 	

In the case of co-operative Society

Upto ₹ 10,000	10%
Next ₹ 10,000	20%
Balance	30%

Note-A manufacturing co-operative society, resident in India, can opt for concessional rates of tax under section 115BAE and other co-operative societies, resident in India, can opt for concessional rates of tax under section 115BAD.

Tax rate in case of a manufacturing co-operative society, resident in India (set up and registered on or after 1-4-2023 and commences manufacture of article or thing before 31-3-2024) opting for concessional tax regime u/s 115BAE:

15% of income derived from or incidental to manufacturing or production of an article or thing

Tax rate in case of other resident co-operative society opting for concessional tax regime u/s 115BAD:

22% of total income

Special rates for capital gains under sections 112, 112A and 111A would be applicable to Co-operative society also.

Note - Co-operative society, resident in India, can opt for concessional rate of tax u/s 115BAD or 115BAE, as the case may be, subject to certain conditions. The total income of such co-operative societies would be computed without giving effect to deduction under section 10AA, 33AB, 33ABA, 35(1)(ii)/(ia)/(iii), 35(2AA), 35AD, 35CCC, additional depreciation under section 32(1)(ia), deductions under Chapter VI-A (other than section 80JAA) etc. and set off of loss and depreciation brought forward from earlier years relating to the above deductions. The provisions of alternate minimum tax under section 115JC would not be applicable to a cooperative society opting for section 115BAD or 115BAE.

Surcharge:

Particulars	Rate
In case of a co-operative society (other than a co-operative society opting for section 115BAD or section 115BAE)-	
▪ If total income exceeds ₹ 1 crore but does not exceed ₹ 10 crores	7%
▪ If total Income exceeds ₹ 10 crores	12%
In case of a co-operative society opting for section 115BAD or section 115BAE (Since there is no threshold limit for applicability of surcharge. consequently, there would be no marginal relief)	10%

Alternative tax regime:

Domestic company can opt for section 115BAA or section 115BAB, as the case may be, subject to certain conditions. The total income of such companies would be computed without giving effect to deductions u/s 10AA, 32AD, 33AB, 33ABA, 35(1)(ii)/(a)/(iii), 35(2AA), 35(2AB), 35AD, 35CCC, 35CCD, deductions under Chapter VI-A (except section 80JJAA and section 80M), additional depreciation u/s 32(1)(ia) etc. and without set-off of brought forward loss and unabsorbed depreciation attributable to such deductions.

- In case of a domestic manufacturing company (set up and registered on or after 01-10-2019 and commences manufacture of article or thing before 31-3-2024) exercising option u/s 115BAB : 15% of income derived from or incidental to manufacturing or production of an article or thing (MAT not applicable]
- In case of a domestic company exercising option u/s 115BAA: 22% of total income [MAT not applicable]

Surcharge of 10% would be leviable on the income-tax computed on the total income of a company opting for the provisions of section 115BAA or 115BAB. Since there is no threshold limit for applicability of surcharge, consequently, there would be no marginal relief.

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TAX DEDUCTED AT SOURCE						
SECTI ON	NATURE OF PAYMENT	THRESHOLD LIMIT FOR DEDUCTION OF TAX AT SOURCE	PAYER	PAYEE	RATE OF TDS	TIME OF DEDUCTION
191	Direct payment	<p><i>Tax payment in respect of ESOP to be paid by the assessee directly: For the purpose of paying income tax directly by the assessee, if the income of the assessee in any assessment year, beginning on or after 01-04-2021, includes income of the nature specified in section 17(2)(vi) i.e, ESOP and such specified security or sweat equity shares are allotted or transferred directly or indirectly by the current employer, being an eligible start-up referred to in section 80-IAC, the income tax on such income shall be payable by the assessee within 14 days –</i></p> <p style="margin-left: 40px;"> <i>(i) After the expiry of 48 months from the end of the relevant assessment year; or</i> <i>(ii) From the date of the sale of such specified security or sweat equity share by the assessee; or</i> <i>(iii) From the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity share,</i> <i>Whichever is earliest.</i> </p>				
192	Salary	Basic exemption limit (<i>Rs 250000/300000</i> as the case may be). This is taken care in computation of the average rate of income tax.	Any person responsible for paying any income chargeable under head "salaries"	Individual employee	<i>Average rate of income tax</i> computed on the basis of rate in force	<i>At the time of payment</i>
<p>(1) Person responsible for deducting tax at source: <i>Any person responsible for paying any income chargeable under the head 'Salaries' shall be liable to deduct tax at source.</i></p> <p>(2) Time of tax deduction: <i>Tax is deducted at source at the time of making payment of salary.</i></p> <p>(3) Rate of tax deduction: <i>The TDS is to be made at the average of income tax computed on the basis of the rates in force for the financial year in which the payment is made, where the employee intimates to the employer his intent to exercise the option of shifting out of the default tax regime provided under section 115BAC(1A). In other words, the total tax to be deducted, on the estimated income of the employee for the relevant financial year, is divided by the number of months of his employment during that financial year. The employer may increase or reduce the amount of TDS for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.</i></p> <p>(4) Intimation to the employer of intended tax regime: <i>A deductor, being an employer, has to seek information from each of its employees having income under section 192 regarding their intended tax regime and each such employee would intimate the same to the deductor, being his employer, regarding his intended tax regime for each year and upon intimation, the deductor has to compute his total income, and deduct tax at source thereon according to the option exercised. If intimation is not made by the employee, it would be presumed that the employee continues to be in the default tax regime under section 115BAC and has not exercised the option to opt out of the default tax regime. Accordingly, in such a case, the</i></p>						

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	<p>employer has to deduct tax at source, on income under section 192, in accordance with the rates provided under section 115BAC(1A).</p> <p>It is also clarified that the intimation would not amount to exercising option under section 115BAC(6) and the person shall be required to do so separately in accordance with the provisions of that section [Circular No. 4/2023 dated 05-04-2023].</p>					
192A	Premature withdrawal from employee provident fund	Payment or aggregate payment more than or equal to Rs 50000	Trustees of the EPF scheme or any authorised person under the scheme	Individual (employee)	10% [in case of failure to furnish PAN, TDS @42.744% maximum marginal rate]	At the time of payment
193	Interest on securities	More than Rs 10000 in a F.Y. , in case of interest on 8% saving (taxable) bonds, 2003/7.75% saving (taxable) bonds, 2018. More than Rs 5000 in a F.Y. , in case of debentures issued by a Co. in which public are substantially interest, paid or credited to a resident individual or HUF by an account payee cheque. No threshold specified in any other case.	Any person responsible for paying any income by way of interest on securities.	Any resident	10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194	Dividend	No TDS shall be made in the case of a shareholder, being an individual, if – (i) The dividend is paid by the company by any mode other than cash; and (ii) The amount of such dividend or aggregate of dividend does not exceed Rs 5000. Non applicability: LIC, GIC, a business trust by SPV, any other person notified by CG	Indian company or company having prescribed arrangement for declaration or payment in India (including dividend on preference share)	Individual	10%	At the time of payment
194A	Interest other than interest on securities	More than Rs 40000 in a F.Y., in case of interest credited or paid by – (i) A banking company; (ii) A co-operative society engaged in	Any person (an individual or HUF whose total sales, gross receipts or turnover from business do exceed Rs 1	Any resident	10%	At the time of credit of such income to the account of the

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		<p><i>banking business; and</i></p> <p>(iii) A post office on any deposit under a notified scheme.</p> <p>In all the above cases, if payee is a <i>resident senior citizen</i>, tax deduction limit is <i>more than RS 50000</i>.</p> <p><i>More than Rs 5000</i> in a F.Y., <i>in other cases</i>.</p>	<p><i>crore or Rs 50 lakh in case of profession</i>) responsible for paying interest other than interest on securities.</p>			<p>payee or at the time of payment, whichever is earlier.</p>
<p><i>However, a co-operative society referred to point no (iv) and point no. (vii) above, shall be liable to deduct tax at source, if –</i></p> <p><i>(a) The total sales, gross receipt or turnover of the co-operative society exceed Rs 50 crore during the financial year immediately preceding the financial year in which the interest is credited or paid; and</i></p> <p><i>(b) The amount of interest, or the aggregate of the amounts of such interest, credited or paid, or is likely to be credited or paid, during the financial year is more than Rs 50000 in case of payee being a senior citizen and Rs 40000 in any other case.</i></p> <p><i>Time deposits means deposits (including recurring deposits) repayable on the expiry of fixed periods.</i></p> <p><i>No TDS/TCS at lower rate for notified persons: The central Government may, by notification in the official Gazette, provide that the deduction of tax shall not be made or shall be made at such lower rate, from such payment to such person or class of persons, as may be specified in the said notification.</i></p>						
194B	<p>Winning from any lottery, crossword puzzle or card game or other game of any sort</p>	<p><i>More than Rs 10000</i></p>	<p>The person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle or card game or other game of any sort or from gambling or betting of any form or nature (other than winnings from any online game in respect of which TDS u/s 194BA would be applicable) shall be liable to deduct tax at source.</p>	Any person	30%	<p>At the time of payment</p>

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194B A	WINNING S FROM ONLINE GAMES	<i>No limit</i>	Any person	Any person	30%	time of such withdrawal on the net winnings comprised in such withdrawal, as well as on the remaining amount of net winnings in the user account, computed in the manner as may be prescribed, at the end of the financial year
194B B	Winning from horse race	<i>More than Rs 10000</i>	Book maker or a person holding license for horse racing or for arranging for wagering or betting in any race course	Any person	30%	At the time of payment
194C	Payments to contractors	Single cum credit or paid <i>more than Rs 30000 (or) The aggregate of sums</i> credited or paid to a contractor during the F.Y <i>more than Rs 100000 Individual/HUF</i> need not deduct tax where sum is credited or paid <i>exclusively for personal purposes</i>	Central/state govt. local authority, central/state/provincial corpn., company, firm, trust, registered society, co-operative society, university established under central/state/provincial act, declared university under the UGC act, govt. of foreign state or a foreign enterprise, any association or body established outside India, <i>Individual/HUF has total sales, gross receipt or turnover from business or</i>	Any resident contractor for carrying out any work (including supply of work)	1% of sum paid or credited, if the <i>payee is an individual or HUF</i> 2% of sum paid or credited, if the <i>payee is any other person</i>	At the time of credit of such income to the account of the contractor or at the time of payment, whichever is earlier.

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			<i>profession carried on by him exceeding Rs 1 crore in case of business or Rs 50 Lakh in case of profession</i>			
	<i>Definition of work: "Work" shall include – (e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee under the provisions contained in Section 40A(2)(b) but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer.</i>					
194D	Insurance commission	<i>More than Rs 15000</i> in a F.Y	Any person responsible for paying any income by way of remuneration or reward for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance)	Any resident	5%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194DA	Any sum under a life insurance policy	<i>More than or equal to Rs 100000</i> (aggregate amount of payment to a payee in a F.Y)	Any person responsible for paying any sum under a LIP, including the sum allocated by way of bonus	Any resident	1%	At the time of payment
194E	Payment to non-resident sportsmen or sports associations of income referred to in section 115BBA	<i>No threshold limit</i>	Any person responsible making the payment	Non-resident sportsman (including an athlete) or entertainer who is not a citizen of India or non-resident sports association or institution	20% (plus HEC @4%) – Effective rate – 20.8%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194EE	Payment of deposit	<i>More than or equal to Rs 2500</i> in a F.Y	Any person responsible for paying	Individual or HUF	10%	At the time of payment

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	under NSS					
194G	Commission on sale of lottery tickets	<i>More than Rs 15000</i> in a F.Y	Any person responsible for paying any income by way of commission, remuneration or prize (by whatever name called) on lottery tickets	Any person stocking, distributing, purchasing or selling lottery tickets	5%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194H	Commission or brokerage	<i>More than Rs 15000</i> in a F.Y	Any person (an individual or HUF whose total sales, gross receipts or turnover from business exceed Rs 1 crore or Rs 50 Lakh in case of profession in the immediately preceding F.Y) responsible for paying commission or brokerage	Any resident	5%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194-I	Rent	<i>More than or equal to Rs 240000</i> in a F.Y	Any person (an individual or HUF whose total sales, gross receipts or turnover from business exceed Rs 1 crore or Rs 50 Lakh in case of profession in the immediately preceding F.Y) responsible for paying rent.	Any resident	<i>For P&M or equipment – 2%</i> <i>For land or building, land appurtenant to a building, furniture or fitting – 10%</i>	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194-IA	Payment on transfer of certain immovable property other than agriculture land	<i>consideration for transfer and SDV are both More than Rs 50,00,000</i> in a F.Y	Any person, being a transferee (other than a person referred to in a section 194LA responsible for paying compensation for compulsory acquisition of immovable property)	Resident transferor	1% of consideration or the SDV of such property, whichever is higher	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194-	Payment of	<i>More than Rs 50000 for a month or part</i>	Individual/HUF (other than	Any resident	5%	At the time of

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IB	rent by certain individuals or HUF	<i>of a month</i>	those referred to in the second proviso to section 194-I) responsible for paying rent.			credit of rent, for the last month of the P.Y or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment, whichever is earlier.
194-IC	Payment under specified agreement referred to in section 45(5A) i.e joint development	<i>No threshold limit</i>	Any person responsible for paying any sum by way of consideration, not being consideration in kind, under a registered agreement, wherein L or B or both are handed over by the owner for development of real estate projects, for a consideration, being a share in L or B or both in such project, with payments of part consideration in cash.	Any resident	10%, IF NOT PAN FURNISHED @20%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194J	Fees for professional or technical services/Royalty/ non-compete fees/ director's remuneration	<i>More than Rs 30000 in a F.Y.,</i> for each category of income (however, this limit does not apply in case of payment of directors remuneration)	Any person, other than an Individual/HUF; However, in case of fees for professional or technical services paid or credited, individual or HUF whose total sales, gross receipts or turnover from business or profession exceed the	Any resident	Mentioned below	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

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	n		monetary limits specified u/s 44AB in the immediately preceding F.Y., is liable to deduct tax u/s 194J, except where fees for professional services is credited or paid exclusively for his personal purposes.				
		Nature of Income				Rate of TDS	
						Existing Rates	
		Fees for technical services (not being a professional services)				2%	
		Royalty where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films				2%	
		In the case of a payee, engaged only in the business of operation of call centre				2%	
		In all other cases (fees for professional service, other royalty, any remuneration or fees or commission, by whatever name called, other than those on which tax is deductible under section 192, to a director of company, non competing fees)				10%	
194K	Income in respect of Units	No TDS in the following cases: The provision of this section shall not apply – (a) Where the amount of such income or aggregate of such income does not exceed Rs 5000; or (b) If the income is of the nature of capital gain	Any person responsible for paying to a resident any income in respect of – (a) Units of Mutual Fund specified under section 10(23D); or (b) Units from the Administration of the specified undertaking; or (c) Units from the specified company, Shall be liable to deduct tax at source		10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.	
194 LA	Compensation on acquisition of certain immovable	More than Rs 250000 in a F.Y	Any person responsible for paying any sum in the nature of compensation or enhanced compensation on compulsory acquisition of	Any resident	10%	At the time of payment	

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	property other than agriculture land		immobile property			
194M	Payments to contractors (or) commission / brokerage (or) fees for professional services	<i>More than Rs 5000000 in a F.Y</i>	Individual or HUF does not exceed Rs 1 crore in case of business or Rs 50 Lakh in case of profession other than those who are required to deduct tax at source u/s 194C or 194H or 194J (other than for personal purpose)	Any resident	5%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194N	Cash withdrawal	<i>More than Rs 1 crore</i>	<ul style="list-style-type: none"> - A banking company or any bank or banking institution - A co-operative society engaged in carrying on the business of banking or - Post office <p>However, if the recipient is a co-operative society, tax is required to be deducted on any sum exceeding ₹ 3crore.</p>	Any resident	2% of sum exceeding Rs 1 crore (being amount or aggregate of amount)	At the time of payment of such sum

Amount and rate of TDS: 2% of the sum paid.

Differential rate of deduction for recipient not having filed returns : However, in case of a recipient who has not filed the returns of income for all of the 3 assessment years relevant to the 3 previous years, for which the time limit of file return of income u/s 139(1) has expired, immediately preceding the previous year payment of the sum is made to him, the provision of this section shall apply with in which the the modification that-

- (i) the sum shall be the amount or the aggregate of amounts and as the case may be, in cash exceeding Rs 20 lakh , during the previous year;
- (ii) the deduction shall be –
 - (a) @ 2% of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds Rs 20 lakh during the previous year but does not exceed Rs 1 crore; or
 - (b) @ 5% of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds Rs 1 crore during the previous year

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The Central Government may specify in consultation with the Reserve Bank of India, by notification in the Official Gazette, the recipient in whose case the above provision shall not apply or apply at reduced rate, if such recipient satisfies the conditions specified in such notification.

Time of tax deduction: At the time of payment of such sum.

Non applicability : Tax deduction at source shall not apply to any payment made to,-

- (i) the Government;
- (ii) any banking company or co-operative society engaged in carrying on the business of banking or a post office;
- (iii) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934;
- (iv) any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007;

No TDS or TDS at reduced rates: The central government may specify in consultation with the Reserve Bank of India, by notification in the official Gazette, the recipient in whose case the provision of this section shall not apply or apply at reduced rate, if such recipient satisfies the conditions specified in such notification.

Accordingly, the Central government has, in consultation with the RBI, notified the followers class of persons, payment to whom would not attract liability to deduct tax at source u/s 194N:

- (i) **Cash Replenishment Agencies (CRAs) and franchise agents of white label automated teller machine operators (WLATMO's):** For availing exemption from applicability of TDS u/s 194N, CRAs and franchise agents of WLATMOs should maintain a separate bank account from which withdrawal is made only for the purpose of replenishing cash in the Automated Teller Machine (ATMs) operated by such WLATMOs. Further, the WLATMO should furnish a certificate every month to the bank certifying that the bank account of the CRAs and the franchise agents of the WLATMOs have been examined and the amount withdrawn from their bank accounts has been reconciled with the amount of cash deposited in the ATM's of the WLATMO's
- (ii) **Commission agent or trader, operator under agriculture produce market committee (APMC), and registered under any law relating to Agriculture Produce Market of the concerned state:** For availing exemption from the applicability of TDS u/s 194N, the commission agent/trader should intimate to the banking company or co-operative society or post office, his account number through which he wishes to withdraw cash in excess of Rs 1 Crore in the previous year along with his permanent account number (PAN) and the details of the previous year. Also, he should certify to the banking company or co-operative society or post office that the withdrawal of cash from the account in excess of Rs 1 crore during the previous year is for the purpose of making payments to the farmers on account of purchase of agriculture produce. Further, the banking company or co-operative society or post office has to ensure that the PAN quoted is correct and the commission agent or trader is registered with the APMC, and for this purpose collect necessary evidences and place the same on record.
- (iii) (a) The authorised dealer and its franchise agent and sub-agent; and
(b) Full-Fledged Money Changer (FFMC) licensed by the RBI and its franchise agent;
Such person should maintain a separate bank account from which withdrawal is made only for the purpose of –
(a) Purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in case as per the directions or guidelines issued by RBI; or
(b) Disbursement of inward remittances to the recipient beneficiaries in India in cash under money transfer service scheme (MTSS) of the RBI;

The exemption from the requirement to deduct tax u/s 194N would be available only if a certificate is furnished by the authorised dealers

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- (iv) *and their franchise agent and subagent, and the full-fledged money changers (FFMC) and their franchise agent to the bank that withdrawal is only for the purpose specified above and the directions or guidelines issued by the RBI have been adhered to.*
- Person to whom credit is to be given for tax deducted and paid: Rule 37BA provides the manner of giving credit for tax deducted and remitted to the central government i.e., it specifies the person to whom credit for tax deducted is to be given and also the assessment year for which the credit may be given. Accordingly, rule 37BA(3A) provides that, for the purpose of section 194N, credit for tax deducted at source shall be given to the person from whose account tax is deducted and paid to the central government account for the assessment year relevant to the previous year in which such tax deduction is made.*

SECTION	NATURE OF PAYMENT	THRESHOLD LIMIT FOR DEDUCTION OF TAX AT SOURCE	PAYER	PAYEE	RATE OF TDS	TIME OF DEDUCTION
194-0	Payment of certain sums by e-commerce operator to e-commerce participant	No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year if the following conditions are satisfied – (a) <i>E-commerce participant is an individual or HUF,</i> (b) <i>Gross amount of such sale or services or both during the previous year does not exceed Rs 5 lakh; and</i> (c) <i>Such e-commerce participant has furnished his PAN or Aadhar number to the e-commerce operator.</i>	E-commerce operator shall deduct tax at source.	E-commerce participant	<i>1% of the gross amount [5% in case recipient does not have PAN]</i>	Time of credit or payment whichever is earlier
194P	Pension (along with interest on bank account)	Basic exemption limit (₹3,00,000/₹5,00,000, as the case may be) [i.e total income after giving effect to the deduction allowable under chapter VI-A should exceed the basic exemption limit. Further, in case the individual is entitled to rebate under section 87A from tax payable, then the same should be given to]	Notified bank	Specified senior citizen i.e, An individual, being a resident in India, who - is of the age of 75 years or more at any time during the P.Y; - is having pension income		

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				and no other income exempt interest income received or receivable from any account maintained by such individual in same specified bank in which he is receiving his pension income, and has furnished a declaration to the specified bank		
194Q	Purchase of goods	More than 50 lakhs in a previous year	Buyer, who is responsible for paying any sum to any resident for purchase of goods. Buyer means a person whose total sales, gross receipt or turnover from business exceeds ₹ 10 crores during the F.Y immediately preceding the F.Y in which the purchase of goods is carried out.	Any resident	0.1% of sum exceeding ₹ 50 lakhs	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.
194R	Any person responsible for providing to a	Value or aggregate of value exceeding ₹ 20000	Individual or HUF does not exceed ₹ 1 crore in case of	Any resident	10% of the value or aggregate of value	Tax is deducted before providing such benefit or

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	resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession, by such resident.		<i>business or ₹ 50 Lakh in case of profession</i> other than those who are required to deduct tax at source u/s 194C or 194H or 194J (other than for personal purpose) The provision of section 194R(1) would apply to any benefit or perquisite whether in cash or in kind or partly in cash and partly in kind.			perquisite
194S [only for CMA]	Any person responsible for paying to any resident any sum by way of consideration for transfer of a virtual digital asset	No tax shall be deducted in a case, where – <ul style="list-style-type: none"> • specified person – aggregate value does not exceed ₹ 50000 • any other person - aggregate value does not exceed ₹ 10000 	Individual or HUF <i>does not exceed ₹ 1 crore in case of business or ₹ 50 Lakh in case of profession.</i> <i>Individual & HUF not having income under PGBP</i>	Any resident	1%	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.

Notes –

- (1) Section 206AA requires furnishing of PAN by the deductee to the deductor, falling which the deductor has to deduct tax at the higher of the following rates, namely –
 - (i) *At the rate specified in the relevant provisions of the income tax act, 1961; or*
 - (ii) *At the rate or rates in force; or*
 - (iii) *At the rate of 20% [5% in case where the tax is required to be deducted u/s 194-0 and 194Q]*
- (2) Section 206AB requires tax to be deducted at source under the provisions of this chapter on any sum or income or amount paid, or payable or credited, by a person (deductee) to a specified person, at higher of the following rates –
 - (i) *At twice the rate prescribed in the relevant provisions of this act*
 - (ii) *At twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or*

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(iii) At 5%

However, section 206AB is not applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BA, 194BB, 194N, 194-IA, 194-IB, 194LBC or 194M.

Meaning of "specified person" – A person who has not furnished the returns of income for the two assessment years relevant to 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 tax deducted at source and tax collected at source in this case is ₹ 50,000 or more in the said previous years.

However, the specified person would not include-

- (a) a non-resident who does not have a permanent establishment in India; or
- (b) a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in this behalf.

(3) In case the provisions of section 206AA are also applicable to the specified person, in addition to the provisions of this section, then, tax is required to be deducted at higher of the two rates provided in section 206AA and section 206AB.

(4) The threshold limit given in column (3) of the table is with respect to each payee

OTHER AMENDMENTS:

- ✚ **Certificate for deduction of tax at a lower rate or nil rate [section 197]: Applicability section 194M also included.**
- ✚ **No deduction to be made in certain cases [section 197A]: payment made to specified association etc. – Not liable/liable at lower of TDS: No deduction of tax shall be made, or deduction of tax shall be made at such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institution, association or bodies, as may be notified by the central government in the official Gazette, in this behalf.**

TAX COLLECTION AT SOURCE

(a) Sellers of certain goods are required to collect tax from the buyers at the specified rates. The specified percentage for collection of tax at source is as follows:

Nature of goods		Rate of TCS	
		Existing rates	
(i)	Alcoholic liquor for human consumption	1%	
(ii)	Tendu leaves	5%	
(iii)	Timber obtained under a forest lease or any other mode	2.5%	
(v)	Any other forest produce not being timber or tendu leaves	2.5%	
(vi)	Scrap	1%	
(vii)	Minerals, being coal or lignite or iron ore	1%	

However, no collection of tax shall be made in the case of a resident buyer, if such buyer furnishes a declaration in writing in duplicate to the effect that goods are to be utilised for the purpose of manufacturing, processing or producing articles or things or for the purpose of generation of power and not for trading purpose.

"Seller" means the central or state government; or local authority; or any statutory corporation or authority; or any company or firm or co-operative

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society and also includes an individual or a HUF whose **total sales, gross receipts or turnover from the business or profession carried on by him exceed RS 1 crore in case of business or Rs 50 Lakh in case of profession** during the financial year immediately preceding the financial year in which specified goods 206C(1) are sold.

(b) Every person who grants a lease or license or enters into a contract or otherwise transfers any right or interest in any

- **Parking lot or**
- **Toll plaza or**
- **A mine or a quarry**

To another person (other than a public sector company) for the use of such parking lot or toll plaza or mine or quarry for the purposes of business. The tax shall be collected as provided, from the licensee or lessee of any such license, contract or lease of the specified nature, **at the rate of 2%**, at the time of debiting of the amount payable by the licensee or lessee to his account or at the time of receipt of such amount from the licensee or lessee in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier

(c) Every person, being a seller, who receives any amount as consideration for **sale of a motor vehicle of the value exceeding RS 10Lakhs**, shall, at the time of receipt of such amount, collect tax from the buyer **@ 1%/0.75%(Applicable from 14-05-2020 to 31-03-2021) of the sale consideration**

(d) **TCS on Remittance of foreign currency by an authorised dealer (AD) under liberalized remittance scheme (LRS) of reserve bank of India (RBI) [section 206C(1G)(a)]**

(i) **Transaction liable to TCS:** Receipt for remittance, under LRS, out of India, for a buyer, in respect of a purpose other than tour program package (herein after referral an "other remittance"), if the remittance is Rs 7 lakhs or more.

(ii) **Person liable to collect tax at source:** Every person being an authorized dealer (AD) is obliged to collect tax at source. Authorized dealer means a person authorised by the RBI under section 10(1) of the FEMA Act, 1999 to deal in foreign exchange or foreign security.

(iii) **Rate of TCS:**

S.No	Amount and purpose of remittance	Rate of TCS upto 30.9.2023	Rate of TCS on or after 1.10.2023
(i)	Where the amount is for purchase of an overseas tour programme package	5% of such amount (without any threshold limit)	5% till ₹ 7 lakhs, 20% thereafter
(ii)	(a) Where the amount is remitted for the purpose of education or medical treatment; and (b) the amount or aggregate of the amounts being remitted by a buyer is less than ₹ 7 lakhs in a financial year	Nil (No tax to be collected at source)	
(iii)	(a) Where the amount is remitted for the purpose other than mentioned in (ii) above; and (b) the amount or aggregate of the amounts being	Nil (No tax to be collected at source)	

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	remitted by a buyer is less than ₹ 7 lakhs in a financial year		
(iv)	(a) where the amount is remitted for the purpose of education or medical treatment; and (b) the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year	5% of the amt or aggregate of amounts in excess of ₹ 7 lakh	
(v)	(a) where the amount is remitted for the purpose other than mentioned in (iv) above; and (b) the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year	5% of the amt or aggregate of amounts in excess of ₹7 lakh	20% of the amt or aggregate of amounts in excess of ₹7 lakh
	(a) where the amount being remitted out is a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education; and (b) the amount or aggregate of the a mounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year	0.5% of the amt of aggregate of amounts in excess of ₹ 7 lakhs	
(iv)	<i>When tax to be collected:</i> Tax is to be collected at the time when the amount is debited to buyers account or receipt of the amount for remittance, whichever is earlier.		
(v)	The authorised dealer shall not collect the sum on an amount in respect of which the sum has been collected by seller.		
(e)	Sale of overseas tour programme package (OTPP/Package) [section 206C(1G)(b)]		
(i)	<i>Meaning of overseas tour programme package (OTPP):</i> 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.		
(ii)	<i>Person liable to collect tax at source:</i> Seller of package/OTPP is obliged to collect tax on the amount received/ receivable for sale of OTPP, from the buyer.		
(iii)	<i>Buyer:</i> Buyer, though not defined for the purpose, could be any person who purchases OTPP. It could be any individual/firm/LLP/company or any other person. It could be a resident/non-resident or a citizen/non-citizen.		
(iv)	<i>Rate of TCS:</i> 5% on the amount received/receivable for OTPP. It could include all expenses/charges included in the price of tour package.		
(v)	<i>When tax to be collected:</i> At the time of debit of amount to buyer's account on receipt, whichever is earlier.		
(f)	Certain common provisions for obligations under section 206C(1G)		
(i)	If the buyer (i.e. Remitter/OTPP purchaser) is obliged to deduct tax under some other provisions and has deducted tax, then TCS provision shall not apply.		

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	<p>(ii) If the buyer is any one of the following, TCS provision would not apply – central government (CG), state government, an embassy, A high commission, A legation, A commission, A consulate, Trade representation of foreign state, and local authority [as defined in explanation below section 10(20)]</p>
(g)	<p>TCS on sale of goods where consideration exceeds Rs 50 Lakh [section 206(1H)]:</p> <p>(i) Person liable to collect tax at source: Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding Rs 50 lakh in any previous year, other than the goods being exported out of India or goods covered in Section 206C(1)/ (1F)/ (1G) shall collect tax at source.</p> <p>Meaning of seller: Seller means a person whose total sales, gross receipt or turnover from the business carried on by him exceed Rs 10 crore rupees during the financial year immediately preceding the financial year in which the sale of goods is carried out, not being a person as the central government may, by notification in the official gazette, specify for this purpose, subject to the conditions as may be specified therein.</p> <p>Thus, seller does not cover:</p> <ul style="list-style-type: none">(a) Any person not carrying on business;(b) Any person carrying on business whose turnover does not exceed Rs 10 crores in preceding financial year; and(c) Person(s) notified by central government, for the purpose, subject to fulfillment of conditions specified in the notification. <p>Meaning of buyer: “Buyer” means a person who purchases any goods, but does not include –</p> <ul style="list-style-type: none">(a) The central government, a state government, an embassy, a high commission, legation, commission, consulate and the trade representation of a foreign state; or(b) A local authority as defined in the explanation to section 10(20); or(c) A person importing goods into India or any other person as the central government may, by notification in the official gazette, specify for this purpose, subject to such conditions as may be specified therein; <p>(ii) Rate of TCS: 0.1% (0.075% applicable from 01-10-2020 to 31-03-2021) of the sale consideration exceeding Rs 50 Lakh (if the buyer has not provided the PAN or the Aadhar number to the seller, the rate of TCS shall be 1%)</p> <p>(iii) When tax to be collected: The collection is to be made at the time of receipt of the consideration for sale of goods.</p> <p>(iv) Non applicability: TCS provisions shall not apply, if the buyer is liable to deduct tax at source under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount.</p>
	<p>Special provision for collection of tax at source for non-filers of income tax return [section 206CCA]</p> <ul style="list-style-type: none">• Applicability – collectee is a specified person Specified person means a person<ul style="list-style-type: none">▪ Who has not filed the return of income for the assessment years relevant to the 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 tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in the said previous year. <p>However, the specified person would not include -</p> <ul style="list-style-type: none">(i) a non-resident who does not have a permanent establishment in India; or(ii) a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in this behalf. <p>Specified person shall not include a non resident who does not have a permanent establishment in India.</p>

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- *Rate of TCS: higher of twice the rate specified in the relevant provision of act or 5%*
- *TCS at higher of rates u/s 206CC and 206CCA.*

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ADVANCE PAYMENT OF TAX

Liability for payment of advance tax [sections 2017 & 208]

- Tax shall be payable in advance during any F.Y in respect of total income (TI) of the assessee which would be chargeable to tax for the A.Y immediately following that F.Y
- *Advance tax is payable* during a F.Y in every case where the amount of such tax payable by the assessee during the year is ₹ 10,000 or more.
- However, an individual resident in India of the age 60 years or more at any time during the P.Y., who does not have income chargeable under the head " Profit and gains of business or profession"(PGBP), is *not liable to pay advance tax*.

Instalments of advance tax and due dates [section 211]

Advance tax payment schedule for *corporate and non-corporates* (other than an assessee computing profits on presumptive basis u/s 44AD or section 44ADA) - *Four instalments*

<i>Due date of instalment</i>	<i>Amount payable</i>
On or before 15 th june	Not less than 15% of advance tax liability.
On or before 15 th September	Not less than 45% of advance tax liability (-) amount paid in earlier instalment.
On or before 15 th December	Not less than 75% of advance tax liability (-) amount paid in earlier instalment.
On or before 15 th March	The whole amount of advance tax liability (-) amount paid in earlier instalment.

Advance tax payment by assessee computing profits on presumptive basis *u/s 44AD(1) or section 44ADA(1)*

An eligible assessee, opting for computation of profits or gains of business or profession on presumptive basis in respect of eligible business referred to in section 4AD(1) or in respect of eligible profession referred in section 44ADA(1), shall be required to pay advance tax of the whole amount *on or before 15th March of the F.Y*

However, any amount paid by way of advance tax on or before 31st march shall also be treated as advance tax paid during the F.Y ending on that day.

Interest for defaults in payment of advance tax [section 234B]

- (1) Interest u/s 234B is attracted for *non-payment of advance tax* or payment of advance tax of an amount *less than 90% of assessed tax*.
- (2) *The interest liability would be 1% per month* or part of the month *from 1st April* following the F.Y *upto the date of determination of total income u/s 143(1)* and where regular assessment is made, upto the date of such regular assessment.
- (3) Such *interest is calculated* on the amount of *difference between the assessed tax and the advance tax paid*.
- (4) "*Assessed Tax*" means the tax on total income determined u/s 143(1)/under regular assessment, as the case /s may be, *less TDS & TCS, any relief of tax allowed u/s 89, any tax credit allowed* to be set off in accordance with the provisions of *section 115JD*.

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- (5) Where *self assessment tax is paid* by the assessee u/s 140A or otherwise, *interest shall be calculated upto the date of payment of such tax* and reduced by the interest, if any, paid u/s 140A towards the interest chargeable under the section.

Interest for deferment of advance tax [section 234C]

- (a) Manner of computation of interest u/s 234C for deferment of advance tax by corporate and non-corporate assessee:

In case an assessee, other than an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1), who is liable to pay advance tax u/s 208 has failed to pay such tax or the advance tax paid by such assessee on its current income on or before the dates specified in column(1) below is less than the specified percentage [given in column (2) below] of tax due on returned income, then simple interest @1% p.m. for the period specified in column(4) on the amount of shortfall, as per column (3) is leviable u/s 234C.

Specified date (1)	Specified (2)	Shortfall in advance tax (3)	Period (4)
15 th June	15%	15% of tax due on returned income - advance tax paid up to 15 th June	3 months
15 th September	45%	45% of tax due on returned income - advance tax paid up to 15 th September	3 months
15 th December	75%	75% of tax due on returned income - advance tax paid up to 15 th December	3 months
15 th March	100%	100% of tax due on returned income - advance tax paid up to 15 th March	1 months

Note- However, if the advance tax paid by the current income, on or before 15th June or 15th September, is not less than 12% or, as the case may be, 36% of the tax due on the returned income, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.

- (b) Computation interest u/s 234C in case of an assessee who declares profit and gains in accordance with the provisions of section 44AD(1):

In case an assessee who declares profits and gains in accordance with the provisions of sections 44AD(1) or sections 44AD(1), who is liable to pay advance tax u/s 208 has *failed to pay* such tax or the advance tax paid by the assessee on its current income *on or before 15th March* is less than the tax due on the returned income, then, the assessee shall be liable to pay *simple interest at the rate of 1%* on the amount of the shortfall from the tax due on the returned income.

- (c) Non applicability of interest u/s 234C in certain cases:

Interest u/s *234C shall not be leviable* in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimate or failure to estimate -

- (i) The amount of *capital gains*;
- (ii) Income of nature referred to in section 2(24)(ix)., *winning from lotteries, crossword puzzles etc.*;
- (iii) Income under the head "*Profit and gains of business or profession*" in cases where the income accrues or arises under the said head for the *first time*.

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(iv) Income of the nature referred to in section 115BBDA(1) i.e., *dividend in aggregate exceeding of ₹10 lakhs* including in the assessee's total income.

However, the *assessee should have paid the whole of the amount* of tax payable in respect of such income referred to in (i), (ii), (iii) and (iv), as the case may be, had such income been a part of the total income, as part of the remaining instalments of advance tax which are due or where no such instalments are due, *by 31st march of the F.Y*

Tax due on returned income = Tax chargeable on total income declared in the return of income - TDS - TCS - any relief of tax allowed u/s 89 - any tax allowed to be set off in accordance with the provisions of section 115JD

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PROVISION FOR FILLING OF RETURN

Sections	Particulars
139(1)	<p><u>Assessee required to file return of income compulsory</u></p> <p>(i) <i>Companies and firms</i> (whether having profit or loss or nil income);</p> <p>(ii) A person, being a <i>resident other than not ordinarily resident</i>, having <i>any asset (including any financial interest in any entity) located outside India, or signing authority in any account located outside India or if beneficiary of any asset located outside India</i>, whether or not having income chargeable to tax;</p> <p>(iii) <i>Individuals, HUF, AOP's or BOIs and artificial judicial persons</i> whose total income before giving effect to the provisions of <i>chapter VI-A and sections 54, 54B, 54D, 54EC or 54F exceed the basic exemption limit.</i></p> <p>(iv) The basic exemption limit is ₹ 3,00,000 for individuals/ HUF/ AOPS/ BOIs and artificial juridical persons under default tax regime under section 115BAC. This amount denotes the level of total income, which is arrived at after claiming the admissible deductions under Chapter VI-A i.e., 80CCD (2), 80CCH(2) and 80JJAA under default tax regime and exemption under section 54/54B/54D/ 54EC or 54F in respect of capital gain. However, the level of total income to be considered for the purpose of filing return of income is the income before claiming the admissible deductions under Chapter VI-A and exemption under section 54/54B/54D/54EC or 54F.</p> <p>However, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A), the basic exemption limit would be ₹2,50,000 for individuals/HUF/AOPS/ BOIS and artificial juridical persons, 3,00,000 for resident individuals of the age of 60 years but less than 80 years and 5,00,000 for resident individuals of the age of 80 years or more at any time during the previous year. Also, the assessee would be eligible for other deductions under Chapter VI-A subject to fulfilling the stipulated conditions.</p> <p>(v) <i>Any person</i> who during the P.Y. -</p> <ul style="list-style-type: none"> - Has <i>deposited more than Rs 1 crore</i> in one or more current accounts maintained with a banking company or a cooperative bank - Has incurred <i>expenditure of more than Rs 2 Lakh</i> for himself or any other person for <i>travel to a foreign company</i>; - Has incurred <i>expenditure of more than Rs 1 lakh</i> towards consumption of electricity - <i>If his total sales, turnover or gross receipt, as the case may be, in the business exceeds ₹ 60 lakhs</i>

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during the previous year; or

- If his total gross receipt in profession exceeds ₹ 10 lakhs during the previous year; or
- If the aggregate of TDS and TCS during the previous year, in the case of the person, is ₹ 25,000 or more; or

However, a resident individual who is of the age of 60 years or more, at any time during the relevant previous year would be required to file return of income only, if the aggregate of TDS and TCS during the previous year, in his case, is ₹ 50,000 or more

- The deposit in one or more saving bank account of the person, in aggregate, is ₹ 50 lakh or more during the previous year.
- Fulfils such other conditions as may be prescribed

Due date of filing return of income

31th October of the A.Y. in case the assessee is:

(i) A company;

(ii) A person (other than company) **whose accounts are required to be audited;** or

(iii) A **partner of a firm** whose accounts are required to be audited under this act or any other law for the time being in force or the spouse of such partner if the provisions of section 5A applies to such spouse

31st July of the A.Y., in case of any other assessee (other than assesses, including the partners of the firm or the spouse of such partner (if provisions of section 5A applies to such spouse) being such assessee who are required to furnish report u/s 92E, for whom the due date is 30th November of the A.Y)

234A

Interest for default in furnishing return of income

Interest u/s 234A is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income.

Assessee shall be liable to pay simple interest @1% per month or part of the month for the period commencing from the date immediately following the due date and ending on the following dates -

<i>Circumstances</i>	<i>Ending on the following dates</i>
Where the return is furnished after due date	The date of furnishing of the return
Where no return is furnished	The date of completion of assessment

However, where the assessee has paid taxes in full on or before the due date, interest u/s 234A is not leviable.

- Interest is payable in case updated return of income is furnished u/s 139(8A)
- Tax on total income as determined u/s 143(1) shall not include the additional income-tax, if any, payable under

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	<p>section 140B or section 143</p> <ul style="list-style-type: none"> Tax on the total income determined under regular assessment shall not include the additional income-tax payable under section 140B
234F	<p><u>Fee for default in furnishing return of income</u></p> <p>Where a person who is <i>required to furnish a return of income</i> u/s 139, fails to do so within the prescribed time limit u/s 139(1), he shall pay, by way of fee, a sum of -</p> <p>(i) <i>Fee of ₹ 5000 payable for delay in furnishing return of income.</i></p> <p>(ii) <i>Fee of ₹ 1,000 payable if total income does not exceed ₹ 5,00,000</i></p>
234H	<p><u>Fee for default relating to intimation of Aadhaar number</u></p> <p>Where a person is required to intimate his Aadhaar number under section 139AA(2) and such person fails to do so on before such date, as may be prescribed, not exceeding ₹ 1,000, at the time of making intimation after the said date.</p>
139(3)	<p><u>Return of loss</u></p> <p>An assessee <i>can carry forward or set off</i> his/its losses provided he/it has filed his/its return u/s 139(3), <i>within the due date</i> specified u/s 139(1).</p> <p><u>Exceptions</u></p> <p><i>Loss from house property</i> and <i>unabsorbed depreciation</i> can be carried forward for set off even though return has not been filed before the due date.</p>
139(4)	<p><u>Belated return</u></p> <p>A return of income for any P.Y., which has not been furnished within the time allowed u/s 139(1), may be furnished at any before the:</p> <p>(i) <i>3 months prior to End of the relevant A.Y.; (i.e., 31/12/2021 for P.Y 2021 -22)</i> or</p> <p>(ii) <i>Completion of the assessment,</i></p> <p>Whichever is earlier.</p>
139(5)	<p><u>Revised return</u></p> <p>A any <i>omission or any wrong statement is discovered in a return furnished u/s 139(1) or belated return u/s 139(4)</i>, a revised return may be furnished by the assessee at any <i>time before the:</i></p> <p>(i) <i>3 months prior to End of the relevant A.Y.; (i.e., 31/12/2021 for P.Y 2021 -22)</i> or</p> <p>(ii) <i>Completion of the assessment,</i></p> <p>Whichever is earlier.</p>

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Thus, *belated return can also be revised.*

- 139(8A) (1) Option to file updated return of income: Any person may furnish an updated return of income or the income of any other person in respect of which he is assessable, for the previous year relevant to the assessment year at any time within 24 months from the end of the relevant assessment year.
This is irrespective of whether or not he has furnished a return u/s 139(1) or belated return u/s 139(4) or revised return u/s 139(5) for that assessment year.
For example, an updated return for A.Y. 2023-24 can be filed till 31-3-2026
- (2) Non applicability of the provisions of updated return: The provision of updated return would not apply, if the updated return of such person for the assessment year -
- (i) Is a **loss return**; or
 - (ii) Has the effect of decreasing the total tax liability determined on the basis of return furnished u/s 139(1) or section 139(4) or section 139(5); or
 - (iii) Results in refund or increases the refund due on the basis of return furnished u/s 139(1) or section 139(4) or section 139(5)
- (3) Circumstances in which updated return cannot be furnished: No updated return can be furnished by any person for the assessment year, where -
- (a) An updated return has been furnished by him for the relevant assessment year; or
 - (b) Any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment in his case; or
 - (c) He is such person or belongs to such class of persons, as may be notified by the CBDT.
- (4) Updated return can be filed if original return is a loss return and updated return is a return of income: if any person has a loss in any previous year and has furnished a return of loss on or before the due date of filing return of income u/s 139(1), he shall be allowed to furnish an updated return if such updated return is a return of income.
For example, if Mr. X has furnished his return of loss for A.Y. 2022-23 on 31/5/2022 consisting of ₹ 5,00,000 as business loss, he can furnish an updated return for A.Y. 2022-23 upto 31/5/2025 if such updated return is a return of income.
- (5) Updated return to be furnished for subsequent previous year in case (4) above: if the loss or any part thereof carried forward under chapter VI-A or unabsorbed depreciation carried forward u/s 32(2) or tax credit carried forward u/s 115JD is to be reduced for any subsequent previous year as a result of

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furnishing of updated return of income for a previous year, an updated return is required to be furnished for each such subsequent previous year.

139A

Permanent account number (PAN)

As per section 139A(1), the following persons mentioned in column (2), who have not been allotted a permanent account number(PAN), to apply to the assessing officer within the time specified in column(3) for the allotment of a PAN –

	Persons required to apply for PAN	Time limit for making such application
(1)	(2)	(3)
(i)	Every person, if his total income or the total income of any other person in respect of which he is assessable under the Act during any P.Y exceed the maximum amount which is not chargeable to income tax	On or before 31 st May of the A.Y
(ii)	Every person carrying on any business or profession whose total sales, turnover or gross receipt are or is likely to exceed Rs 5 lakhs in any P.Y	Before the end of that F.Y. (P.Y)
(iii)	Every person being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to Rs 250000 or more in a F.Y	On or before 31 st May of the immediately following F.Y.
(iv)	Every person who is a managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or officer bearer of any person referred in (iii) above or any person competent to act on behalf of such person referred in (iii) above	On or before 31 st May of the immediately following F.Y. in which the person referred in (iii) enters into financial transactions specified therein.

Quoting of PAN is mandatory in all the following documents:

- (a) In all returns to, or correspondence with, any income tax authority;
- (b) In all challans for the payment of any sum due under the act;
- (c) In all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interest of revenue. In this connections, CBDT has notified the following transactions, namely;

S.NO	Nature of transaction	Value of transaction
1.	Sale or purchase of a motor vehicle or vehicle, other than two wheeled vehicles.	All such transactions
2.	Opening an account (other than a time deposit referred to at Sl. No. 12 and a basic saving bank deposit account) with a banking company or a cooperative bank	All such transactions
3.	Making an application to any banking company or a cooperative bank or to any other company or institution, for issue of a credit or debit card	All such transactions

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4.	<i>Opening of a demat account</i> with a depository, participant, custodian of securities or any person registered under SEBI Act, 1992	All such transactions
5.	<i>Payment to a hotel or restaurant</i> against a bill or bills at any one time	Payment in cash of an amount > Rs 50000
6.	Payment in connection with <i>travel to any foreign country</i> or payment for <i>purchase of any foreign currency at any one time.</i>	Payment in cash of an amount > Rs 50000
7.	Payment to a <i>mutual fund for purchase of its units</i>	Amount > Rs 50000
8.	<i>Payment</i> to a company or an institution for <i>acquiring debentures or bonds issued by it.</i>	Amount > Rs 50000
9.	<i>Payment</i> to the RBI for <i>acquiring bonds</i> issued by it	Amount > Rs 50000
10.	<i>Deposit with a banking company</i> or a cooperative bank or post office	Cash deposit > Rs 50000 during any one day.
11.	<i>Purchase of bank drafts</i> or pay orders or banker's cheque from a banking company or a cooperative bank.	Payment in cash of an amount > Rs 50000 during any one day
12.	A <i>time deposit</i> with - (i) A banking company or a co-operative bank; (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 u/s 45-IA of the reserve bank of India act, 1934, to hold or accept deposit from public	Amount > Rs 50000 or aggregating to more than Rs 5 lakh during a F.Y.
13	<i>Payment for one or more pre paid payment instrument</i> , as defined in the policy	Payment in cash

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	guidelines for issuance and operation of pre-paid payment instruments issued by RBI under the payment and settlement system act, 2007, to a banking company or a cooperative bank or to any other company or institution.	<i>or by way of a bank draft or pay order or bankers cheque of an aggregating to more than Rs 50000 in a F.Y.</i>
14.	Payment as <i>life insurance premium</i> to an insurer as defined in the insurance Act, 1938.	Amount <i>aggregating to more than Rs 50000 in a F.Y</i>
15.	<i>A contract for sale or purchase of securities</i> (other than shares) as defined in section 2(h) of the securities contracts (regulation) act, 1956.	Amount > <i>Rs 1 lakh per transaction</i>
16.	<i>Sale or purchase</i> , by any person, <i>of shares of a company not listed</i> in a recognised stock exchange	Amount > <i>Rs 1 lakh per transaction</i>
17.	<i>Sale or purchase of any immovable property.</i>	Amount > <i>Rs 10 Lakh</i> or valued by <i>stamp valuation authority</i> referred to in section 50C at an amount > Rs lakh
18.	<i>Sale or purchase</i> , by any person, <i>of goods or services</i> of any nature other than those specified at Sl. No. 1 to 17 of this table, if any.	Amount > <i>Rs 2 lakh per transaction</i>
<u>Clarification with respect to relaxation of provision of rule 114AAA prescribing the manner of making PAN inoperative:</u>		

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Section 139AA(2) makes it mandatory for every person who has been allotted a PAN as on 1st July, 2017 to intimate his Aadhaar Number so that the Aadhaar and PAN can be linked. This is required to be done on or before a notified date, failing which the PAN would become inoperative.

Accordingly, in case of failure to intimate the Aadhaar number by 31/3/2022, the PAN allotted to the person would be made inoperative. Further, section 234H provides that where a person who is required to intimate his Aadhaar under section 139AA(2) fails to do so on or before a notified date, he would be liable to pay a fee not exceeding ₹ 1000, as may be prescribed, at the time of making intimation u/s 139AA(2) after the said date.

Further Rule 114AAA provides that if PAN of a person has become inoperative, he will not be able to furnish, intimate or quote his PAN and would be liable to all the consequences under the act for such failure. This will have a number of implications such as:-

- (i) The person would not be able to file return using the inoperative PAN
- (ii) Pending returns will not be processed
- (iii) Pending refunds cannot be issued to inoperative PANs
- (iv) Pending proceedings as in the case of defective returns cannot be completed once the PAN is inoperative
- (v) Tax will be required to be deducted at a higher rate as PAN becomes inoperative.

In addition to the above, the tax payer might face difficulty at various other fora like banks and other financial portals, as PAN is one of the important KYC criterion for all kinds of financial transactions.

As per Rule 114AAA(2), where a person, whose PAN has become inoperative under Rule 114AAA(1), is required to furnish, intimate or quote his PAN, it would be deemed that he has not furnished, intimated or quoted the PAN, as the case may be, in accordance with the provisions of the act. Consequently, he would be liable for the consequences under the Act for not furnishing, intimating or quoting the PAN.

In order to have smooth application of section 234H and existing rule 114AAA, it is clarified that -

- The impact of Rule 114AAA(2) would come into effect from 1st April 2023; and
- The period beginning from 1st April 2022 and ending with 31st March 2023, would be the period during which Rule 114AAA(2) would not have its negative consequences.

However, the tax payer would be liable to pay a fee in accordance with section 234H read with Rule 114(5A).

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139AA	<p><u>Quoting of Aadhar number</u></p> <p>Aadhar number to be quoted by <i>every person on or after 1/7/2017</i> in the application for allotment of PAN and in return of income.</p> <p>If a person does not have aadhar number, the enrollment ID of aadhar application form issued to him at the time of enrolment shall be quoted.</p> <p>Aadhar number to be intimated to prescribed authority on or before a date notification by the central government i.e 31.12.2019</p> <p>Inter-changeability of PAN with the aadhar number</p> <p>Every person who is required to furnish or intimate or quote his PAN may furnish or <i>intimate or quote his aadhar number in lieu of the PAN</i> w.e.f 1.09.2019 if he</p> <ul style="list-style-type: none"> - Has not been allotted a PAN but possesses the aadhar number - Has been allotted a PAN and has intimated his aadhar number to prescribed authority. 																
140	<p>Persons authorised to verify return of income</p> <p>This section specifies the persons who are authorised to verify the return of income u/s 139.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">S.no</th> <th style="width: 15%;">Assessee</th> <th style="width: 45%;">Circumstance</th> <th style="width: 35%;">Authorised person</th> </tr> </thead> <tbody> <tr> <td rowspan="4" style="text-align: center; vertical-align: top;">1.</td> <td rowspan="4" style="text-align: center; vertical-align: top;">Individual</td> <td>(i) In circumstances not covered under (ii), (iii) & (iv) below</td> <td>- <i>The individual himself</i></td> </tr> <tr> <td>(ii) Where he is <i>absent from India</i></td> <td>- <i>The individual himself; or</i> - Any <i>person duly authorised</i> by him in this behalf holding a valid power of attorney from the individual (such power of attorney should be attached to the return of income)</td> </tr> <tr> <td>(iii) Where <i>he is mentally incapacitated</i> from attending to his affairs</td> <td>- <i>His guardian; or</i> - Any <i>other person competent to act on his behalf</i></td> </tr> <tr> <td>(iv) Where, for any other reason, it is <i>not possible for the individual to verify the return</i></td> <td>- Any person duly authorised by him in this behalf holding a valid power of attorney from the individual (such power of attorney should be attached to the return</td> </tr> </tbody> </table>			S.no	Assessee	Circumstance	Authorised person	1.	Individual	(i) In circumstances not covered under (ii), (iii) & (iv) below	- <i>The individual himself</i>	(ii) Where he is <i>absent from India</i>	- <i>The individual himself; or</i> - Any <i>person duly authorised</i> by him in this behalf holding a valid power of attorney from the individual (such power of attorney should be attached to the return of income)	(iii) Where <i>he is mentally incapacitated</i> from attending to his affairs	- <i>His guardian; or</i> - Any <i>other person competent to act on his behalf</i>	(iv) Where, for any other reason, it is <i>not possible for the individual to verify the return</i>	- Any person duly authorised by him in this behalf holding a valid power of attorney from the individual (such power of attorney should be attached to the return
S.no	Assessee	Circumstance	Authorised person														
1.	Individual	(i) In circumstances not covered under (ii), (iii) & (iv) below	- <i>The individual himself</i>														
		(ii) Where he is <i>absent from India</i>	- <i>The individual himself; or</i> - Any <i>person duly authorised</i> by him in this behalf holding a valid power of attorney from the individual (such power of attorney should be attached to the return of income)														
		(iii) Where <i>he is mentally incapacitated</i> from attending to his affairs	- <i>His guardian; or</i> - Any <i>other person competent to act on his behalf</i>														
		(iv) Where, for any other reason, it is <i>not possible for the individual to verify the return</i>	- Any person duly authorised by him in this behalf holding a valid power of attorney from the individual (such power of attorney should be attached to the return														

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				of income)
140	S.No.	Assessee	Circumstances	Authorised persons
	2.	HUF	(i) In circumstances not covered under (ii) and (iii) below	- <i>The karta</i>
			(ii) Where the <i>karta is absent</i> from India	- <i>Any other adult member of the HUF</i>
			(iii) Where the <i>karta is mentally incapacitated</i> from attending to his affairs	- <i>Any other adult member of the HUF</i>
	3.	Company	(i) In circumstances not covered under (ii) to (iv) below	- <i>The managing director</i> of the company or any other person, as may be prescribed for this purpose.
			(ii) (a) where for any unavoidable reason such <i>managing director is not able to verify the return</i> ; or (b) where there is <i>no managing director</i>	- <i>Any director</i> of the company - <i>Any director</i> of the company
			(iii) Where the <i>company is not resident in India</i>	- <i>A person who holds a valid power of attorney</i> from such company to do so (such power of attorney should be attached to the return)
			(iv) (a) where the <i>company is being wound up</i> (whether under the orders of court or otherwise); or (b) where <i>any person has been appointed as the receiver of any assets</i> of the company	- Liquidator - Liquidator
			(v) Where the <i>management of the company</i> has been	- <i>The principal officer of the</i>

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		<i>taken over by the central government</i> or any state government under any law	company
		(vi) Where an <i>application for corporate insolvency resolution process has been admitted</i> by the adjudicating authority under the insolvency and bankruptcy code, 2016	- <i>Insolvency professional</i> appointed by such adjudicating authority
4.	Firm	(i) In circumstances not covered under (ii) below	- The <i>managing partners</i> of the firm
		(ii) (a) where for any unavoidable reason <i>such managing partner is not able to verify the return</i> ; or (b) where there is <i>no managing partner</i>	- <i>Any partner</i> of the firm, <i>not being a minor</i> - <i>Any partner</i> of the firm, <i>not being a minor</i>
5.	LLP	(i) In circumstances not covered under (ii) below	- <i>Designated partner</i> any other person, as may be prescribed for this purpose.
		(ii) (a) where for any unavoidable reason <i>such designated partner is not able to verify the return</i> ; or (b) where there is <i>no designated partner</i>	- <i>Any partner of LLP</i> - <i>Any partner of LLP</i>
6.	Local authority	-	- <i>The principal officer</i>
7.	Political party	-	- The <i>chief executive officer</i> of such part (whether he is known as secretary or by any other designation)
8.	Any other association	-	- <i>Any member</i> of the association or the <i>principal officer</i> of such association
9.	Any other	-	- <i>That person</i> or some <i>other</i>

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	person	person competent to act on his behalf.
140A	<p><u>Self assessment</u></p> <p>Where any <i>tax is payable</i> on the basis of any return required to be furnished u/s 139, <i>after taking into account</i> -</p> <ul style="list-style-type: none"> (i) The amount of <i>tax, already paid,</i> (ii) The tax deducted or collected at source (<i>TDS/TCS</i>) (iii) <i>Any relief of tax claimed u/s 89</i> (iv) <i>Any tax or interest payable according to the provisions of section 191(2)</i> (v) Any tax credit claimed to be set off in accordance with the provisions of section 115JD (<i>i.e alternate minimum tax</i>). <p>The assessee shall be <i>liable to pay such tax together with interest and fee payable</i> under any provision of this act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return.</p> <p>Where the <i>amount paid by the assessee falls short</i> of the aggregate of the tax, interest and fee as aforesaid, <i>the amount so paid shall first be adjusted towards the fee payable and thereafter, towards interest</i> and the <i>balance</i> shall be adjusted towards the <i>tax payable</i>.</p>	
140B	<p><u>Computation of tax updated return</u></p> <p><u>The relevant provisions are discussed as under</u> -</p> <ul style="list-style-type: none"> (1) <u>Where assessee has not furnished the return earlier</u> - where no return of income u/s 139(1)/(4) has not furnished, the assessee shall not be liable to pay such tax together with interest, fee and additional income tax, before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee. The same shall be computed as under - 	

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Tax payable on the basis of updated return	XXX
Less: Taxes and relief as under	
(d) Any amount already paid under an provision of the Act (e.g. advance tax)	XXX
(e) Any tax deducted or collected at source.	XXX
(f) Any relief of tax claimed u/s 89.	XXX
(g) Any relief of tax or deduction claimed u/s 90 or 91 on account of tax paid in any country outside India.	XXX
(h) Any relief of tax claimed u/s 90A on account of tax paid in any specified territory country outside India.	XXX
(i) Amount of tax credit claimed to be set-off in accordance with Section 115JAA or Section 115JD.	XXX
ADD: Fee payable u/s 234F for default in furnishing of return.	XXX
ADD: Interest Payable-	XXX
(a) U/s 234A for delay in furnishing the return, or	
(b) U/s 234B for default or short payment of advance tax, or	XXX
(c) U/s 234C for deferment of advance tax;	
ADD: Additional Income tax-	XXX
➤ 25% of the aggregate of tax and interest payable if ROI is furnished within 12 months from end of relevant AY;	
➤ 50% of the aggregate of tax and interest payable if ROI is furnished after 12 months but before 24 months from end of relevant AY.	
Total amount payable	XXX
<p>(2) Where the assessee has furnished the return of income earlier: where return of income u/s 139(1)/(4)/(5) (referred to as earlier return) has been furnished by an assessee, he shall be liable to pay such tax, interest and additional income tax and the return shall be accompanied by proof of payment of the amount. The same shall be computed as under -</p>	
Tax payable on the basis of updated return	xxx
Less: Taxes and relief as under -	
(a) Amount of relief or tax referred to Section 140(1), the credit for which has been taken	xxx

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in the earlier return

(a) Any tax deducted or collected at source on any income which is subjected to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return

(a) Any relief of tax or deduction of tax claimed u/s 90 or section 91 on account of tax paid in a country outside India on such income which has been included in the earlier return;

(a) Any relief of tax claimed u/s 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return

(a) Any tax credit claimed, to be set-off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return;

Add: fee payable u/s 234F for default in furnishing of return

Add: Interest payable -

(a) u/s 234B for default or short payment of advance tax as reduced by interest paid in earlier return

(b) u/s 234C for deferment of advance tax as reduced by interest paid in earlier return;

Add: additional income tax -

- 25% of the aggregate of tax and interest payable if ROI is furnished within 12 months from end of relevant AY; and
- 50% of the aggregate of tax and interest payable if ROI is furnished after 12 months but before 24 months from end of relevant A.Y

(3) Computation of additional income tax: The additional income tax payable at the time of furnishing the return u/s 139(8A) shall be equal to, -

Time limit of furnishing updated return	Additional income tax payable
After expiry of the time available u/s 139(4)/(5) and before completion of the period of 12 months from the end of the relevant assessment year	25% of aggregate of tax and interest payable
After the expiry of 12 months but before completion of 24 months from the end of the relevant assessment year	50% of aggregate of tax and interest payable

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For the purposes of computation of "additional income tax", tax shall include surcharge and cess, by whatever name called, on such tax [Explanation]

- (4) **Computation of interest payable u/s 234B:** Interest payable u/s 234B shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax, where, -
- "Assessed tax" means the tax on the total income as declared in the return to be furnished u/s 139(8A), -
- (a) *After taking into account, -*
- (i) *The amount of relief or self assessment tax u/s Section 140A(1), the credit for which has been claimed in the earlier return;*
 - (ii) *TDS/TCS, on any income which is subject to such deduction or collection and which is taken into account in computing such total income, which has not been included in the earlier return;*
 - (iii) *Any relief of tax or deduction of tax claimed u/s 90 or section 91 on account of tax paid in a country outside India on such income which has not been included in the earlier return*
 - (iv) *Any relief of tax claimed u/s 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;*
 - (v) *Any credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return; and*
- (b) *As increased by the amount of refund, if any, issued in respect of such earlier return.*
- (5) **Power to CBDT to issue guidelines:** *In case of any difficulty arises in giving effect to the provisions of this section, the CBDT may issue guidelines for the purpose of removing the difficulty, with the approval of the central government, every guideline issues shall be laid before each house of parliament.*
- (6) **Computation of additional income tax:** *for the purpose of computation of "additional income tax", -*
- ♦ *Tax would include surcharge and cess, by whatever name called, on such tax.*
 - ♦ *The interest payable would be interest chargeable under any provision of the act, on the income as per updated return furnished u/s 139(8A), as reduced by interest paid in the earlier return, if any*
- However, the interest paid in the earlier return would be considered to be nil, if no earlier return*

INCOME TAX Summary Book (Applicable for MAY'24/JUNE'24/NOV'24/DEC'24)

has been furnished.

- (7) Interest u/s 234A if no earlier return has been furnished: In a case, where no earlier return has been furnished, the interest payable u/s 234A has to be computed on the amount of the tax on the total income as declared in the updated return u/s 139(8A), in accordance with the provisions of section 140A(1A).
- (8) Interest u/s 234C if earlier return has been furnished: Interest payable u/s 234C, where an earlier return has been furnished, has to be computed after taking into account the income furnished in the return u/s 139(8A) as the return income.

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INCOME TAX SECTION LIST

Section no.	Topic
<u>BASIC CONCEPTS</u>	
87A	Rebate to resident individual having NTI up to 5 lakh
69	Unexplained investments
69A	Unexplained money
69B	Amount of investments not fully disclosed in books of account
69C	Unexplained expenditure
69D	Amount borrowed or repaid on hundi
<u>RESIDENTIAL STATUS AND SCOPE OF TOTAL INCOME</u>	
5	Scope of total income
6(1)	Two basic conditions
6(6)	Two additional conditions (ROR)
6(1a)	Deemed resident
6(2)	Residential status others
7	Income deemed to be received
9	Income deemed to accrue or arise in India
<u>INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME</u>	
10(1)	Agriculture income
10(2)	Share of profit from HUF
10(2a)	Partner's share of profit from firm
10(4)(ii)	Interest received by non resident (external) account in Indian bank
10(5)	Leave travel concession
10(6)(ii)	Remuneration received by foreign diplomats/consulate and their staff
10(6)(vi)	Remuneration received as employee of a foreign enterprise for services rendered by him during his stay in India
10(6)(viii)	Salary for employment on a foreign ship
10(7)	Allowances or perquisites payable outside India
10(10)	Gratuity
10(10A)	Payment in commutation of pension
10(10AA)	Amount received by way of encashment of unutilized earned

INCOME TAX SECTION LIST

	leave on retirement
10(10B)	Retrenchment compensation
10(10BC)	Compensation received on account of disaster
10(10C)	Voluntary retirement receipts
10(10CC)	Income tax paid by employer
10(10D)	Sum received under life insurance policy including the sumallocated by way of bonus on such policy
10(11)/(12)	Payment from statutory and recognized provident funds
10(11A)	Payment from Sukanya Samridhi Account
10(12A)	Payment from NPS trust to assessee on closure or opting out
10(12B)	Withdrawal from national pension system trust (25% exempt)
10(13)	Payment from superannuation funds
10(13A)	House rent allowance
10(14)	Special allowances to meet expenses relating to duties or personal expenses
10(15)	Interest income arising to certain persons
10(16)	Educational scholarships
10(17)	Payment to MPs and MLAs
10(17A)	Awards received for literary, scientific and artistic works and other awards from government
10(18)	Pension received by recipient of gallantry awards
10(19)	Family pension received by widow/children/nominated heirs of members of armed forces
10(26)	Income of member of scheduled tribe
10(26AAA)	Income of Sikkimese individual
10(32)	Clubbed income of minor (1500)
10(34A)	Income arising to shareholders on buyback of shares
10(37)	Capital gains on compulsory acquisition of agricultural land situated under specified urban limits
10(43)	Income received in a transaction of reverse mortgage
	<u>SALARIES</u>
14A	Exempt expenditure
15	Charging section of salaries
16(ia)	Standard deduction of 50000
16(ii)	Entertainment allowances
16(iii)	Employment tax
17(1)	Salary definition

INCOME TAX SECTION LIST

17(2)	Perquisites
17(2)(iii)	Specified employee
17(3)	Profits in lieu of salary
89	Rebate for arrears of salaries
	<u>INCOME FROM HOUSE PROPERTY</u>
22	Charging section of house property
23	Gross annual value
24(a)	30% standard deduction
24(b)	Interest on borrowed capital
25(a)	Special provision for arrears of rent and unrealized rent received subsequently
	<u>PROFITS AND GAINS FROM BUSINESS OR PROFESSION</u>
28	Charging sections
29	Computation of PGBP
30	Rents, rates and taxes, repairs and insurance of building
31	Repairs and insurance of plant and machinery and furniture
32	Depreciation
32(1)(ia)	Additional depreciation
43(1)	Actual cost
38(2)	Asset partially used for other purpose
35	Expenditure on scientific research
35AD	Specified business
35D	Preliminary expenses
35DDA	Expenditure incurred under Voluntary Retirement Scheme
36	Other deductions
36(1)(i)	Premium of insurance of stock in trade
36(1)(ib)	Health insurance premium for employees
36(1)(ii)	Bonus or commission to employees
36(1)(iii)	Interest on loan
36(1)(iiia)	Discount on Zero Coupon Bonds
36(1)(iv)	Employer's contribution for benefit of employee
36(iva)	Employer's contribution towards pension scheme referred u/s 80CCD
36(va)	Employees contribution towards welfare fund
36(1)(vii)	Bad debts

INCOME TAX SECTION LIST

36(1)(ix)	Expenses on promotion of family planning of employees
36(1)(xv)/(xvi)	Securities transaction tax (STT)/ commodities transaction tax (CTT)
36(1)(xviii)	Market loss or other loss
37	General deduction
40(a)(i)	Payment made to non-resident
40(a)(ia)	Payment made to resident
40(a)(iib)	Royalty, fees etc. charged by state govt.
40(a)(iii)	TDS on salary payable outside India or NR
40(a)(v)	Tax on non-monetary perquisite
40A(2)	Payment to specified people (relatives)
40A(3)	Cash payment >10000 to a single person in a single day
43A	Asset acquired from foreign country
41	Deemed profits
41(1)	Recovery against any deduction already claimed
41(2)	Balancing charges
41(3)	Sale of scientific research assets
41(4)	Recovery of bad debts
43B	Deductions to be allowed on actual payments
43CA	Special provision for full value of consideration for transfer of assets
44AA	Compulsory maintenance of books of accounts
44AB	Compulsory Audit of Books of Accounts (tax audit)
44AD	Profits and gains from business on presumptive basis
44ADA	PGBP on presumptive basis for professional
44AE	Presumptive taxation for transporters
40(b)	Payment of interest, bonus, commission or remuneration
40(ba)	Interest, salary, bonus, commission paid by AOP/BOI while computing PGBP shall be disallowed
43A	Taxation of foreign exchange fluctuation
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45(1)	Charging section
2(14)	Definition of capital gain
2(47)	Transfer
47	Transactions not regarded as transfer (exempt)
48	Computation of capital gain #1 st proviso CG in case of non-resident#2 nd proviso indexation #3 rd proviso no indexation in case of items referred u/s112A

INCOME TAX SECTION LIST

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49	Cost with reference to certain modes of acquisition
55	Cost of acquisition (COA)/ cost of improvement (COI)
	<u>Exception to charging section</u>
45(2)	Conversion of capital asset into stock-in-trade
45(5)	Compensation on compulsory acquisition under any law
45(1A)	Insurance claim for damage or destruction of capital asset
45(5A)	Capital gain in case of joint development agreement
45(3)	Transfer of CA by partner to partnership firm
45(4)	Transfer of CA by firm to partner
45(2A)	Transfer of securities held in DMAT
50C	Stamp duty value shall be treated as full value of consideration (FVOC)
50CA	Fair Market Value of unquoted shares (unlisted) shall be FVOC
50D	Consideration is unascertainable FMV shall be FVOC
50B	Slump sale
51	Advance money forfeited
111A	Tax on STCG of certain asset
112A	Tax on LTCG of certain asset
112	Other LTCG
54	Capital gain on sale of residential property used for residential property
54B	Capital gain on sale of urban agricultural land and used for another agricultural land
54D	Compulsory acquisition of industrial land and building
54EC	Sale of land, building or both and investment in certain bonds
54F	LTCG not to be charged in case of investment in residential property
55A	Reference to valuation officer
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57	Deductions
58	Accounts not deductible
	<u>INCOME OF OTHER PERSONS INCLUDED IN ASSESSEE'S TOTAL INCOME</u>
60	Transfer of income where there is no transfer of assets

INCOME TAX SECTION LIST

61	Revocable transfer
62	Exception to section 61
64(1a)	Income of minor child
64(1)(iv)	Income from assets transferred to spouse
64(1)(vi)	Income from assets transferred to son's wife
64(1)(vii/viii)	Asset transferred to any person for the benefit of spouse/son's wife
64(1)(ii)	Income of spouse from a concern where assessee has substantial interest
64(2)	Asset transferred to HUF
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69	Unexplained investments
70	Intra head adjustments
71	Inter heads adjustments
71B	Loss from IHP
72	Normal business loss
73	Speculative business loss
73A	Specified business loss
74	STCL/LTCL
74A	Loss from owning and maintenance of race horses
32(2)	Unabsorbed depreciation
80	Submission of return of losses
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80A	Deduction to be made in computing total income
80C	Deduction for payment of life insurance premiums etc.
80CCC	Contribution to certain pension funds
80CCD(1)	Employee's contribution to pension scheme of CG/NPS or Atal Pension Yojana
80CCD(1B)	Additional deduction of 50000
80CCD(2)	Employer's contribution to pension scheme of CG/NPS or Atal Pension Yojana
80CCE	Maximum deduction u/s 80C+80CCC+80CCD(1) restricted to 150000
80CCH	Contribution to Agniveer corpus fund
80D	Deduction in respect of health insurance premiums
80DD	Maintenance and medical treatment of dependent disable person
80DDDB	Medical treatment of specified disease
80U	Deduction for assessee with disability
80E	Interest on loan taken for higher education

INCOME TAX SECTION LIST

80EE	Interest on loan taken for residential house property
80EEA	Interest on loan taken for certain house property
80EEB	Deduction in respect of purchase of electric vehicle
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80GG	Respect of rent paid (HRA not received)
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80GGB	Contributions to political parties by companies
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115BAC	Tax on income of individuals and HUF (optional to assessee)
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INCOME TAX SECTION LIST

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194S	TDS on payment on transfer of virtual digital asset
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198	Tax deducted is income received
200	Duty of person deducting tax
200A	Processing of TDS return
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201(1A)	Late deduction/payment of TDS
203	Certificate of tax deducted
203A	Tax collection and deduction account number
206A	Furnishing of statement of any income to residents without deduction of tax
206AA	Requirement to furnish PAN
234E	Late fees of TDS/TCS
260AB	Special provision for TDS for non-filers of income tax
	<u>TCS</u>
206C	TCS on 7 items
206C(1)	By seller of specified goods
206C(1A)	No TCS in certain cases
206C(1C)	TCS in lease or license of parking lot, toll plaza or mine or quarry by licensor/lessor

INCOME TAX SECTION LIST

206C(1F)	TCS 1% on motorcar if consideration exceeds 10,00,000
206C(1G)	TCS on remittance outside India or sale of Tour package
206C(1G)(a)	TCS on remittance of foreign currency by an authorized dealer under scheme of RBI
206C(1G)(b)	Sale of overseas tour program package
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206CC	Requirement to furnish PAN by collectee
206CCA	Special provisions for collection
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140B	Computation of tax on updated return

INCOME TAX SECTION LIST

	<u>THANKYOU</u>

GST

SUMMARY BOOK (with Amendments)

(CA/CMA - INTER/ CS-EXECUTIVE)

APPLICABLE FOR MAY'24/JUNE'24/NOV'24/DEC'24

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YOUTUBE CHANNEL: ARHAM INSTITUTE

BY CA VARDHAMAN DAGA

Red - heading

Green - amendment

Other colour - key words

GST - 50 Marks

Section-wise weightage

Content	Section	Weightage
GST - an introduction	I	0% - 5%
Supply, Charge, Composition, Exemption, Place of supply, Time of supply, Value of supply, ITC, Computation of GST liability	II	50% - 80%
Registration, Tax invoice, debit note & credit note, E-way bill, Accounts and records, Payment of tax, Returns	III	20% - 45%

CHAPTER - 1: GST IN INDIA - A BRIEF INTRODUCTION

Tax - is a "pecuniary burden laid upon individuals or property owners to support the government, a payment exacted by legislative authority

	Direct Taxes	Indirect Taxes
(i)	Levied by persons	Levied on goods and services
(ii)	Amt of tax on the basis of income	Amt of tax is determined indirectly
(iii)	Tax incidence is borne by the same person who pays it	Tax passes on to ultimate consumer
(iv)	Higher collection cost	Less collection cost
(v)	Eg. Income tax	Eg. GST, custom duty

FEATURES

- ♣ Major source of revenue
- ♣ Levied on goods and services
- ♣ Shifting of incidence of tax
- ♣ Consumer do not feel direct pinch of such taxes
- ♣ Leads to inflation
- ♣ Widens the tax base
- ♣ Helps in promotion social welfare
- ♣ Regressive in nature

Goods and Services Tax (GST): *supply of goods or services or both. GST rolled out on 1st July 2017. France was the first country in 1954.*

CONCEPT OF GST:

- ❖ Value added tax
- ❖ Continuously flow of credits
- ❖ Tax incidence is to be ultimately borne by final consumer
- ❖ Mitigation of cascading/double taxation
- ❖ *Dual GST model is followed in India*

GST - A TAX ON GOODS AND SERVICES

- ✚ *Alcoholic liquor for human consumption not leviable to GST*
- ✚ *Petroleum crude, diesel, petrol, ATF and natural gas not liable to GST till notified*
- ✚ *Opium, Indian hemp and other narcotic drugs and narcotics GST is leviable.*

FUNCTIONS OF GSTN:

- ◆ *Facilitating registration*
- ◆ *Forward the return to central and state authorities*
- ◆ *Computation and settlement of IGST*

GST SUMMARY NOTES (Applicable for MAY'24/JUNE'24/NOV'24/DEC'24)

- ◆ Matching of tax payment details with banking network
- ◆ Providing analysis of tax payer's profile
- ◆ Providing various MIS reports to the central and the state government based on the tax payer return information.
- ◆ Running the matching engine for matching, reversal and reclaim of input tax credit.

BENEFITS OF GST

(1) Benefit to economy:

- Creation of common national market
- Boost to 'Make in India' initiative
- Enhanced investment and employment

(2) Simplified tax regime:

- Ease of doing business
- Certainty in tax administration

(3) Easy tax compliance

- Automated procedures with greater use of IT
- Reduction in compliance costs

(4) Advantages for trade and industry

- Benefits to agriculture and industry
- Mitigation of ill effects of cascading
- Benefits to small traders and entrepreneurs

CONSTITUTION 101ST AMENDMENT ACT, 2016:

Sec.	Particulars	Analysis
1	Short title and commencement	-
2	Article 246A: special provisions with respect to goods and services tax.	<ul style="list-style-type: none">• Concurrent Power: This article grants power to Centre and State Governments to make laws with respect to GST imposed by Centre or such State.• Inter state transactions - Exclusive power with Centre: Centre has the exclusive power to make laws with respect to GST in case of inter-State supply of goods and/or services.• Petroleum products Outside purview of GST till Notified Date: However, in respect to the following goods, the aforesaid provisions shall apply from

GST SUMMARY NOTES (Applicable for MAY'24/JUNE'24/NOV'24/DEC'24)

		<p>the date recommended by the GST Council :</p> <p>(a) Petroleum Crude</p> <p>(b) High Speed Diesel</p> <p>(c) Motor Spirit (commonly known as Petrol)</p> <p>(d) Natural Gas</p> <p>(e) Aviation Turbine Fuel</p> <ul style="list-style-type: none"> • Overriding Effect: The provisions of Article 246A are notwithstanding anything contained in Articles 246 and Article 254 deals with the supremacy of the laws made by Parliament
3	Article 248: Residuary powers of legislation.	-
4	Article 249: Power of parliament to legislate with respect to a matter in the state list in the national interest	-
5	Article 250: Power of parliament to legislate with respect to any matter in the state List if a proclamation of emergency is in operation	-
6	Article 268: Duties levied by the union but collected and appropriated by the state	-
7	Omission of Article 268A: service tax levied by union and collected by the union and the states	-
8	Article 269: Taxes levied and collected by the union but assigned to the states	-
9	Article 269A: levy and collection of goods and service tax in course of inter-state trade or commerce	<ul style="list-style-type: none"> • Levy of interstate GST • Imports subject to integrated tax • Cross utilization of IGST and SGST - not to form part of consolidated fund of India • Supply whether inter-state supply - principles to be formulated by parliament
10	Article 270: taxes levied and	-

GST SUMMARY NOTES (Applicable for MAY'24/JUNE'24/NOV'24/DEC'24)

	<i>distributed between the union and the states</i>	
<i>11</i>	<i>Article 271: surcharge on certain duties and taxes for purposes of the union</i>	<i>-</i>
<i>12</i>	<i>Article 279A: GST council</i>	<i>-</i>
<i>13</i>	<i>Article 286: restriction as to imposition of tax on the sale or purchase of goods</i>	<i>-</i>
<i>14</i>	<i>Article 366: Definitions</i>	<i>-</i>
<i>15</i>	<i>Article 368: power of parliament to amend the constitution and procedure thereof</i>	<i>-</i>

CHAPTER - 2: SUPPLY UNDER GST

TERM	DEFINATION
GOODS	<p>Means every kind of movable property</p> <ul style="list-style-type: none"> • Other than - Money, and Securities • But include - Actionable claim, Growing crops, grass and things attached to or forming part of the land which are agreed to be served before supply or under a contract of supply
Taxable supply	Means a supply of goods or services or both which is leviable to tax under the act
Taxable territory	Extend to whole of India including J&K
Supplier	<p>In relation to any goods or services or both, shall mean -</p> <ul style="list-style-type: none"> • The person supplying the said goods or services or both and shall include • An agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.
Recipient	<p>Of supply of goods or services or both, means -</p> <p>(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;</p> <p>(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and</p> <p>(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered, and</p> <p>any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied. [Section 2(93)1</p>
Service	<p>Means anything -</p> <ul style="list-style-type: none"> ➤ other than <ul style="list-style-type: none"> • goods, • money, and • securities ➤ but includes activities relating to -

	<p>(a) the use of money, or</p> <p>(b) Its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.</p> <p>Explanation: For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.</p>
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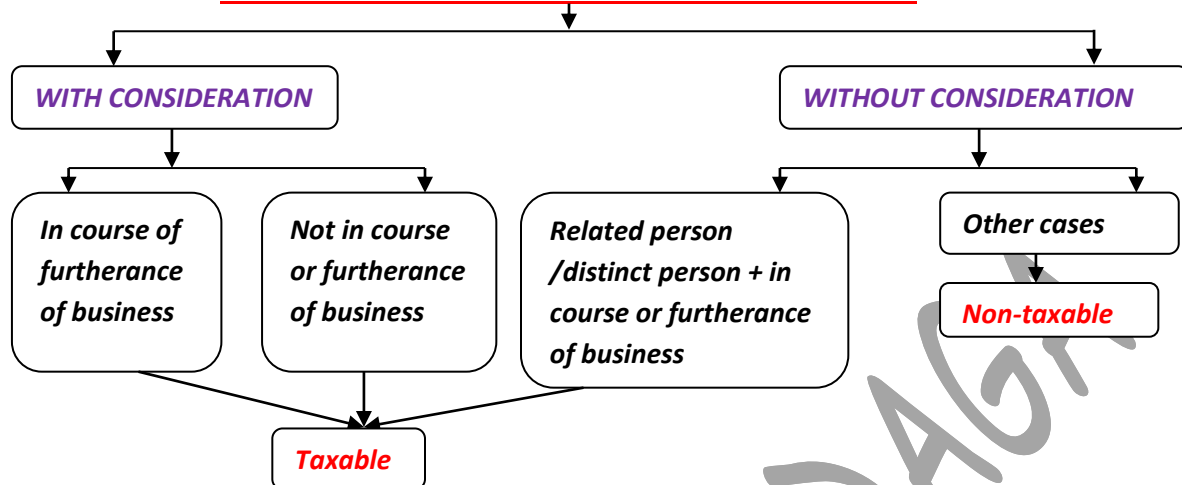
SCOPE OF SUPPLY [SECTION 7]

- ◆ Supply should be of **goods or services**.
- ◆ Supply should be made for a **consideration**
- ◆ Supply should be in **the course or furtherance of business**
- ◆ Supply should be made by **Taxable person**
- ◆ Supply should be a **taxable supply**

Notes:

- **Consideration** in relation to the supply of goods or services or both includes -
 - (a) Any **payment made or to be made, whether in money or otherwise**, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person **but shall not include and subsidy given by the central government or a state government;**
 - (b) The **monetary value of any act or forbearance**, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person **but shall not include any subsidy given by the central government or a state government;**
Deposit not a consideration unless appropriated by supplier
- Supply should be in the course or furtherance of business: **activities of a race club including by way of totalisator or a licensee to book maker or activities of a licensed book maker in such club**
- **Activities/transaction involving supply of goods or services by any person other than an individual to its members/constituents or vice-versa [section 7(1)(aa)]**

IMPORT OF SERVICES COVERED IN SCOPE OF SUPPLY



SUPPLY WITHOUT CONSIDERATION [SCHEDULE I]

- (1) Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- (2) Supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business. However, gifts not exceeding Rs 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
- (3) Supply of goods -
 - (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
 - (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
(agar principal ke naam pe hoga toh supply nahi hai and agent apne naam se karega toh supply hai)
- (4) Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Note:

- ❖ Perquisite by employer to employee is outside the scope of GST
- ❖ Stock transfer and branch transfer main GST lagega (single registration main nahi lagega)
- ❖ Supply of used vehicles, seized and confiscated goods by the government - fall within the ambit of GST (supply to registered person then reverse charge, supply to unregistered person then government pay under forward charge)

ACTIVITIES OR TRANSACTIONS TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES.

GST SUMMARY NOTES (Applicable for MAY'24/JUNE'24/NOV'24/DEC'24)

	ACTIVITIES/ TRANSACTION	TYPE	NATURE OF SUPPLY
1.	Transfer	(a) Transfer of the title in goods (b) Transfer of right (without title) (c) Transfer of title upon future payment	Goods Services Goods
2.	Land and building	(a) Lease, tenancy , easement, license to occupy land (b) Lease or letting out , either wholly or partly, of the building including a commercial, industrial or residential complex for business or commerce	Services Services
3.	Treatment of process	Treatment or process	Services
4.	Transfer of business assets	(a) Goods forming part of the asset of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets (b) Goods held used for business are put to private use or are made available to any person for use for any purpose other than business , by or under the directions of the person carrying on the business, whether or not for a consideration (c) Where any person ceases to be a taxable person, any goods forming part of the asset of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately	Goods Services Goods
5.	<ul style="list-style-type: none"> ♥ Renting of immovable property ♥ Construction of a complex, building, civil structure or a part thereof, including a complexor building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier ♥ temporary transfer or peremitting the use or enjoyment of any intellectual property right. ♥ Development design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technonogy software ♥ Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act ♥ Trasnfer of the right to use any goods for any purpose for cash, 		Service

	deferred payment or other valuable consideration.	
6.	Following composite supplies: <ul style="list-style-type: none">◆ Works contract◆ Supply, by way of or as part of any service or in any other manner whatsoever of goods, being food or any other article for human consumption or any drink.	Service

CIRCULARS:

- **Transfer of tenancy right** - supply of service and liable to GST
- GST is attracted even through **stamp duty and registration charges** is levied on such premium.
- **Grant of tenancy rights in a residential dwelling against tenancy premium - exempt from tax.**

ACTIVITIES NEITHER SUPPLY OF GOODS NOR SUPPLY OF SERVICES [SCHEDULE III]

- (1) **Services by an employee to the employer** in the course of or in relation to his employment.
- (2) **Services by any court or Tribunal** established under any law for the time being in force. Explanation 1: The term "court" includes District Court, High Court and Supreme Court.
- (3)(a) **The functions performed by the Members** of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
(b) The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
(c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
- (4) **Services of funeral, burial, crematorium or mortuary including transportation of the deceased.**
- (5) **Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.**
- (6) **Actionable claims, other than lottery, betting and gambling.**
- (7) **Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.**
- (8)(a) **Supply of warehoused goods to any person before clearance for home consumption;**
(b) **Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.**

The term "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962. [Explanation 2]

NOTE:

- ◆ Services supplied outside employment for a consideration - **taxable**
- ◆ Services supplied on contract basis - **taxable**
- ◆ Amount received by an employee from the employer on premature termination of contract of employment - **not regarded as supply**
- ◆ Non-competing fees - **taxable**
- ◆ Independent directors, nominee directors or non-executive directors cannot be regarded as employee remuneration to them is liable to GST
- ◆ GST is not leviable on the fee or penalty or pre-deposit amount charged by consumer disputes redressal commission office.
- ◆ Remuneration paid to independent director/non-employee directors - covered under the ambit of supply - **liable to GST under RCM**
- ◆ Remuneration to employee director - if services are provided in course of employment - **liable to TDS under section 192** of the Income Tax Act, 1961 - covered in Schedule - III - not liable to GST. **Other services** - outside service contract of employment - liable for TDS under section 194J - covered in the scope of supply - **liable for GST under RCM.**

CIRCULARS:

- ✦ **Inter-state movement of various modes of conveyance**, carrying goods or passengers is not regarded as supply. However, **if it is or for repairs and maintenance, it shall be regarded as supply.**
- ✦ Inter-state transfer of aircraft engines, part and accessories for self use by airlines-**liable to GST**, however ITC admissible.
- ✦ Taxability of printing contracts
 - (i) **Content owned by publisher/ author** - paper and printing by printer - is supply of service
 - (ii) **Supply of printed envelopes, letter cards etc using design supplied by recipient** - is supply of goods
- ✦ Supply of services by JV to members - **regarded as supply**
- ✦ Supplies between JV and members or members inter se - **liable to GST**
- ✦ Cash calls/capital - mere flow of money - **taxable if by way of advance towards suppliers.**
- ✦ **Priority sector lending certificate (PSLCs)** are in nature of goods and liable to GST.
- ✦ **Retreading of tyres is a supply.** Supply of retreaded tyres is supply of goods (pre-dominant element is process of retreading which is a supply of service)
- ✦ **GST is applicable on payment of honorarium to the Guest Anchors.**

- ✚ Sale of land after levelling, laying down of drainage lines etc., is covered in Schedule III and is not taxable under GST [Circular No. 177/09/2022-TRU dated 03-08-2022]
- ✚ Perquisites provided in terms of contractual agreement to employee are not liable to GST.
- ✚ The activity of holding shares by a holding company of the subsidiary company will not be treated as a supply of service and the same will not attract GST. [Circular no. 196/08/2023-GST dated 17-7-2023]
- ✚ Casinos, horse racing and online gaming excluded from the purview of Schedule III to clarify their taxability [Entry 6 of schedule III amended]
- ✚ Supply of food and beverages at cinema halls taxable as restaurant service.
- ✚ No Claim Bonus cannot be considered as a consideration for any supply provided by the insured to the insurance company.

GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law.

1.	<p><u>"Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act"</u> has been specifically declared to be a supply of service in para 5 (e) of Schedule II of CGST Act if the same constitutes a "supply" within the meaning of the Act. The said expression has following three limbs:-</p>	
	<p><u>Agreeing to the obligation to refrain from an act</u></p>	<p>Example of activities that would be covered by this part of the expression would include non-compete agreements, where one party agrees not to compete with the other party in a product, service or geographical area against a consideration paid by the other party.</p> <p>Another example of such activities would be a builder refraining from constructing more than a certain number of floors, even though permitted to do so by the municipal authorities, against a compensation paid by the neighbouring housing project, which wants to protect its sunlight, or an industrial unit refraining from manufacturing activity during certain hours against an agreed compensation paid by a neighbouring school, which wants to avoid noise during those hours.</p>
	<p><u>Agreeing to the obligation to tolerate an act or a situation</u></p>	<p>Example - This would include activities such a shopkeeper allowing a hawker to operate from the common pavement in front of his shop against a monthly payment by the hawker or an RWA tolerating the use of loud speakers for early morning prayers by a school located in the colony subject to the</p>

	<p>Agreeing to the obligation to do an act</p>	<p>school paying an agreed sum to the RWA as compensation.</p> <p>Example - This would include the case where an industrial unit agrees to install equipment for the zero emission/discharge at the behest of the RWA of a neighbouring residential complex against a consideration paid by such RWA, even though the emission/discharge from the industrial unit was within permissible limits and there was no legal obligation upon the individual unit to do so.</p>
2.	<p>The description "<u>agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act</u>" was intended to cover services such as described above. However, over the years doubts have persisted regarding various transactions being classified under the said description.</p>	
	<p>Some of the important examples of such cases are Service Tax GST demands on-</p>	
i)	<p>Liquidated damages paid for breach of contract,</p>	
ii)	<p>Cheque dishonor fine/penalty charged by a power distribution company from the customers,</p>	
iii)	<p>Penalty paid by a mining company to State Government for unaccounted stock of river bed material:</p>	
iv)	<p>Bond amount recovered from an employee leaving the employment before the agreed period</p>	
v)	<p>Late payment charges collected by any service provider for late payment of bill</p>	
vi)	<p>Fixed charges collected by a power generating company from State Electricity Boards (SEB) or by SEBS/DISCOMS from individual customer for supply of electricity:</p>	
vii)	<p>Cancellation charges recovered by railways for cancellation of tickets, etc.</p>	
3.	<p><u>Contractual agreement and consideration necessary to constitute supply :-</u> The service of agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act is nothing but a contractual agreement. A contract to do something or to abstain from doing something cannot be said to have taken place unless there are two parties, one of which expressly or impliedly agrees to do or abstain from doing something and the other agrees to pay consideration to the first party for doing or abstaining from such an act. There must be a necessary and sufficient nexus between the supply (i.e. agreement to do or to abstain from doing something) and the consideration.</p> <p>A perusal of the entry at serial 5(e) of Schedule II would reveal that it comprises the aforementioned three different sets of activities viz.:</p> <p>(a) the obligation to refrain from an act</p>	

- (b) obligation to tolerate an act or a situation and
- (c) obligation to do an act

All the three activities must be under an "agreement" or a "contract" (whether express or implied) to fall within the ambit of the said entry. In other words, one of the parties to such agreement/contract (the first party) must be under a contractual obligation to either (a) refrain from an act, or (b) to tolerate an act or a situation or (c) to do an act.

Further some "consideration" must flow in return from the other party to this contract/agreement (the second party) to the first party for such (a) refraining or (b) tolerating or (c) doing. Such contractual arrangement must be an independent arrangement in its own right. Such arrangement or agreement can take the form of an independent stand-alone contract or may form part of another contract.

Thus, a person (the first person) can be said to be making a supply by way of refraining from doing something or tolerating some act or situation to another person (the second person) if the first person was under an obligation to do so and then performed accordingly.

4. Agreement to do or refrain from an act should not be presumed to exist:

Every payment cannot be presumed to be for doing or refraining from an act:- There has to be an express or implied agreement, oral or written, to do or abstain from doing something against payment of consideration for doing or abstaining from such act, for a taxable supply to exist. An agreement to do an act or abstain from doing an act or to tolerate an act or a situation cannot be imagined or presumed to exist just because there is a flow of money from one party to another. Unless there is an express or implied promise by the recipient of money to agree to do or abstain from doing something in return for the money paid to him, it cannot be assumed that such payment was for doing an act or for refraining from an act or for tolerating an act or situation.

Payments such as liquidated damages for breach of contract, penalties under the mining act for excess stock found with the mining company, forfeiture of salary or payment of amount as per the employment bond for leaving the employment before the minimum agreed period, penalty for cheque dishonour etc. are not a consideration for tolerating an act or situation. They are rather amounts recovered for not tolerating an act or situation and to deter such acts; such amounts are for preventing breach of contract or non-performance and are thus mere 'events' in a contract. Further, such amounts do not constitute payment (or consideration) for tolerating an act, because there cannot be any contract:

- (a) for breach thereof, or

(b) for holding more stock than permitted under the mining contract.or
(c) for leaving the employment before the agreed minimum period or
(d) for doing something leading to the dishonour of a cheque.

As has already been stated, unless payment has been made for an independent activity of tolerating an act under an independent arrangement entered into for such activity of tolerating an act, such payments will not constitute 'consideration' and hence such activities will not constitute "supply" within the meaning of the Act.

Taxability of these transactions is discussed in greater detail in the following paragraphs.

(i) Liquidated Damages:

- Scope of Liquidated damages:- Breach or non-performance of contract by one party results in loss and damages to the other party. Therefore, the law provides in Section 73 of the Contract Act, 1972 that when a contract has been broken, the party which suffers by such breach is entitled to receive from the other party compensation for any loss or damage caused to him by such breach. Such compensation specified in a written contract for breach of non-performance of the contract or parties of the contract is referred to as liquidated damages. The compensation is not by way of consideration for any other independent activity; it is just an event in the course of performance of that contract.
- Liquidated damages not a consideration for tolerating the breach or non-performance of contract :- Liquidated damages cannot be said to be a consideration received for tolerating the breach or non-performance of contract. They are rather payments for not tolerating the breach of contract. Payment of liquidated damages is stipulated in a contract to ensure performance and to deter non- performance, unsatisfactory performance or delayed performance. Liquidated damages are a measure of loss and damage that the parties agree would arise due to breach of contract. They do not act as a remedy for the breach of contract. They do not retribute the aggrieved person. It is further argued that a contract is entered into for execution and not for its breach. The liquidated damages or penalty are not the desired outcome of the contract. By accepting the liquidated damages, the party aggrieved by breach of contract cannot be said to have permitted or tolerated the deviation or non- fulfilment of the promise by the other party.
- Liquidated damages do not constitute consideration for a supply and are not taxable:- A reasonable view that can be taken with regard to taxability of liquidated damages is that where the amount paid as

'liquidated damages' is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages, in such cases liquidated damages are mere a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable.

- Examples of liquidated damages which do not constitute supply:- Examples of such cases are damages resulting from damage to property, negligence, piracy, unauthorized use of trade name, copyright, etc.

Other examples that may be covered here are the penalty stipulated in a contract for delayed construction of houses. It is a penalty paid by the builder to the buyers to compensate them for the loss that they suffer due to such delayed construction and not for getting anything in return from the buyers.

Similarly, forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer or by Government or local authority in the event of a successful bidder failing to act after winning the bid, for allotment of natural resources, is a mere flow of money, as the buyer or the successful bidder does not get anything in return for such forfeiture of earnest money. Forfeiture of Earnest money is stipulated in such cases not as a consideration for tolerating the breach of contract but as a compensation for the losses suffered and as a penalty for discouraging the non-serious buyers or bidders. Such payments being merely flow of money are not a consideration for any supply and are not taxable.

- Where payments constitute consideration for tolerating/refraining from doing any act/ doing an act-same constitutes supply:- The key in such cases is to consider whether the impugned payments constitute consideration for another independent contract envisaging tolerating an act or situation or refraining from doing any act or situation or simply doing an act. If the answer is yes, then it constitutes a 'supply within the meaning of the Act, otherwise it is not a "supply". If a payment constitutes a consideration for a supply, then it is taxable irrespective of by what name it is called; it must be remembered that a "consideration" cannot be considered de hors an agreement/ contract between two persons wherein one person does something for another and that other pays the first in return. If the payment is merely an event in the course of the performance of the agreement and it does

		<p>not represent the 'object', as such, of the contract then it cannot be considered 'consideration'.</p> <ul style="list-style-type: none"> ➤ <u>Examples of payments that constitute consideration for supply:-</u> For example, a contract may provide that payment by the recipient of goods or services shall be made before a certain date and failure to make payment by the due date shall attract late fee or penalty. A contract for transport of passengers may stipulate that the ticket amount shall be partly or wholly forfeited if the passenger does not show up. A contract for package tour may stipulate forfeiture of security deposit in the event of cancellation of tour by the customer. Similarly, a contract for lease of movable or immovable property may stipulate that the lessee shall not terminate the lease before a certain period and if he does so he will have to pay certain amount as early termination fee or penalty. Some banks similarly charge pre-payment penalty if the borrower wishes to repay the loan before the maturity of the loan period. ➤ <u>Such amounts paid for acceptance of late payment, early termination of lease or for pre-payment of loan or the amounts forfeited on cancellation of service by the customer as contemplated by the contract as part of commercial terms agreed to by the parties, constitute consideration for the supply of a facility, namely, of acceptance of late payment, early termination of a lease agreement, of pre-payment of loan and of making arrangements for the intended supply by the tour operator respectively.</u> ➤ Therefore, such payments, even though they may be referred to as fine or penalty, are actually payments that amount to consideration for supply, and are subject to GST, in cases where such supply is taxable. Since these supplies are ancillary to the principal supply for which the contract is signed, they shall be eligible to be assessed as the principal supply, as discussed in detail in the later paragraphs. Naturally, such payments will not be taxable if the principal supply is exempt.
	(ii)	<p>Cheque dishonor fine/penalty:</p>
		<p><u>Cheque dishonor fine or penalty not taxable:-</u> No supplier wants a cheque given to him to be dishonoured. It entails extra administrative cost to him and disruption of his routine activities and cash flow. The promise made by any supplier of goods or services is to make supply against payment within an agreed time (including the agreed permissible time with late payment) through a valid instrument. There is never an implied or express offer or willingness on part of the supplier that he would tolerate deposit of an invalid, fake or unworthy instrument of payment against consideration in the form of cheque dishonour fine or penalty. The fine or penalty that the</p>

	<p>supplier or a banker imposes, for dishonour of a cheque, is a penalty imposed not for tolerating the act or situation but a fine, or penalty imposed for not tolerating, penalizing and thereby deterring and discouraging such an act or situation. Therefore, cheque dishonor fine or penalty is not a consideration for any service and not taxable.</p>
(iii)	<p>Penalty imposed for violation of laws:</p> <p><u>Penalty imposed for violation of laws-Not taxable:</u>- Penalty imposed for violation of laws such as traffic violations, or for violation of pollution norms or other laws are also not consideration for any supply received and are not taxable, which are also not taxable. Same is the case with fines, penalties imposed by the mining Department of a Central or State Government or a local authority on discovering mining of excess mineral beyond the permissible limit or of mining activities in violation of the mining permit. Such penalties imposed for violation of laws cannot be regarded as consideration charged by Government or a Local Authority for tolerating violation of laws. Laws are not framed for tolerating their violation. They stipulate penalty not for tolerating violation but for not tolerating, penalizing and deterring such violations. There is no agreement between the Government and the violator specifying that violation would be allowed or permitted against payment of fine or penalty. There cannot be such an agreement as violation of law is never a lawful object or consideration. <u>Fines and penalties paid for violation of provisions of law are not considerations as no service is received in lieu of payment of such fines and penalties.</u></p> <p>It was also clarified vide Circular No. 192/02/2016-ST, dated 13-04-2016 that fines and penalty chargeable are by Government or a local authority imposed for violation of a statute, bye-laws, rules or regulations not leviable to Service Tax. The same holds true for GST also.</p>
(iv)	<p><u>Forfeiture of salary or payment of bond amount in the event of the employee leaving the employment before the minimum agreed period:</u></p> <p><u>Forfeiture of salary or payment of bond amount in the event of the employee leaving the employment before the minimum agreed period - Not taxable:</u> - An employer carries out an elaborate selection process and incurs expenditure in recruiting an employee, invests in his training and makes him a part of the organization, privy to its processes and business secrets in the expectation that the recruited employee would work for the organization for a certain minimum period. Premature leaving of the employment results in disruption of work and an undesirable situation. The provisions for forfeiture of salary or recovery of bond amount in the event of the employee leaving the employment before the minimum agreed period are</p>

	<p>incorporated in the employment contract to discourage non-serious candidates from taking up employment. The said amounts are recovered by the employer not as a consideration for tolerating the act of such premature quitting of employment but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation. Further, the employee does not get anything in return from the employer against payment of such amounts. <u>Therefore, such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation.</u></p>
(v)	<p><u>Late payment surcharge or fee:</u></p>
	<p><u>Late payment surcharge or fee-is an ancillary supply naturally bundled with the principal supply, to be assessed as the principal supply:-</u> The facility of accepting late payments with interest or late payment fee, fine or penalty is a facility granted by supplier naturally bundled with the main supply. It is not uncommon or unnatural for customers to sometimes miss the last date of payment of electricity, water, telecommunication services etc. Almost all service providers across the world provide the facility of accepting late payments with late fine or penalty. Even if this service is described as a service of tolerating the act of late payment, it is an ancillary supply naturally bundled and supplied in conjunction with the principal supply, and therefore should be assessed as the principal supply. Since it is ancillary to and naturally bundled with the principal supply such as of electricity, water, telecommunication, cooking gas, insurance etc. it should be assessed at the same rate as the principal supply. However, the same cannot be said of cheque dishonor fine or penalty as discussed in the preceding paragraphs.</p>
(vi)	<p><u>Fixed Capacity charges for Power:</u></p>
	<p><u>Fixed Capacity charges for Power are charged for sale of electricity - not taxable as electricity is exempt from GST:-</u> The price charged for electricity by the power generating companies from the State Electricity Boards (SEBS)/ DISCOMS or by SEBS/ DISCOMS from individual customers has two components, namely, a minimum fixed charge (or capacity charge) and variable per unit charge. The minimum fixed charges have to be paid by the SEBS/ DISCOMS/ individual customers irrespective of the quantity of electricity scheduled or purchased by them during a month. They take care of the fixed cost of generating/ supplying electricity. The variable charges are charged per unit of electricity purchased and increase or decrease every month depending on the quantity of electricity consumed. The fact that the minimum fixed charges remain the same whether electricity is consumed or not or it is scheduled/consumed below the contracted or available capacity or a minimum threshold, does not mean that minimum fixed charge or part of it is a charge for tolerating the act of not</p>

	<p>scheduling or consuming the minimum the contracted or available capacity or a minimum threshold.</p> <p><u>Both the components of the price, the minimum fixed charges/capacity charges and the variable/energy charges are charged for sale of electricity and are thus not taxable as electricity is exempt from GST. Power purchase agreements may have provisions that the power producer shall not supply electricity to a third party without approval of buyer. Such agreements which ensure assured supply of power to State Electricity Boards/DISCOMS are ancillary arrangements; the contract is essentially for supply of electricity.</u></p>
(vii)	<p><u>Cancellation charges:</u></p> <p><u>Cancellation charges to be assessed is similar manner of Principal supply:-</u> A supply contracted for, such as booking of hotel accommodation, an entertainment event or a journey, may be cancelled by a customer or may not proceed as intended due to his failure to show up for availing the same at the designated place and time. The supplier may allow cancellation of supply by the customer within a certain specified time period on payment of cancellation fee as per commercial terms of the contract. In case the customer does not show up for availing the service, the supplier may retain or forfeit part of the consideration or security deposit or earnest money paid by the customer for the intended supply.</p> <p>It is a common business practice for suppliers of services such as hotel accommodation, tour and travel, transportation etc. to provide the facility of cancellation of the intended supplies within a certain time period on payment of cancellation fee. Cancellation fee can be considered as the charges for the costs involved in making arrangements for the intended supply and the costs involved in cancellation of the supply, such as in cancellation of reserved tickets by the Indian Railways.</p> <p>Services such as transportation travel and tour constitute a bundle of services. The transportation service, for instance, starts with booking of the ticket for travel and lasts at least till exit of the passenger from the destination terminal. All services such as making available an online portal or convenient booking counters with basic facilities at the transportation terminal or in the city, to reserve the seats and issue tickets for reserved seats much in advance of the travel, giving preferred seats with or without extra cost, lounge and waiting room facilities at airports, railway stations and bus terminals, provision of basic necessities such as soap and other toiletries in the wash rooms, clean drinking water in the waiting area etc. form part and parcel of the transportation service; they constitute the various elements of passenger transportation service, a composite supply. The facilitation service of allowing cancellation against payment of</p>

<p>cancellation charges is also a natural part of this bundle. It is invariably supplied by all suppliers of passenger transportation service as naturally bundled and in conjunction with the principal supply of transportation in the ordinary course of business.</p> <p><u>Therefore, facilitation supply of allowing cancellation of an intended supply against payment of cancellation fee or retention or forfeiture of a part or whole of the consideration or security deposit in such cases should be assessed as the principal supply. For example, cancellation charges of railway tickets for a class would attract GST at the same rate as applicable to the class of travel (ie., 5% GST on First class or air-conditioned coach ticket and nil for other classes such as second sleeper class). Same is the case for air travel.</u></p> <p>Accordingly, the amount forfeited in the case of non-refundable ticket for air travel or security deposit or earnest money forfeited in case of the customer failing to avail the travel, tour operator or hotel accommodation service or such other intended supplies should be assessed at the same rate as applicable to the service contract, say air transport or tour operator service, or other such services.</p>
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TAXABILITY OF COMPOSITE AND MIXED SUPPLY

COMPOSITE SUPPLY

- ❖ Consists of two or more supplies
- ❖ *Naturally bundled*
- ❖ In conjunction with each other
- ❖ One of which is principal supply
- ❖ *Tax liability shall be rate of principal supply*

MIXED SUPPLY

- ❖ Consists of two or more supplies for single price
- ❖ *Not naturally bundled*
- ❖ Though can be supplied independently, but supplied together
- ❖ Tax liability shall be the rate applicable to the supply that attracts *highest rate of tax*

Manner of determining whether the services are bundled in the ordinary course of business

- ⌚ The perception of the consumer or the service receiver
- ⌚ Majority of service supplies
- ⌚ The nature of various aspects
- ⌚ Other illustrative indicators
- ⌚ No straight jacket formula

CHAPTER - 3: CHARGE OF GST

CATEGORIES OF SERVICES ON WHICH TAX WILL BE PAYABLE UNDER REVERSE CHARGE MECHANISM UNDER CGST ACT, 2017 [NOTIFICATION NO. 13/2017]

	CATEGORY OF SUPPLY OF SERVICES	SUPPLIER OF SERVICE	RECIPIENT OF SERVICE
1.	<p>Supply of services by a Good Transport Agency (GTA) in respect of transportation of goods by road to -</p> <p>a) any factory register under or governed by the Factories Act, 1948; or</p> <p>b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>c) any Co-operative society established by or under any law; or</p> <p>d) any person registered under the CGS Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>e) any body corporate established, by or under any law; or</p> <p>f) any partnership firm whether registered or not under any law including Association of persons; or</p> <p>g) any casual taxable person</p> <p><u>RCM not applicable if recipient registered only for TDS :-</u> However, nothing contained in this entry shall apply to services provided by a goods transport</p>	<p>Goods Transport Agency (GTA)</p>	<p>a) Any factory registered under or governed by the factories Act, 1948; or</p> <p>b) Any society registered under the societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>c) Any co-operative society established by or under any law; or</p> <p>d) Any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>e) Any body corporate established, by or under any law; or</p> <p>f) Any partnership firm whether registered or not under any law including association of persons; or</p> <p>g) Any casual taxable person; located in the taxable territory.</p> <p>However nothing contained in this entry shall apply where :-</p> <p>i. the supplier has taken registration under the CGST Act 2017 and exercised the option to pay tax on the services of GTA</p>

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	<p>agency, by way of transport of goods in a goods carriage by road, to, -</p> <p>a) A department or establishment of the central government or State government or Union Territory; or</p> <p>b) Local authority; or</p> <p>c) Governmental Agencies, which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax u/s 51 and not for making a taxable supply of goods or services.</p>		<p>ii. in relation to transport of goods supplied by him under forward charge; and the supplier has issued a tax invoice to the recipient charging Central Tax at the applicable rates and has made a prescribed declaration on such invoice issued by him.</p>
2.	<p>Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly</p>	<p>An individual advocate including a senior advocate or firm of advocates</p>	<p>Any business entity located in taxable territory.</p>
3.	<p>Services supplied by an arbitral tribunal to a business entity</p>	<p>An arbitral tribunal</p>	<p>Any business entity located in the taxable territory</p>
4.	<p>Services provided by way of sponsorship to any body corporate or partnership firm</p>	<p>Any person</p>	<p>Any body corporate or partnership firm located in the taxable territory</p>
5.	<p>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding -</p> <p>(1) renting of immovable property, and</p> <p>(2) Services specified below:</p> <p>a) services by the Department of Posts and the Ministry of Railways (Indian Railways)</p> <p>b) services in relation to an</p>	<p>Central Government, State Government, Union territory or local authority</p>	<p>Any business entity located in the taxable territory.</p>

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	aircraft or a vessel, inside or outside the precincts of a port or an airport; c) transport of goods or passengers.		
5A	Services supplied by the Central Government, excluding the Ministry of Railways (Indian Railways), State Government, Union territory or local authority by way of renting of immovable property to a person registered under the CGST Act, 2017	Central Government, State Government, Union territory or local authority	Any person registered under the CGST Act, 2017
5A	Service by way of renting of residential dwelling to a registered person.	Any person	Any registered person
5B	Services supplied any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter
6.	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in taxable territory
7.	Services supplied by an insurance agent to any person carrying on insurance business.	A insurance agent	Any person carrying on insurance business, located in the taxable territory
8.	Services supplied by a recovery	A recovery	A banking company or financial

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	<i>agent to a banking company or a financial institution or a non-banking financial company.</i>	agent	institution or a non-banking financial company, <i>located in the taxable territory</i>
9.	<i>Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under Section 13(1)(a) of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like</i>	Music composer, photographer, artist, or the like	Music company, producer or the like, <i>located in the taxable territory.</i>
10.	<i>*Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1) (a) of the Copyright Act, 1957 relating to literary works to a publisher. original</i>	Author	Publisher located in the taxable territory: however, nothing contained in this entry shall apply where - (I) the author has taken registration under the CGST Act, 2017 and filed a declaration, in the specified form before the commencement of financial year with the jurisdictional CGST or SGST Commissioner, as the case may be, that he exercises the option to pay central tax on such services in accordance with Section 9(1) of the CGST Act, 2017 under forward charge, and to comply with all the provisions of CGST Act, 2017 as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option

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			<p>within a period of 1 year from the date of exercising such option;</p> <p>(II) the author makes a declaration regarding payment of tax on forward charge on the invoice issued by him in Form GST Inv-I to the publisher.</p>
10	Supply of services by the members of Overseeing Committee to RBI	Members of overseeing committee constituted by the RBI	RBI
11	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs)	individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm	A banking company or a non-banking financial company, located in the taxable territory
12	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory
13	Services provided by an agent of business correspondent (BC) to business correspondent (BC)	An agent of business correspondent	A business correspondent located in taxable territory
14	Security services (services provided by way of supply of security personnel) provided to a registered person. RCM not applicable if recipient	Any person other than body corporate	A registered person, located in the taxable territory

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	<p>registered only for TDS and in case composition suppliers : However, nothing contained in this entry shall apply to, -</p> <p>(i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies, which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax u/s 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 of the said Act.</p>		
15	<p>Services provided by way of renting of a motor vehicle provided to a body corporate</p>	<p>Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business</p>	<p>Any body corporate located in the taxable territory</p>
16	<p>Services of lending of securities under Securities Lending Scheme, 1997</p>	<p>Lender i.e. a person who</p>	<p>Borrower i.e. a person who borrows the securities under the scheme through an</p>

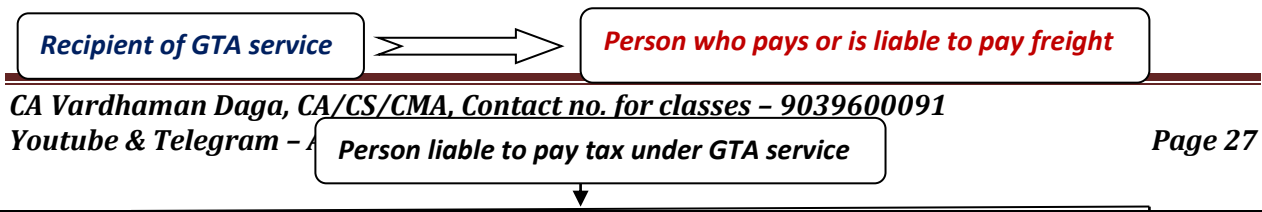
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	<p>("Scheme") of SEBI as amended.</p>	<p>deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI</p>	<p>approved intermediary of SEBI</p>
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CIRCULAR:

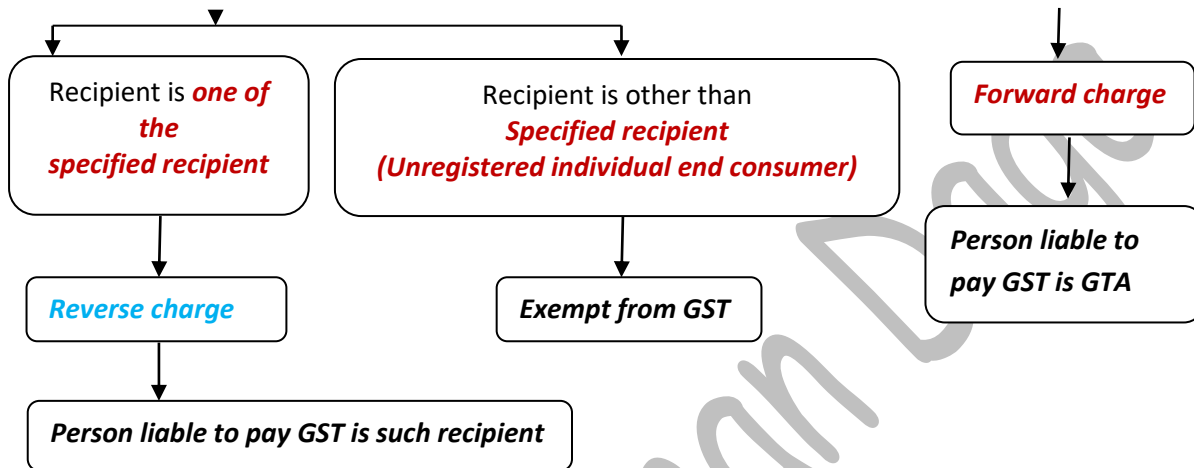
- ❖ supply of securities under securities lending scheme, 1997 by the lender is taxable under GST as lending of securities is not covered under disposal of securities, thus covered under the ambit of services. Lending fees charged by the lender from the borrower is liable to IGST under reverse charge mechanism.
- ❖ Tax on services by director of a company in his personal capacity such as renting of immovable property to the company/body corporate not payable under RCM

Provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament, State Legislatures, **Courts and Tribunals.** [Amended w.e.f. 01-03-2023]



GTA paying GST @ 5%

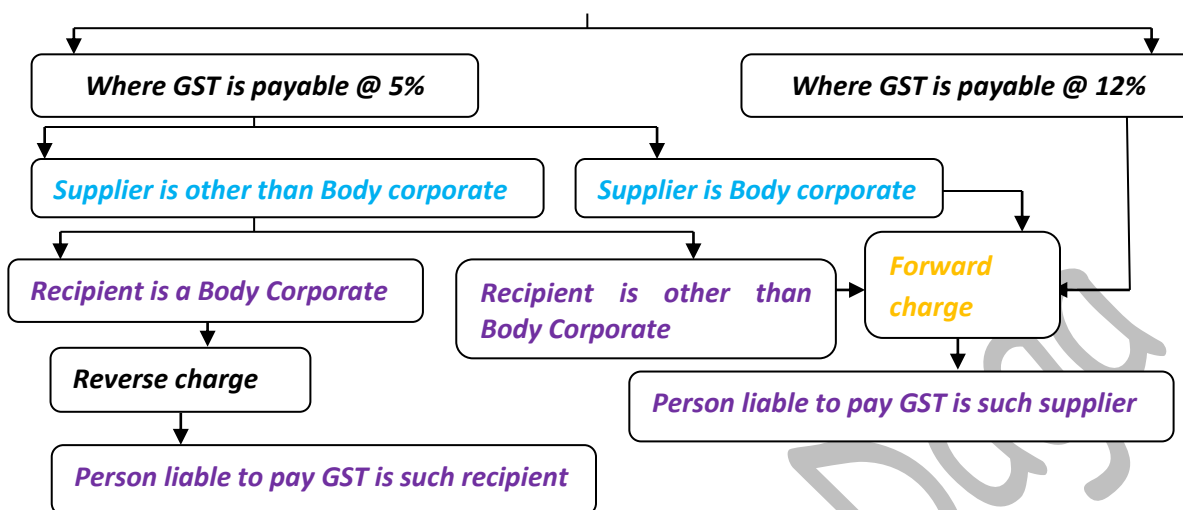
GTA paying GST @ 12%



GST SERVICES ARE TAXABLE:

- ❖ @5% provided GTA has not taken the input tax credit on goods and services used in supplying GTA service. Such services are taxable under reverse charge mechanism. However, GTA can exercise the option to pay tax under forward charge mechanism. In such a case, GTA has to take registration under the CGST,2017 has to issue tax invoice to the recipient charging GST@5% and has to make a prescribed declaration on such invoice issued by him.
- ❖ @12% provided GTA pays GST under forward charge. There is no restriction on availing ITC on goods and services used in supplying GTA services by GTA

Person liable to pay tax under renting of motor vehicle service



Services Services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity are not taxable under RCM - Circular No. 201/13/2023-GST dated 1-8-2023

Service of transport of passengers is distinct from service of renting of a vehicle that is used for Transport. Where the body corporate hires the motor vehicle (for transport of employees etc) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, it shall be liable to pay GST on the same under RCM.

E-COMMERCE OPERATOR

- + **E-commerce operator will be liable to pay GST** in respect of service provided through E-commerce operator.
- + No physical presence of E-commerce operator in the taxable territory - **representative liable to GST**
- + **No representative in taxable territory** - E-commerce operator shall appoint person and he shall be liable to pay.
- + **It is important to note that this exception is carved out only in respect of supply of services through an e-commerce operator and will not be applicable /relevant to supply of any goods through an e-commerce operator.**
- + **Categories of services the tax on intra-state supplies of which shall be paid by the electronic commerce operator.**
 - × **Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, omnibus or any other motor vehicle**
 - × **Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises ("specified premises" means premises providing hotel accommodation service having**

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declared tariff of any unit of accommodation above ₹7,500/- per unit per day or equivalent)

IGST to be paid on reverse charge by recipient on notified goods/services or both

	CATEGORY OF SUPPLY OF SERVICE	SUPPLIER OF SERVICE	RECIPIENT OF SERVICE
1.	<i>Any service supplied by any person who is located in a non territory to any person other than non-taxable online recipient</i>	<i>Any person located in a non-taxable territory</i>	<i>Any person located in the taxable territory other than non-taxable online recipient</i>
2.	<i>Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the custom stations of clearance in India</i>	<i>A person located in non-taxable territory</i>	<i>Importer</i>

IGST is levied on export, supply to/by SEZ, import of services

CHAPTER - 3: COMPOSITION LEVY

[SECTION 10]

- * **Optional scheme:** option available to taxable person
- * **Eligibility:** a registered person, whose **aggregate turnover** in the **preceding F.Y** did not exceed **₹ 1.5 crore**, will be eligible.

Special category states (₹ 75 lakh)			
Arunachal Pradesh	Manipur	Meghalaya	Tripura
Mizoram	Nagaland	Sikkim	Uttarakhand
Assam, Himachal Pradesh and Jammu and Kashmir, the turnover limit will be ₹ 1.5 crore			

Aggregate turnover means the aggregate value of -

- All taxable supplies (**excluding the value of inward supplies on which tax is payable by a person on a reverse charge basis**),
- Exempt supplies, (**excluding value of exempt supply of services by way of extending loans, deposit and advances in so far consideration is represented by way of interest or discount**)
- Export of goods or services or both, and
- Inter-state supplies

Of persons having the **same PAN**, to be computed on all India basis,
But **excludes** -

- Central tax, state tax, union territory tax, integrated tax, and cess.

- * Scheme will be applicable for all goods and restaurant services.

* Rates of composition tax

S. N O.	Eligible person	Rate of Tax cannot exceed (% of turnover)		Total rate of tax cannot exceed
		CGST	SGST	
(a)	Manufacturer	0.5% of the turnover of the state or union territory	0.5% of the turnover of the state or union territory	1 % of the turnover of the state or union territory
(b)	Registered person	2.5% of the turnover of the state or union territory	2.5% of the turnover of the state or union territory	5% of the turnover of the state or union territory
(c)	Other supplies	0.5% of the turnover of the taxable supplies of goods and services state or union	0.5% of the turnover of the taxable supplies of goods and services state or union	1 % of the turnover of the taxable supplies of goods and services state or union

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	territory	territory	<i>territory</i>
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Services can be supplied by the composition suppliers: A person who opts to pay tax under (a) or clause (b) or clause (c) may supply services (*other than those referred to in clause (b) of paragraph 6 of schedule II i.e. restaurant services*), of value -

(a) Not exceeding 10% of turnover in a state or union territory in the preceding F.Y or

(b) Rs 500000

Whichever is higher.

❖ **Persons not eligible to opt for composition scheme**

- ✚ Supplier of services other than those mentioned above.
- ✚ Supplier of goods which are not taxable under GST
- ✚ An inter-state supplier of goods
- ✚ Person supplying goods through an electronic commerce operator
- ✚ Manufacturer of certain notified goods (*ineligible manufacturer*)

S.no	Tariff item, subheading, heading or chapter	Description
1.	21050000	Ice cream and other edible ice, whether or not containing cocoa
2.	21069020	Pan masala
2A.	22021010	Aerated water
3.	24	All goods, i.e. Tobacco and manufactured tobacco substitutes
4.	6815	Fly ash bricks; Fly ash aggregates; Fly ash blocks
5.	69010010	Bricks of fossil meals or similar siliceous earths
6.	69041000	Building bricks
7.	69051000	Earthen or roofing tiles

There is no restriction on composition supplier to procure goods from inter-state supplies.

- ❖ *Applicable for all transactions of registered person with same PAN*
- ❖ *Option lapses if aggregate turnover exceeds Rs 1.5 crore/ Rs 75 lakh*
- ❖ *Composition tax not to be collected from recipients*
- ❖ *Input tax credit cannot be availed*
- ❖ *Composition scheme not applicable for tax payable under reverse charge mechanism*
- ❖ *Customer not entitled to tax credit of composition scheme.*

PRESUMPTIVE SCHEME FOR SERVICES SUPPLIERS AND MIXED SUPPLIES (Section 10(2A))

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- New scheme in GST dated 07-03-2019 in which a tax payer has been allowed to pay **GST on a presumptive basis at the rate of 6%** (3% CGST and 3% SGST).
- Benefit of this scheme is available on or after 01-04-2019 only in respect of intra-state supplies of goods or services or both
- Traders, manufacturer, restaurant service providers who are eligible for composition scheme (even if not opted) will not avail this benefit.
- **Conditions:**
 - ✦ **Aggregate turnover in preceding F.Y does not exceed Rs 50 lakh.** In aggregate turnover loan and deposit wali exemption ko nahi lenge exempt supply ko include karte time.
 - ✦ He is **not eligible to pay tax under composition scheme**
 - ✦ He is **not engaged in making any inter-state outward supply** – neither of goods nor of services.
 - ✦ He is **not engaged in the business of making any supplies on which GST is not leviable under this act**(i.e. petroleum product and alcoholic liquor for home consumption)
 - ✦ He is **neither casual taxable person nor a non-resident taxable person.**
 - ✦ He is **not engaged in supply through E-commerce operator.**
 - ✦ He is **not engaged in making supplies of goods** being (icre-cream and other edible ice, whether or not containing cocoa, pan masala, tobacco and manufactured tobacco substitutes)
- **Applicable for** all transactions of registered person with same PAN
- **Presumptive tax not to be collected from recipient and ITC not admissible**
- **Bill of supply to be issued** instead of tax invoice
- **Tax is to be paid @6%** on all outward supplies **i.e. goods or services**
- **Presumptive scheme not applicable for tax payable under reverse charge**
- **ITC to be reversed on switching to presumptive income.**
- **Rate of tax:**

Description of supply	Rate of Tax cannot exceed (% of turnover)		Total rate of tax cannot exceed
	CGST	SGST	
First supplies of goods or services or both upto an aggregate turnover of Rs 50lacs made on or after 1st day of April in any financial year, by a registered person	3% of the aggregate turnover in the state or union territory	3% of the aggregate turnover in the state or union territory	6% of the aggregate turnover in the state or union territory

Meaning of first supplies of goods or services or both -

(a) For the purpose of determining the eligibility of presumptive levy: *From the 1st day of April of a F.Y to the date from which he becomes liable for registration*

(b) For the purpose of payment tax: *shall be after the date of registration.*

RULES RELATING TO COMPOSITION AND PRESUMPTIVE LEVY

- *Deemed intimation for composition in Part B of FORM GST REG-01*
- *Composition levy shall be effective from the beginning of the F.Y*
- *Furnish ITC declaration with 60days [GST ITC - 03]*
- *Details of stock to be furnished within 90 days from the date of option [GST CMP - 03]*
- *Person exercising the option to pay tax under composition shall comply with following conditions:*
 - (a) *neither a casual taxable person nor a non-resident taxable person*
 - (b) *goods held in stock by him have not been purchased from an unregistered supplier and if purchased the he should in reverse charge basis.*
 - (c) *Pay tax on reverse charge basis*
 - (d) *Not engaged in supply of notified goods*
 - (e) *Not eligible to collect tax on supplies*
 - (f) *Composition taxable person on every notice or sign board*
- *Option valid till cessation*
- *Mandatory cessation of composition levy on violation of conditions in FORM GST CMP-04 within 7 days*
- *Application for withdrawal from scheme in FORM GST CMP-04*
- *Denial of option to pay tax under the composition scheme by tax authorities - issuance of SCN in FORM GST CMP-05 within 15 days*
- *Reply to SCN in FORM GST CMP-06. Final order within 30 days of reply in FORM GST CMP-07*
- *Composition/presumptive to file return annually (GSTR 4) on or before 30th day of April following the end of the F.Y and make payment quarterly (GST CMP-08) by 18th day of the month succeeding such quarter.*

CHAPTER - 4: PLACE OF SUPPLY

4.2 RELEVANT DEFINITIONS

Term	Definitions
Place of supply	It means the place of supply as referred to in Chapter V of the Integrated Goods and Services Tax Act. [Section 2(86)]
Location of the supplier of services	<p>It means, -</p> <p>(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;</p> <p>(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;</p> <p>(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and</p> <p>(d) in absence of such places, the location of the usual place of residence of the supplier.</p> <p>Broadly, it is the registered place of business or the fixed establishment of the supplier from where the supply is made.</p> <p>Sometimes, a service provider has to go to a client location for providing service.</p> <p>However, such place would not be considered as the location of the supplier. It has to be either a regular place of business or a fixed establishment, which is having sufficient degree of permanence and suitable structure in terms of human and technical resources.</p> <p>Note: It must be noted that the term 'location of supplier of goods' has not been defined in the Act.</p>
Location of the recipient of services	<p>It means, -</p> <p>(a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;</p> <p>(b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;</p> <p>(c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the</p>

	<p>receipt of the supply; and</p> <p>(d) in absence of such places, the location of the usual place of residence of the recipient.</p> <p>Note: it must be noted that the term 'location of recipient of goods' has not defined in the Act.</p>
Place of business	<p>Includes-</p> <p>(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or</p> <p>(b) a place where a taxable person maintains his books of account; or</p> <p>(c) a place where a taxable person is engaged in business through an agent, by whatever name called. [Section 2(85)]</p> <p>Note: This is an inclusive definition and is applicable for both goods and services.</p>
Fixed establishment	<p>It means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs. Thus, following points are relevant-</p> <p>(i) it is a place other than the registered place of business;</p> <p>(ii) it has sufficient human and technical resources to supply and receive services, thus it is also a place of business;</p> <p>(iii) temporary presence of staff by way of a short visit at a place cannot be called as fixed establishment;</p> <p>(iv) the number of staff at a location is irrelevant and only the adequacy of the arrangement of human and technical resources to carry out the activities is to be considered;</p> <p>(v) permanent nature of the arrangement and location need to be considered.</p>
Usual place of residence	<p>It means-</p> <p>(a) in case of an individual, the place where he ordinarily resides;</p> <p>(b) in other cases, the place where the person is incorporated or otherwise legally constituted. [Section 2(113)]</p>
Address of delivery	<p>It means the address of the recipient of goods or services or both indicated on the tax invoice issued by a registered person for delivery of such goods or services or both. [Section 2(2)]</p>
Address on record	<p>It means the address of the recipient as available in the records of the supplier [Section 2(3)]</p>

4.3 INTER-STATE SUPPLIES [SECTION 7 OF THE IGST ACT, 2017]

According to **Section 7 of the IGST Act, 2017**, the broad principles for determining the supply of goods and services in the course of inter state trade or commerce are:

(1) **With reference to goods:**

Where 'location of the supplier' and 'place of supply' are in different States/ Union territories - Inter-State

Supply [Section 7(1):

- 'location of the supplier' and
- Supply of goods where-
- 'place of supply'

are in-

- (a) two different States;
- (b) two different Union territories; or
- (c) a State and a Union territory,

shall be treated as a supply of goods in the course of **inter-State trade or commerce**.

Section 7(1) is subject to the provisions of Section 10: Section 7(1) is subject to the provisions of Section 10, it implies that the place of supply of goods shall be determined as per Section 10 of the IGST Act and thereafter, Section 7(1) would be applied.

Import of goods - Deemed to be inter-State Supply [Section 7(2)]: Supply of goods imported into the territory of India, till they cross the **customs frontiers of India**, shall be treated to be a supply of goods in the course of inter-State trade or commerce.

Location of supplier of goods: Unlike in the case of services, location of supplier of goods is a term that is not defined in the law. This is not an oversight of the draftsmen but a deliberate intention of the lawmakers to leave it to the facts of each case to determine the 'location of supplier of goods'.

The **location of supplier** of goods is more accurately determined by the physical point where the goods are located under the control of the person wherever incorporated or registered, ready to be supplied instead of relying on a superfluous fact of the registered place of business.

(2) **With reference to services:**

Where 'location of the supplier' and 'place of supply' are in different States/ Union territories - Inter-State Supply [Section 7(3):

Supply of services where-

- the location of the supplier, and
- the place of supply

are in-

- (a) two different States;
- (b) two different Union territories; or
- (c) a State and a Union territory.

shall be treated as a supply of services in the course of inter-State trade or commerce.

Section 7(3) is subject to the provisions of Section 12: Section 7(3) is subject to the provisions of Section 12, it implies that the place of supply of services shall be determined as per Section 12 of the IGST Act and thereafter, Section 7(3) would be applied.

Import of service - Deemed to be inter-State supply [Section 7(4)]: Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.

(3) Supply of goods where supplier located in India and the place of supply outside India - Deemed to be inter-State supply [Section 7(5)(a)]: Supply of goods and/or services, when the supplier is located in India and the place of supply is outside india, shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.

(4) Supply of goods/ and or services - to/by SEZ developer/ unit - Deemed to be inter-State supply [Section 7(5)(b)]: Supply of goods and/or services to or by a SEZ developer or an SEZ unit, shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.

(5) Supply of goods/ and or services - Not being an intra-State supply - Deemed to be inter-State supply [Section 7(5)(c)]: Supply of goods or services or both, in the taxable territory, not being an intra-State supply and not covered elsewhere in this Section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

- Services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ developer/ SEZ unit will be treated as an inter-State supply.
- Supply of goods/ and or services - Not being an intra-State supply - Deemed to be inter-State Supply: As per section 7(5)(b) of the IGST Act, the supply of goods or services or both to a SEZ developer or a SEZ unit shall be

treated to be a supply in the course of inter-State trade or commerce.

- **Services supplied in relation to immovable property - POS will be location of immovable property:** However, as per section 12(3)(c) of the IGST Act, the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/ Union territory, it would be treated as an intra-State supply.
 - **Specific provision to prevail over general provision:** It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision. In the instant case, section 7(5)(b) of the IGST Act is a specific provision relating to supplies of goods
 - or services or both made to a SEZ developer or a SEZ unit, which states that such supplies shall be treated as inter-State supplies. It is therefore, clarified that services of short term accommodation. conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply.
- Circular No. 48/22/2018 GST dated 14-06-2018

4.4 INTRA-STATE SUPPLIES [SECTION 8 OF IGST ACT 2017]

As per **Section 8 of the IGST Act, 2017**, the broad principles for determining the supplies of goods and/or services in the course of intra-State trade or commerce are:

(1) With reference to supply of goods:

Where the location of the supplier and the place of supply are in the same State or Union territory - Intra-State Supply [Section 8(1):

Supply of goods where-

- the location of the supplier, and
 - the place of supply of goods are in the same State or same Union territory
- shall be treated as intra-State supply.

Section 8(1) is subject to the provisions of Section 10: Section 8(1) is subject to the provisions of Section 10, it implies that the place of supply of goods shall be determined as per Section 10 of the IGST Act and thereafter, Section 8(1) would be applied.

Intra-State supply - Exceptions: The following supply of goods shall not be treated as intra-State supply, namely-

- (i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;
- (ii) goods imported into the territory of India till they cross the customs frontiers of India; or

(iii) supplies made to a tourist referred to in Section 15.

(2) With reference to supply of services:

Where 'location of the supplier' and 'place of supply' are in same State/ Union territory - Intra- State supply [Section 8(2)]:

Supply of services where-

- the location of the supplier; and
- the place of supply of services

are in the same State or same Union territory shall be treated as intra-State supply.

Section 8(2) is subject to the provisions of Section 12: Section 8(2) is subject to the provisions of Section 12, it implies that the place of supply of services shall be determined as per Section 12 of the IGST Act and thereafter, Section 8(2) would be applied.

Exception: The intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.

4.5 SUPPLIES IN TERRITORIAL WATERS [SECTION 9 OF IGST ACT, 2017]

Notwithstanding anything contained in this Act, -

(a) where the location of the supplier is in the territorial waters, the location of such supplier; or

(b) where the place of supply is in the territorial waters, the place of supply, shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

4.6 PLACE OF SUPPLY OF GOODS OTHER THAN SUPPLY OF GOODS IMPORTED INTO, OR EXPORTED FROM INDIA [SECTION 10]

Section	Nature of Transaction	Place of Supply
Place of supply of goods in domestic transactions i.e within India: The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under, -		
10(1)(a)	Where the supply involves MOVEMENT OF GOODS , whether by the supplier or by the recipient or by any other person,	Location of the goods at the time at which the movement of goods terminates for delivery to the recipient. Note: Thus, irrespective of the number of states the goods pass through during the course of its journey, the state in which the movement of goods terminates for delivery to the recipient is the

		place of supply of goods.
10(1)(b)	Where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise,	<ul style="list-style-type: none"> ➤ It shall be deemed that the said third person has received the goods; and ➤ The place of supply of such goods shall be the principal place of business of such person. These transactions are also known as Bill to Ship transactions.
10(1)(c)	Where the supply does not involve movement of goods, whether by the supplier or the recipient,	Location of such goods at the time of delivery to the recipient.
10(1)(ca)	Where the supply of goods is made to a person other than a registered person, the place of supply, notwithstanding anything contrary contained in clause (a) or (c) (i) Where the address of the unregistered person is recorded in the invoice (ii) Where the address of the unregistered person is not recorded in the invoice	POS is location as per address of unregistered person recorded in the invoice POS is location of the supplier
10(1)(d)	Where the goods are assembled or installed at site,	Place of such installation or assembly.
10(1)(e)	Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle,	Location at which such goods are taken on board.
10(2)	Where the place of supply of goods cannot be determined,	Shall be determined in such manner as may be prescribed.

It must be kept in mind that the provisions of section 10 discussed hereunder are all in relation to domestic supply of goods.

4.7 PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER AND RECIPIENT IS IN INDIA [SECTION 12 OF THE IGST ACT, 2017]

Section	Nature of Transaction	Place of Supply
12(1)	Determination of the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.	
12(2)	General provisions: The place of supply of services, -	
	(a) made to a registered person	location of such person;

	(b) made to any person other than a registered person-	
	(i) where the address on record exists,	
	(ii) in other cases.	the location of the supplier of services
12(3)	Services provided in relation to immovable property-	
	<p>Services, -</p> <p>(a) directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co- ordination of construction work; or</p> <p>(b) by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or</p> <p>(c) by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property, or</p> <p>(d) any services ancillary to the services referred to in clauses (a), (b) and (c),</p>	Location at which the immovable property or boat or vessel as the case may be, is location or intended to be located.
	IF the location of the immovable property or boat or vessel is located or intended to be located outside India,	Location of the recipient.
	Explanation: Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.	
12(4)	Restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery	Location where the services actually performed.

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12(5)	Services in relation to training and performance appraisal to, -	
	(a) a registered person,	Location of such person;
	(b) a person other than a registered person,	Location where the services are actually performed.
12(6)	Services provided by way of admission to a culture, artistic, sporting, scientific, education, entertainment event or amusement park and services ancillary thereto	Place where the event is actually held or where the park or such other place is located
12(7)	Services provided by way of, -	
	(a) organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events, or	
	(b) services ancillary to organisation of any of the events or services referred to in clause (a), or assigning of sponsorship to such events. -	
	(i) to a registered person,	Location of such person;
	(ii) to a person other than a registered person,	
	➤ If event is held in India	Place where event is actually held
	➤ If event is hold outside India	Location of the recipient
	Explanation: Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.	
12(8)	Services by way of transportation of goods , including by mail or courier to, -	
	(a) to a registered person,	Location of such person;
	(b) to a person other than a registered person,	Location at which such goods are handed over for their transportation.
12(9)	Passenger transportation service to, -	
	(a) to a registered person,	Location of such person;
	(b) to a person other than a registered	Place where the passenger

	person,	embarks on the conveyance for a continuous journey.
	Where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage,	
	(a) made to a registered person	location of such person;
	(b) made to any person other than a registered person-	
	(i) where the address on record exists,	the location of the recipient
	(ii) in other cases.	the location of the supplier of services
	<p>Return Journey to be treated as a separate journey: The return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time. (Explanation)</p> <p>"Continuous journey" means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued. [Section 2(3) of IGST Act, 2017]</p> <p>"Stopover" means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time. [Explanation]</p>	
12(10)	Services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle,	Location of the first scheduled point of departure of that conveyance for the journey.
12(11)	Telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall, -	
	(a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna,	Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;
	Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined	

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	in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed. [Explanation]	
	(b) in case of mobile connection for telecommunication and internet services provided on post- paid basis	Location of billing address of the recipient of services on the record of the supplier of service,
	(c) in cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre- payment basis through a voucher or any other means, -	
	(i) through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher,	Address if the selling agent or re-seller or distributor as per the record of the supplier at the time of supply ,or
	(ii) by any person to the final subscriber,	Location where such prepayment is received or such voucher are sold;
	If such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment,	Location of the recipient of services on the record of the supplier of service
	(d) in other cases,	
	(i) If address of the recipient as per the records of the supplier of services is available	Address of the recipient as per the record of the supplier of services and
	(ii) where such address is not available,	Place of supply shall be location of the supplier of services.
Where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be the location of the supplier of services. [Applicable for 12(11) (a) to (d) above]		
"Telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means. [Section 2(110) of CGST Act, 2017]		
12(12)	Banking and other financial services, including stock broking services to any person	Location of the recipient of services on the records of the supplier of services:
	If the location of recipient of services	Location of the supplier of

	is not on the records of the supplier,	services.
12(13)	Insurance services, -	
	(a) to a registered person,	Location of the such person
	(b) to a person other than a registered person,	Location of the recipient of service on the record of the supplier of service
12(14)	Advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement	<ul style="list-style-type: none"> + Place of supply shall be taken as being in each of such States or Union territories + Value of such supplies specific to each State or Union territory shall be in proportion to: <ul style="list-style-type: none"> - amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered regard, or - in the absence of such contract or agreement, on such other basis as may be prescribed. <p>into in this</p>

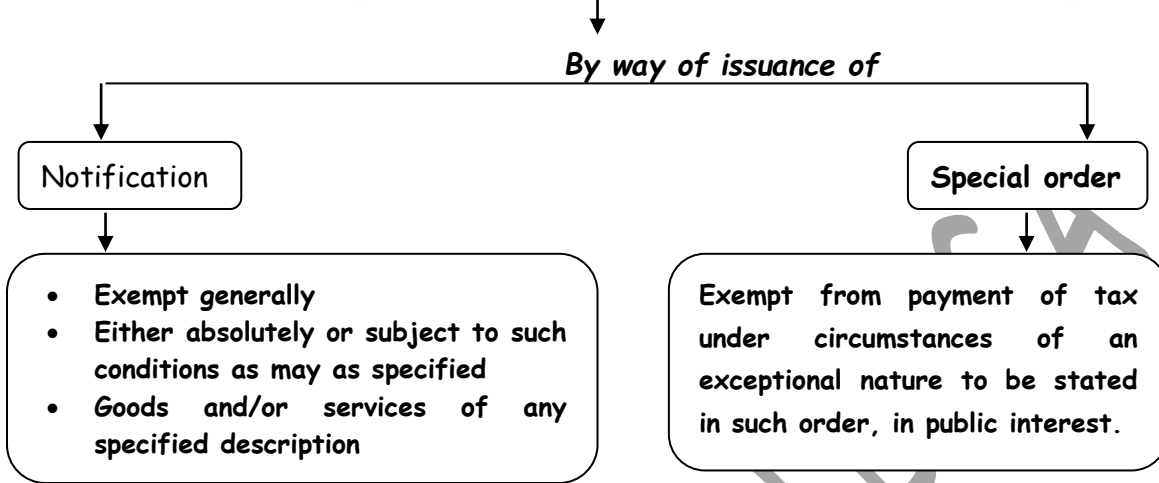
It must be kept in mind that the provisions of section 12 discussed hereunder are all in relation to the domestic supply of services.

Clarification -

- (1) place of supply of service provided by way of supply of sale of space on hoarding/structure for advertising or for grant of rights to use the hoarding/structure for advertising in this case would be the location where such hoarding/structure is located.
- (2) Service provided by the vendor to advertising company are purely in the nature of advertising services in respect of which place of supply shall be determined in terms of section 12(2) of IGST Act.

CHAPTER - 5: EXEMPTION FROM GST

POWER OF GOVT [SECTION 11 OF CGST/ SECTION 6 OF IGST]



LIST OF SERVICES EXEMPT FROM GST [NOTIFICATION NO. 12/2017]

S.NO.	LIST
	SERVICES BY CHARITABLE INSTITUTION
(1)	<p>Services by charitable entity [entry 1]</p> <ul style="list-style-type: none"> ♣ Charitable activities by entity registered under 12AA or 12AB [Amended by Finance Act 2021]. ♣ Advancement of any other object of general public utility - not charitable purpose ♣ GST on services provided to charitable trusts ♣ <i>Service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donations or gifts from individual donors - if the same is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, it will not be leviable to GST.</i>
(2)	<p>Recreational Training Or Coaching [Entry 80]</p> <p>Services by way of training or coaching in -</p> <ul style="list-style-type: none"> a) Recreational activities relating to arts or culture, by an individual, or b) Sports by charitable entities registered under section 12AB of the Income Tax Act, are exempt from tax.
(3)	Import of services by charitable entity [Entry 10]
(4)	<p>Services by an old age home [Entry 9D]</p> <ul style="list-style-type: none"> ♥ to a resident aged 60 years or more upto ₹ 25000 per month per member.

RELIGIOUS SERVICES	
(5)	<p>Religious service [Entry 13] Services by a person by way of -</p> <p>a. <i>conduct of any religious ceremony;</i></p> <p>b. <i>renting of precincts of religious place meant for general public, owned or managed by -</i></p> <p>(i) an entity registered as a charitable or religious trust u/s 12AA of the Income-tax Act, 1961; or</p> <p>(ii) a trust or an institution registered under Section 10(23C)(v) of the Income-tax Act; or</p> <p>(iii) a body or an authority covered under Section 10(23BBA) of the said Income-tax Act, are exempt.</p> <p><i>However, nothing contained in entry (b) of this exemption shall apply to, -</i></p> <ul style="list-style-type: none"> ❖ <i>renting of rooms where charges are ₹ 1,000 or more per day,</i> ❖ <i>renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ₹ 10,000 or more per day;</i> ❖ <i>renting of shops or other spaces for business or commerce where charges are ₹ 10,000 or more per month.</i>
(6)	<p>Services by a specified organisation in respect of a religious pilgrimage [Entry 80] Specifies organisation means Kumaon Mandal vikas nigam limited, Haj committee</p>
SERVICE RELATING TO AGRICULTURE OR AGRICULTURE PRODUCE	
(7)	<p>Services relating to agriculture or agriculture produce [Entry 54]</p> <ul style="list-style-type: none"> ♣ Sab exempt except rearing of horses ♣ Processed tea, coffee, jiggery and pluses - not agriculture produce - not exempt
(8)	<p>Carrying out an intermediary production process in relation to cultivation of plant and rearing of all forms of animals [Entry 55]</p> <ul style="list-style-type: none"> ❖ <i>Except the rearing of horses</i> ❖ <i>Milling of paddy into rice - not eligible for exemption - liable to GST</i>
(10)	Artificial insemination of livestock (other than horses) [Entry 55A]
(11)	Loading, unloading packing, storage or warehousing of rice [Entry 24]
(12)	Warehousing of minor forest produce [Entry 24A]
(13)	<p>STORAGE OR WAREHOUSING OF CEREALS, PULSES ETC [Entry 24B] Services by way of storage or warehousing of cereals, pulses, fruits and vegetables are exempt.</p>
(14)	Services in relation to fruits and vegetables [Entry 57]
(15)	Services provided by NCCD by way of cold chain knowledge dissemination [Entry 58]

EDUCATIONAL SERVICES	
(16)	<p>Services to or by educational institution [Entry 66]</p> <ul style="list-style-type: none"> + Services provided by boarding schools - exempt + Services provided by international school - exempt + Private tuitions - taxable + Placement services provided to educational institutions - taxable + Campus recruitment fees - taxable + Institutions preparing students for competitive exams - taxable + Postal coaching covered - taxable + Foreign courses conducted by private institutes - taxable + Personality development institutes - liable to GST + College hostel mess - <i>if provided by educational institution then exempt catering services by third person is taxable</i> + Services provided by industrial training institutes (ITI) is exempt. + DG shipping approved maritime courses conducted by maritime training institute of India - exempt from GST + Services provided by IIM - short term courses (1 year) taxable, long term courses - exempt. + Supply of food in Anganwadis and Schools - exempt from tax + Services of various services by National Board of Examination - <ul style="list-style-type: none"> - services related to conduct of examination - exempt - other services - taxable + Applicability of GST on application fee charged for entrance for the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions. Accordingly, such activities of educational institution are also exempt. + NTA to be treated as Educational Institution
HEALTH CARE SERVICES	
(17)	<p>Health care services [Entry 74]: Services by way of :-</p> <p>a) health care services by a clinical establishment, an authorised medical practitioner or para-medics;</p> <p>However, the above exemption shall not apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU) Critical Care Unit (CCU) Intensive Cardiac Care Unit (ICCU) Neo natal Intensive Care Unit (NICU) having room charges exceeding 5000 per day to a person receiving health care services.</p> <p>b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above are exempt.</p> <p>Services in form of Assisted Reproductive Technology (ART)/ In vitro</p>

	<p><u>Fertilization (IVF) are exempt from GST.</u></p> <p>GST is not leviable on consultancy charges payable to doctor, consultant etc., retention money and food supplies to patient as advised by doctor. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitor are liable to GST</p>
(18)	<u>Services by recognised rehabilitation professionals [Entry 74A]</u>
(20)	<u>Veterinary services [Entry 46]</u>
	SERVICES PROVIDED BY GOVERNMENT
(22)	<u>Services by government authority in relation to municipality functions [Entry 4]</u>
(23)	<u>Services by government authority in relation to panchayat functions [entry 5]</u>
(24)	<p>SOVEREIGN SERVICES BY THE CENTRAL GOVERNMENT STATE GOVERNMENT UNION TERRITORY OR LOCAL AUTHORITY [Entry 6]:</p> <p>Services by the Central Government, State Government, Union Territory or local authority excluding the following services :-</p> <ol style="list-style-type: none"> Services by the Department of posts and the Ministry of Railways (Indian Railways) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or airport; Transport of goods or passenger; or Any service, other than services covered under entries (a) to (C) above, provided to business entities, are exempt. <p><u>Services provided by Department of Post :</u></p> <p>Exempt services :- the following services provided by the Department of posts are not liable to tax-</p> <ul style="list-style-type: none"> ➤ basic mail services by the Department of Post by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams) to meet the universal postal obligations vide entry 24C of Notification No. 12/2017- CT (Rate). ➤ Transfer of money through money order, operation of savings accounts, issue of postal order, pension payments and other such services. <p>Registered post, Speed Post etc. - Taxable :- The services by way of ordinary post (envelopes weighing 10 grams or more), registered post, Speed Post, Express parcel post, life insurance and Agency services</p>

provided to a person other than the Government or union territory are not exempt. In respect of these services the Department of Posts is liable to pay tax without application of reverse charge.

Agency services - Taxable: The Department of Posts also provides services like distribution of mutual funds, bonds, passport applications, collection of telephone and electricity bills on commission basis. The services are in the nature of intermediary and generally called agency services. In these cases, the Department of posts is liable to pay tax without application of reverse charge.

Applicability of GST on accommodation services supplied by Air Force Mess and other similar messes to its personnel. - Circular No. 190/02/2023- GST dated 13-1-2023

Issue	Clarification
Is GST leviable on accommodation services supplied by Air Force Mess to its personnel	It is hereby clarified that accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are covered by Sl. No. 6 of Notification No. 12/2017-CT (Rate), dated 28-6-2017 provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority.

(25) SERVICES PROVIDED BY GOVERNMENT/UT OR A LOCAL AUTHORITY TO A BUSINESS ENTITY HAVING AGGREGATE TURNOVER BELOW THE THRESHOLD LIMIT IN PRECEDING FY - EXEMPT [Entry 7] :

Services provided by the Central Government, State Government, Union Territory or local authority to a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017 are exempt.

Explanation : The provisions of this entry shall not be applicable to -

a) Services,-

- i. by the Department of posts and the Ministry of Railways (Indian Railways)

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	<p>ii. in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport ;</p> <p>iii. or transport of goods or passenger ; and</p> <p>b) Services by way of renting of immovable property.</p>
(26)	<p>SERVICES PROVIDED BY GOVERNMENT OR A LOCAL AUTHORITY TO ANOTHER GOVERNMENT OR A LOCAL AUTHORITY [Entry 8]:</p> <p>Services provided by the Central Government, State Government, Union Territory or local authority to another Central Government, State Government, union territory or local authority are exempt.</p> <p>However, nothing contained in this entry shall apply to services -</p> <ul style="list-style-type: none"> + by the Department of posts and the Ministry of Railways (Indian Railways) + in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport ; + or transport of goods or passenger.
(27)	<p>SERVICES PROVIDED BY GOVERNMENT OR UT OR LOCAL AUTHORITY WHERE THE CONSIDERATION FOR SUCH SERVICES DOES NOT EXCEED ₹.5000 [Entry 9]:</p> <p>Services provided by Central Government, State Government, Union Territory or local authority where the consideration for such service s does not exceed ₹ 5000 are exempt.</p> <p>However, nothing contained in this entry shall apply to :-</p> <ul style="list-style-type: none"> • Services by the Department of posts and the Ministry of Railways (Indian Railways) • in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport ; • or transport of goods or passenger. <p>Continuous supply of service : In case where continuous supply of service, as defined in section 2(33) of the CGST Act, 2017, is provided by the Central Government, State Government, Union Territory or local authority, the exemption shall apply only where the constitution charged for such services does not exceed ₹.5000 in a financial year.</p>
(27A)	<p>SERVICES OF POSTCARD INLAND LETTER ETC. BY POSTAL DEPARTMENT [Entry 24C]:</p> <p>Services by the Department of posts by way of postcard, Inland Letter, book post and ordinary post (envelopes weighing less than 10 grams) are</p>

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	exempt from tax.
(28)	Services by way of guaranteeing of loans taken by government undertaking or PSU's from the banking companies and FI's [Entry 34A]
(29)	Services provided by government or UT or local authority by way of registration Etc. [Entry 47] (registration under any law, testing, calibration, safety check or certification)
(30)	Services provided to individuals - issuance of passport, visa, driving certificate, birth certificate, death certificate etc. [Entry 61]
(30A)	Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous states [Entry 61A]
(31)	Services by way of tolerating non performance of a contract [Entry 62] (fines or liquidated damages)
(32)	Services by way of assignment of right to use natural resources to an individual farmer for the purpose of agriculture [Entry 63] Royalty payable to the government for assignment of rights to use natural resources is covered under GST
(33)	Merchant overtime charges [Entry 65]
(34)	State government services to excess royalty collection contractor [Entry 65B]
	SERVICES PROVIDED TO GOVERNMENT
(35)	Pure services to government/UT/local authority in relation to panchayat functions/municipal function [Entry 3]
(36)	Composite supply to government/UT/Local authority in relation to panchayat functions/municipal functions - exempt if value of goods is not more than 25% of total value [Entry 3A] Sanitation and Conservancy services supplied to Army and other Central and State government departments liable to GST.
(36A)	Services provided to a government authority by way of [Entry 3B] - (a) water supply; (b) public health; (c) sanitation conservancy; (d) solid waste management; and (e) slum improvement and upgradation.
(37)	Supply of service by a government entity to government, UT, Local authority in form of grants [Entry 9C]
(38)	Service provided by fair price shops to government/UT [Entry 11A]
(39)	Services provided to government/UT's under any insurance scheme for which total premium is paid by the government or UT's[Entry 40]
(41)	Service provided to government to government/UT's under any training programme for which 75% or more of the total expenditure is borne by

	<p>the government/UT's [Entry 72]</p> <p>Coaching services supplied by coaching institutions and NGOs under the central sector scheme of 'Scholarships for students with Disabilities' are exempt from GST</p>
	<p><u>CONSTRUCTION SERVICES</u></p>
(42)	<p>Pure labour contracts pertaining to the beneficiary-LED individual house construction or enhancement under the housing for all the (URBAN) mission or pradhan mantri awas yojana [Entry 10]</p>
(43)	<p>Services supplied by electricity distribution utilities for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agriculture use [Entry 10A]</p>
(44)	<p>Pure labour contract pertaining to a single residential unit [Entry 11] (otherwise than as a part of residential complex)</p>
(45)	<p>Transfer of development rights and FSI for construction of residential apartments [Entry 41]</p> <ul style="list-style-type: none"> ✚ Before completion certificate toh exempt ✚ After completion raha toh promoter ko reverse charge me pay karna hoga on unsold flat.
(46)	<p>Long term lease for construction of residential apartment [Entry 41B]</p> <ul style="list-style-type: none"> ✚ Before completion certificate toh exempt ✚ After completion raha toh promoter ko reverse charge me pay karna hoga on unsold flat.
	<p><u>PASSENGER TRANSPORTATION SERVICES</u></p>
(47)	<p>TRANSPORT OF PASSENGER BY DIFFERENT MODES [Entry 15]</p> <p>Transport of passenger, with or without accompanied belongings, by -</p> <ol style="list-style-type: none"> a) air in economy class, embarking from or terminating in an Airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim or Tripura or at Bagdogra located in West Bengal ; or b) non-air conditioned contract carriage other than radio taxi, for transportation of passenger, excluding tourism, conducted tour, charter or hire; or c) stage carriage other than air-conditioned stage carriage are exempt. <p>However, nothing contained in (B) and (C) above shall apply to services supplied through an electronic Commerce operator, and notified u/s 9(5) of the CGST Act, 2017.</p> <p>However, nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator (ECO), and</p>

	<p>notified under section 9(5) of the CGST, 2017. Services referred herein are the services by way of transportation of passenger by a radio-taxi, motarcab, maxicab, motor cycle, omnibus or any other motor vehicle, the tax on supplies of which shall be paid by the CEO if such services are supplied through ECO.</p> <p>Where transportation takes place over pre-determined route on a pre-determined scheduled in non air conditioned contract carriage same will be exempt from GST.</p>
(48)	VG funding amount received by airline operator under RCS [Entry 16]
(49)	<p>Transportation of passenger by different modes [Entry 17]</p> <p>Service of transportation of passenger, with or without accompanied belongings, by-</p> <p>(a) railways in a class other than -</p> <p>(i) first class; or</p> <p>(ii) an air-conditioned coach;</p> <p>(b) metro, monorail or tramway;</p> <p>(c) inland waterways;</p> <p>(d) public transport, other than predominantly for tourism purpose, in vessel between places located in India and</p> <p>(e) metered cabs or auto rickshaws (including e-rickshaws)</p> <p>are exempt.</p> <ul style="list-style-type: none"> ▪ Services provided by leisure or charter vessels or a cruise ship - taxable ▪ Transport of passenger by ropeway, cable car or aerial tramway is liable to GST. ▪ GST is exempt on tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/ Government. <p>However, nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator (ECO), and notified under section 9(5) of the CGST, 2017. Services referred herein are the services by way of transportation of passenger by a radio-taxi, motarcab, maxicab, motor cycle, omnibus or any other motor vehicle, the tax on supplies of which shall be paid by the CEO if such services are supplied through ECO</p>
GOODS TRANSPORT AGENCY	
(50)	<p>Transportation of goods by different modes [Entry 18]</p> <p>Services by way of transportation of goods -</p> <p>(a) By road except the services of -</p> <p>(i) A GTA</p> <p>(ii) A courier agency (express cargo service, angadia)</p>

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	<p align="center">(b) By inland waterways Are exempt.</p>
(51)	<p>Services by way of transportation of goods by an aircraft [Entry 19] From a place outside india to custom port in India</p>
(52)	<p>Air freight for export goods [Entry 19A] Nothing contained in this entry shall apply after 30-9-2022</p>
(53)	<p>Sea freight for export goods [Entry 19B] Nothing contained in this entry shall apply after 30-9-2022</p>
(53a)	<p>SATELLITE LAUNCH SERVICES [ENTRY 19C] Satellite launch services are exempt</p>
(54)	<p>TRANSPORTATION OF CERTAIN GOODS BY RAIL OR VESSEL [Entry 20] Services by way of transportation by rail or a vessel from one place in India to another of the following goods-</p> <ul style="list-style-type: none"> a) relief materials meant for victims of natural or man-made disaster, calamities, accidents or mishaps; b) defence or military equipments; c) newspaper or magazines registered with the Registrar of Newspaper; d) agricultural produce; e) milk, salt and food grain including flour, pulses and rice; and f) organic manure <p>are exempt.</p>
(55)	<p>SERVICES PROVIDED BY A GOODS TRANSPORT AGENCY [Entry 21] Services provided by a goods transport agency, by way of transport in a goods carriage of -</p> <ul style="list-style-type: none"> a) agricultural produce; b) milk, salt and food grain including flour, pulses and rice; c) organic manure; d) newspaper or magazines registered with the Registrar of Newspaper; e) relief materials meant for victims of natural or man-made disaster, calamities, accidents or mishap; or f) defence or military equipments <p>are exempt.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Transport of minerals from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time - liable to GST under Rental services of transport</p> </div>

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	<p>vehicles with operator.</p> <p>Reverse charge:</p> <p>Time limit to exercise option to pay tax under forward charge mechanism: GTA who commences new business or crosses threshold for registration during any Financial Year, may exercise the option to itself pay GST on the services supplied by it during that Financial Year by making a specified declaration before the expiry of 45 days from the date of applying for GST registration or one month from the date of obtaining registration whichever is later.</p>
(56)	<p>Services provided by a GTA to an unregistered person [Entry 21A] Other than</p> <p>(a) Any factory registered under factories act (b) Any society registered under society registration act (c) Any co-operative society (d) Any person registered under GST (e) Any body co-operative (f) Any partnership firm including AOP (g) Any casual taxable person Are exempt</p>
(57)	<p>Service provided by a GTA to persons registered for TDS [Entry 21B]</p>
BANKING AND FINANCIAL SERVICES	
(59)	<p>Services by way of extending deposits, loans or advances/inter se sale or purchase of foreign currency amongst banks or authorized dealer [Entry 27]</p> <ul style="list-style-type: none"> • interest involved in credit card services is taxable • Service charges or administrative charges is taxable • Charges for late payment of outstanding dues on credit card is taxable • Processing fees is liable for gst • Interchange fees on card settlement is liable for gst
(60)	<p>Services provided to BSBD A/C holder under PMJDY [Entry 27A]</p>
(61)	<p>Credit card, debit card, charge card or other payment card service - exempt upto ₹ 2000 per transaction [Entry 34]</p>
(62)	<p>Services provided by financial intermediaries located in IFSC SEZ [Entry 39A]</p>
LIFE INSURANCE SERVICES	
(63)	<p>Life insurance services under NPS [Entry 28]</p>
(64)	<p>Life insurance services to member of the ARMY, NAVY and AIR FORCE [Entry 29]</p>
(65)	<p>Life insurance services to coast guard personnel [Entry 29A]</p>

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(66)	Life insurance services to central armed police force [Entry 29B]	
(67)	Life insurance services [Entry 36] * Life Micro insurance product maximum amount of ₹ 200000	
	<u>SERVICES PROVIDED BY SPECIFED BODIES</u>	
(68)	ESI services [Entry 30]	
(69)	EPF services [Entry 31]	
(70)	Services by coal mines provident fund organisation [Entry 31A]	
(71)	Services by national pension fund (NPS) trust [Entry 31B]	
	<u>GENERAL INSURANCE SERVICES</u>	
(74)	General insurance services [Entry 35]	
(75)	Re-insurance services [Entry 36A]	
	<u>PENSION SCHEMES</u>	
(76)	Collection of contribution under ATAL PENSION YOJANA (ATY) [Entry 37]	
(77)	Collection of contribution under pension scheme of state government [Entry 38]	
	<u>BUSINESS FACILITATOR/CORRESPONDENT</u>	
(78)	Business facilitator/ correspondent [Entry 39] Services by the following persons in respective capacities (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch ; (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or (c) business facilitator or a business correspondent to an insurance company in a rural area are exempt.	
	<u>LEASING SERVICES</u>	
(79)	Upfront amount payable in respect or service by way of granting of long term lease of industrial plots or plots for development of infrastructure for financial business [Entry 41]	
	<u>LEGAL SERVICES</u>	
(81)	Legal services [Entry 45] Service provided by -	
	(a) An arbitral tribunal to -	<ul style="list-style-type: none"> ✓ any person other than a business entity; or ✓ a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act,

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		<p>2017; or</p> <ul style="list-style-type: none"> ✓ the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;
(b)	<p>A partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to -</p>	<ul style="list-style-type: none"> ➤ an advocate or partnership firm of advocates providing legal services; ➤ any person other than a business entity; or ➤ a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017; or ➤ the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;
(c)	<p>A senior advocate by way of legal services to -</p>	<ul style="list-style-type: none"> ❖ any person other than a business entity; or ❖ a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017; ❖ the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;
<p>Are exempt.</p>		
(82)	<p><u>SPONSORSHIP OF SPORTS</u></p>	
	<p><u>SKILL DEVELOPMENT SERVICES</u></p>	
(83)	<p>Services provided by national skill development corporation/sector skill council/assessment agency/training partner [Entry 69]</p>	

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(84)	Services provided by assessing bodies by way of assessments under the skill development initiative scheme [Entry 70]
(85)	Services provided by training provide^र under DEEN DAYAL UPADHYAYA GRAMEEN KAUSHALYA YOJANA [Entry 71]
PERFORMANCE BY ARTIST	
(86)	Art related services [Entry 78] Performance in folk or classical art forms of music, dance, theatre, if consideration does not exceed ₹ 150000 . But does not include brand ambassador services.
RIGHT TO ADMISSION TO VARIOUS EVENTS	
(87)	Services by way of admission to museum, national park, wildlife sanctuary, tiger reserve, zoo [Entry 79]
(88)	Services by way of admission to protected monument [Entry 79A]
(89)	Admission to entertainment events or access to amusement facilities [Entry 81] Not more than ₹ 500 per person <ul style="list-style-type: none"> + Valuation in case of entry to casinos and gambling services, GST is leviable. + Elephant/ camel joy rides - not covered under passenger transportation service hence taxable
SERVICES BY UNINCORPORATED BODY OR NON-PROFIT ENTITY	
(90)	Services by an unincorporated body or a non-profit entity to member [Entry 77] Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own member by way of reimbursement of charges or share of contribution. <ul style="list-style-type: none"> (a) as a trade union; (b) for the provision of carrying out any activity which is exempt from the levy of Goods and service tax; or (c) up to an amount of ₹ 7,500 per month per member for sourcing of goods or services from a third person for the common use of its member in housing society or a residential complex, are exempt. <i>[RWA ka agar aggregate turnover ₹ 20 lakh or less hai and contribution ₹ 7500 se jayada hai toh GST lagega]</i>
(91)	Services by an unincorporated body or a non-profit entity to member [Entry 77A] Agriculture se related hai and ₹ 1000 per member per year are exempt.
OTHER EXEMPT SERVICES	
(92)	Transfer of going concern [Entry 2]

(93)	<p>SUPPLY OF SERVICES ASSOCIATED WITH TRANSIT CARGO TO NEPAL AND BHUTAN (LANDLOCKED COUNTRIES) [Entry 9B]</p> <p>Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries) are exempt.</p> <p>Whether exemption under Sl. No. 9B of Notification No. 12/2017-CT (Rate) dated 28-06-2017 cover services associated with transit cargo both to and from Nepal and Bhutan</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; text-align: center;">Issue</th> <th style="width: 50%; text-align: center;">Clarification</th> </tr> </thead> <tbody> <tr> <td>Applicability of GST on transportation of empty container returning from Nepal and Bhutan after delivery of transit cargo, to India.</td> <td>It is also clarified that movement of empty container from Nepal and Bhutan, after delivery of goods there, is a service associated with the transit cargo to Nepal and Bhutan and is therefore covered by the exemption.</td> </tr> </tbody> </table>	Issue	Clarification	Applicability of GST on transportation of empty container returning from Nepal and Bhutan after delivery of transit cargo, to India.	It is also clarified that movement of empty container from Nepal and Bhutan, after delivery of goods there, is a service associated with the transit cargo to Nepal and Bhutan and is therefore covered by the exemption.
Issue	Clarification				
Applicability of GST on transportation of empty container returning from Nepal and Bhutan after delivery of transit cargo, to India.	It is also clarified that movement of empty container from Nepal and Bhutan, after delivery of goods there, is a service associated with the transit cargo to Nepal and Bhutan and is therefore covered by the exemption.				
(94)	<p>RENTING OF RESIDENTIAL DWELLING FOR USE AS RESIDENCE [Entry 12]</p> <p>Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person are exempt.</p> <p>Explanation: Services by way of renting of residential dwelling to a registered person where, -</p> <ul style="list-style-type: none"> (i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and (ii) such renting is on his own account and not that of the proprietorship concern shall be exempt. <p>Shall be exempt.</p> <p>Thus, renting of residential dwelling either by a registered person or an unregistered person for use as residence to unregistered person is exempt from GST.</p> <p>Renting of residential dwelling for use as residence to a registered person (other than proprietor covered in explanation above) as well as renting of residential dwelling for commercial use to registered or unregistered person is liable to GST.</p> <p>Note: tax on renting of residential dwelling to a registered person is payable by the registered person under reverse charge whether such</p>				

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	residential dwelling is being used for commercial purposes or residential purposes.
(96)	Hiring of means of transport of passenger and goods [Entry 22] <ul style="list-style-type: none"> ▪ To GTA ▪ To state transport undertaking meant to carry more than 12 passenger ▪ To a local authority, an <i>electrically operated vehicle</i> meant to carry more than 12 passenger ▪ To transport of student, faculty, staff
(97)	Access to a road or a bridge on payment of toll charges [Entry 23] Overloading charges at toll plaza - same is exempt from GST. Additional toll fees collected in the form of higher toll charges from vehicles not having fastag is exempt from GST.
(99)	Transmission or distribution of electricity by an electricity transmission or distribution utility [Entry 25]
(100)	Technology business incubate services [Entry 44] Turnover not exceeding ₹ 50 lakh and period of 3 year has not elapsed
(102)	Services by TBI/STEP/BIO-INCUBATOR [Entry 48]
(103)	News agency service [Entry 49]
(104)	Service of public libraries [Entry 50]
(105)	Organising business exhibition outside India [Entry 52]
(107)	Services by foreign diplomatic mission [Entry 59]
(108)	Information under RTI Act [Entry 65A]
(109)	Sports related services [Entry 68] Individual as player, referee, coach or team manager and another recognized sports body.
(112)	Public conveniences [Entry 76]
LIST OF SERVICES EXEMPT FROM IGST	
(113)	Import of services [Entry 10]
(114)	Services received by RBI from outside India in relation to management of foreign exchange reserves [Entry 42]
(115)	TOUR OPERATOR SERVICES SUPPLIED TO FOREIGN TOURIST [Entry 52A] Tour operator service, which is performed partly in India and partly outside India, supplied by a tour operator to a foreign tourist, to the extent of the value of the tour operator service which is performed outside India shall be exempt from tax. <i>Value of services performed outside India:</i> Value of the tour operator

	<p>service performed outside India shall be lower of the following-</p> <p>a) Total consideration charged for the entire tour × Number of days for which the tour is performed outside India ÷ Total number of days comprising the tour, or</p> <p>b) 50% of the total consideration charged for the entire tour.</p> <p>In making the above calculations, any duration of time equal to or exceeding 12 hour shall be considered as one full day and any duration of time less than 12 hour shall be taken as half a day.</p> <p>"Foreign tourist" means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.</p> <p>Illustrations: A tour operator provides a tour operator service to a foreign tourist as follows:-</p> <p>a) 3 days in India, 2 days in Nepal; Consideration Charged for the entire tour: 1,00,000. Exemption: ₹ 40,000 (₹1,00,000 × 2 ÷ 5) or, 50,000 (50% of ₹ 1,00,000) whichever is less, i.e. 40,000. Taxable value: ₹ 60,000.</p> <p>b) 2 days in India, 3 nights in Nepal; Consideration Charged for the entire tour: ₹ 1,00,000. Exemption: ₹ 60,000 (₹ 1,00,000 × 3÷5) or ₹50,000 (50% of ₹1,00,000) whichever is less, i.e. 50,000. Taxable value: ₹ 50,000.</p> <p>c) 2.5 days in India, 3 days in Nepal; Consideration Charged for the entire tour: ₹1,00,000. Exemption: 54,545 (₹ 1,00,000 × 3 ÷ 5.5) or, ₹ 50,000 (50% of ₹ 1,00,000) whichever is less, i.e. ₹ 50,000. Taxable value: ₹ 50,000 .</p>
(116)	Export of services to own establishment outside India provided place of supply outside India [Entry 10 F]
(117)	Import of services by UN or specified international organisation [Entry 10G]
(118)	Import of services by foreign diplomatic mission or consular post in India [Entry 10H]
(119)	Intermediaries services [Entry 12AA]
OTHER EXEMPTIONS	
(120)	Intra-state supplies received by a tax deductor from any unregistered supplier exempt from CGST
(121)	Services imported by Unit/developer in SEZ exempt from IGST
(122)	Government share of profit from grant of licence/lease to explore or mine

	petroleum crude or natural gas - exemption from tax
(123)	Royalty and licence fee included in transaction value under rule 10(1)(c) of custom valuation rules - exemption from IGST

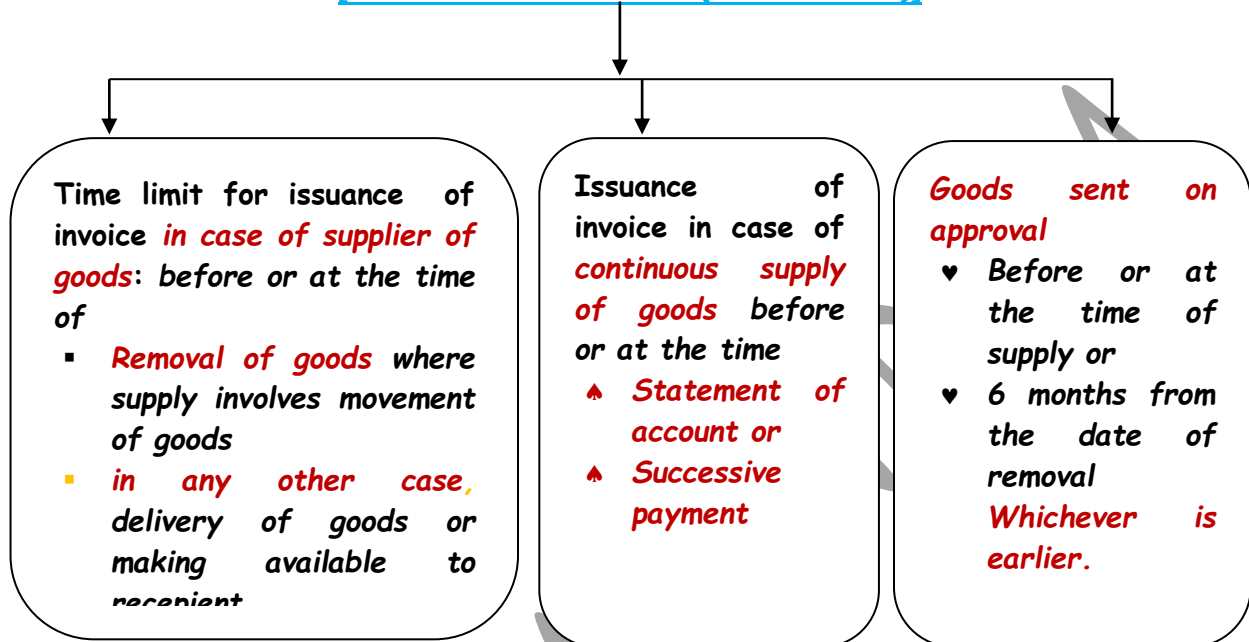
Clarifications:-

1. ***GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI)***: - transaction of levy of additional/penal interest does not fall within the entry 5(e) of schedule II of the CGST Act as this levy of additional/ penal interest satisfies the definition of "interest" as contained in exemption notification.

CHAPTER - 6: TIME OF SUPPLY

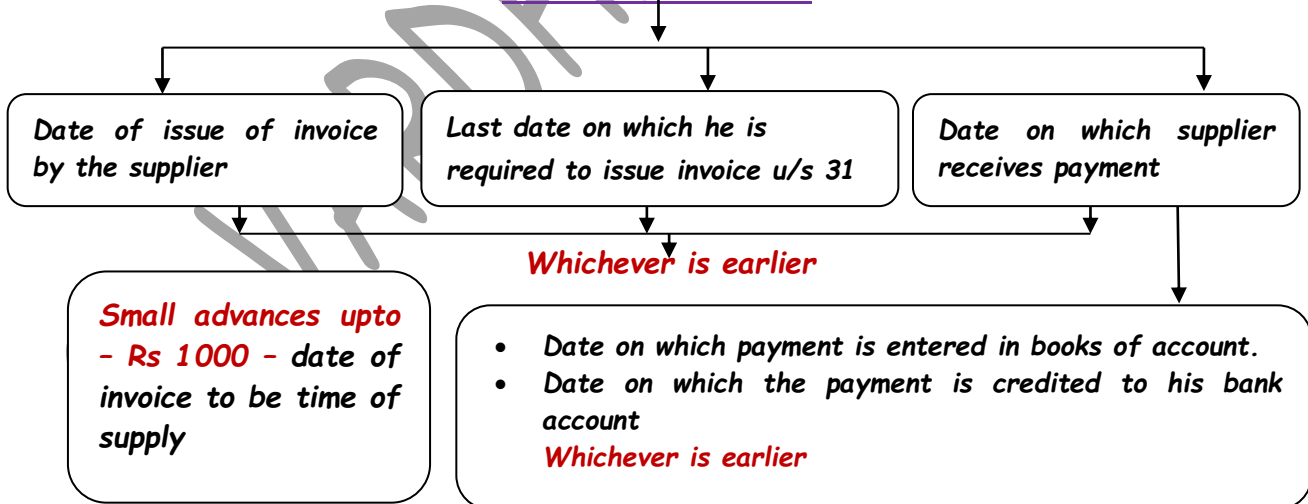
TIME OF SUPPLY OF GOODS

[INVOICE PROVISION (SECTION 31)]



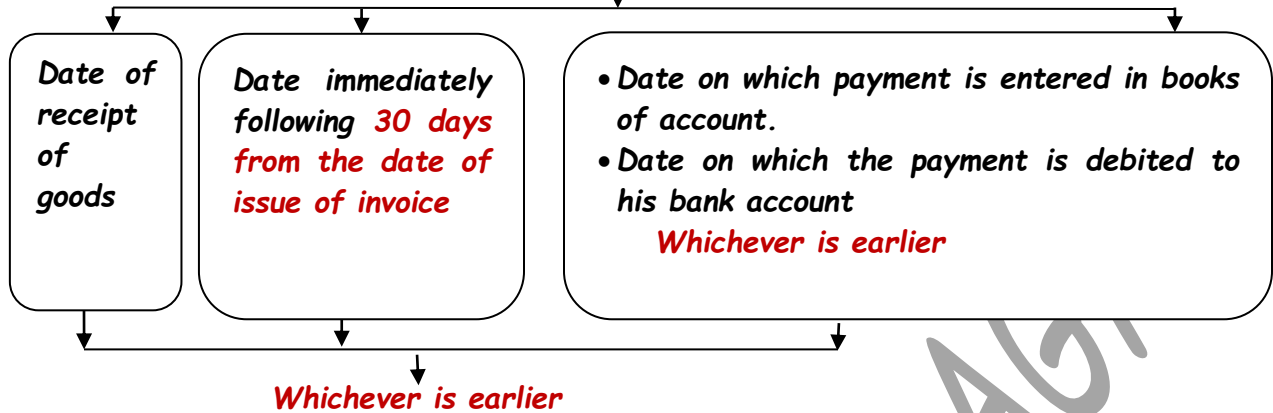
TIME OF SUPPLY OF GOODS [SECTION 12]

FORWARD CHARGE



Exemption to all taxpayers from payment of tax on advances received in case of supply of goods - tax on supply of goods is to be paid on invoice basis and receipt basis is not applicable

REVERSE CHARGE

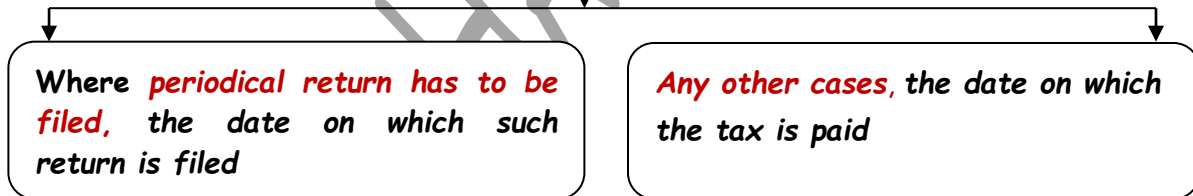


If TOS cannot be determined as above - TOS is date of entry in the books of account of the recipient of supply

VOUCHERS



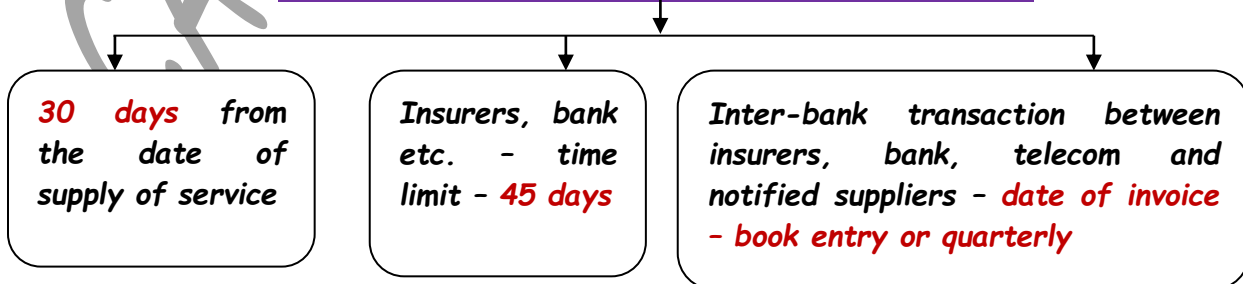
RESIDUAL CASES



Special charges like interest, late fees etc. - TOS is date of receipt of additional amount.

TIME OF SUPPLY OF SERVICES

TIME LIMIT FOR ISSUE OF INVOICE [RULE 47]



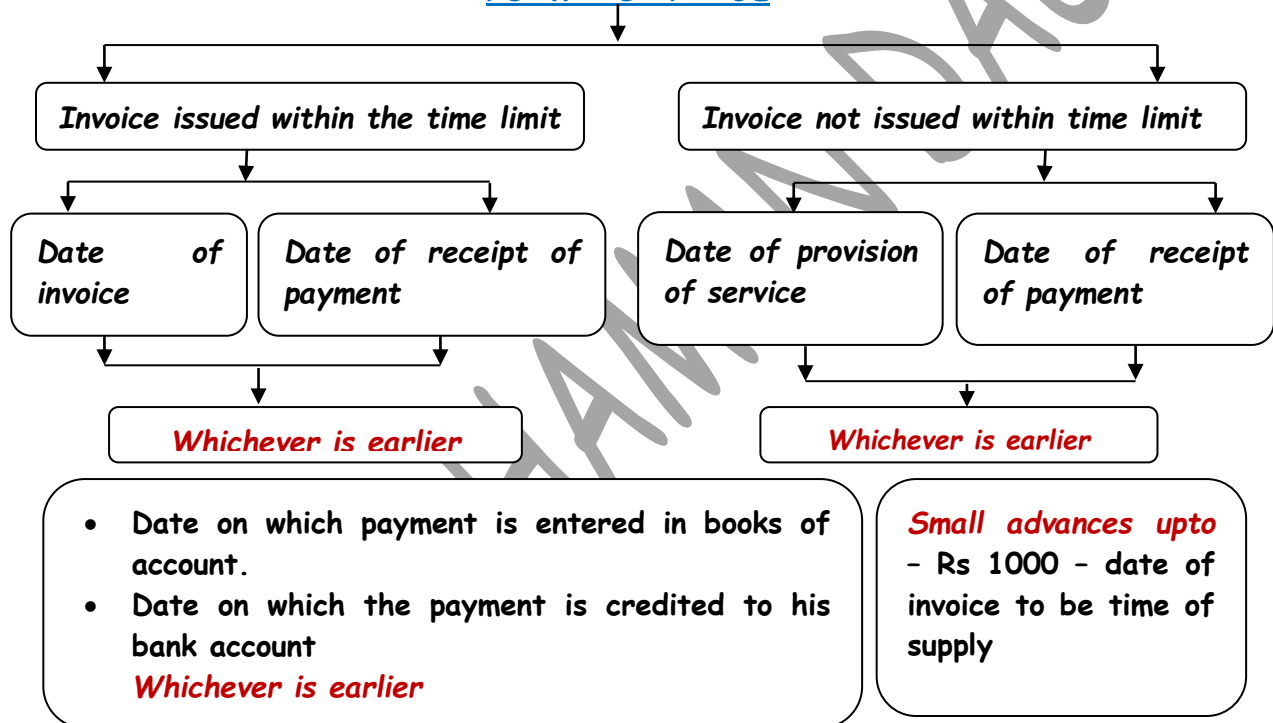
Cessation of supply of services - invoice to be issued at the time when supply ceases.

CONTINUOUS SUPPLY OF SERVICES [period exceeding 3 months]

(1)	Where the due date of payment is ascertainable from the contract	The invoice shall be issued on or before the due date of payment
(2)	Where the due date of payment is not ascertainable from the contract	The invoice shall be issued before or at the time when the supplier of service received the payment
(3)	Where the payment is linked to the completion of an event	The invoice shall be issued on or before the date of completion of that event

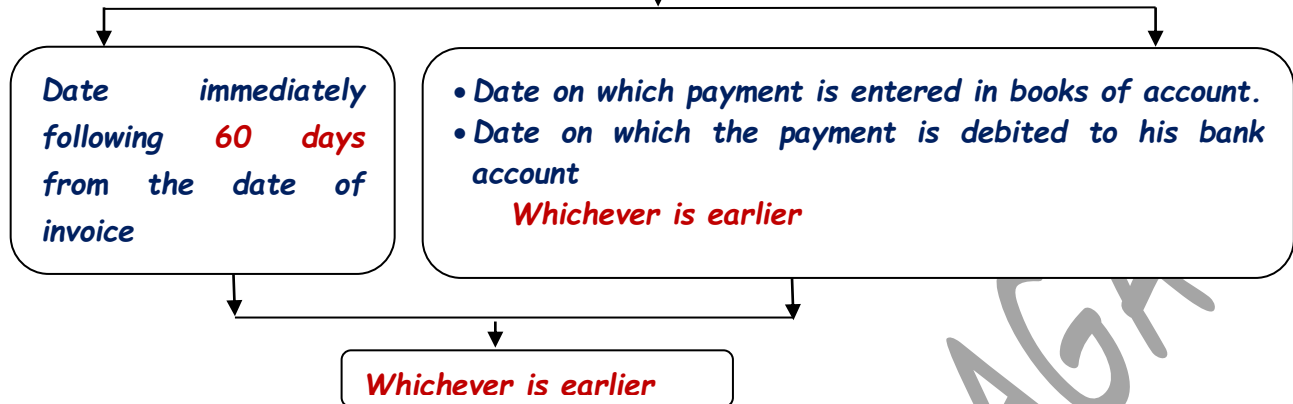
TIME OF SUPPLY OF SERVICE [SECTION 13]

FORWARD CHARGE



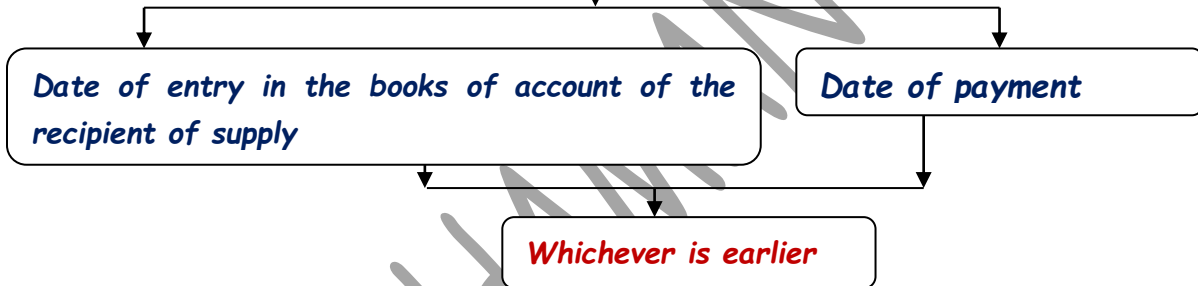
TOS in case of TDR, FSI and long term lease for construction of residential commercial apartments - TOS shall arise on shall arise on the date of issuance of completion certificate or on its first occupation, whichever is earlier.

REVERSE CHARGE



Time of supply in other cases - TOS - date of entry in the books of account of the recipient of supply.

ASSOCIATED ENTERPRISES



CHAPTER - 7: VALUE OF SUPPLY

VALUE OF TAXABLE SUPPLY [section 15(1)]

(1) Value of taxable supply to be *transaction value*:

- ❖ *Price actually paid or payable for the said supply*
- ❖ *Supplier and recipient are not related and*
- ❖ *Price is the sole consideration for the supply*

(2) **Inclusions:**

- ✚ *Taxes, duties, cesses, fees and charges except CGST, SGST, UTGST & GST compensation cess. (if charged saperately). TCS under Income Tax not included.*
- ✚ *Amount incurred by recipient on behalf of the supplier.* (agar customer direct payment bhi karega third party ko toh bhi include karenge). *Payment made on own account of recipient - not to be included.*
- ✚ *Incidental expenses* and amount charged for activities done *before delivery* (commission, packing, inspection or certification charges, installation and testing charges, outward freight, transit insurance)
- ✚ *Charges for delayed payment of consideration.*
- ✚ *Subsidies* (govt wali exclude karenge and private wali include)

(3) **Exclusions:**

- ♣ **Discounts:**
 - ♣ *Discount given on or before supply*
 - ♣ *Post supply discount:*
 - *Specially linked to relevant invoices and*
 - *Input tax credit as is attributable has to be reversed.*
 - ♣ *Non deductible discount* (year end discount after reviewing dealer performance)

CIRCULARS

- 🌀 *Free samples and gifts: not regarded as supply and ITC not admissible.*
- 🌀 *Buy one get one free offer: value already included and ITC admissible.*
- 🌀 *Staggered discount/volume discount - deductible.*
- 🌀 *Secondary discount not deductible.*
- 🌀 *Valuation of supply made by a component manufacturing using moulds and dies owned by original equipment manufacturers (OEM) sent free of cost to him - value of such moulds and dies not to be added to the value of supply made by component manufacturer. If under obligation of component manufacturer such moulds and dies supplied by OEM, then amortized value to be added in value of component.*

If value cannot be determined on the above basis then shall b determined on basis of rules

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Issue	clarification
Whether No Claim Bonus provided by the insurance company to the insured can be considered as an admissible discount for the purpose of determination of value of supply of insurance service provided by the insurance company to the insured?	Accordingly, where the deduction on account of No claim bonus is provided in the invoice issued by the insurer to the insured, GST shall be leviable on actual insurance premium amount, payable by the policy holders to the insurer, after deduction of No Claim Bonus mentioned on the invoice.

GST is not applicable on incentive paid by MeitY to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions - Circular No. 190/02/2023- GST dated 16-01-2023.

Supply of online money gaming, online gambling other than online money gaming and actionable claims in casinos notified under section 15(5).

Method for determination of value of supply in case of online gaming including online money gaming and value of supply of actionable claims in case of casino prescribed [Rule 31B and rule 31C inserted]

- (i) **Rule 31B** - total amount paid or payable to or deposited with supplier by way of money or money's worth, including virtual digital assets, by or behalf of the player,
however, any amount returned or refunded by the supplier to the player for any reasons whatsoever, including player not using the amount paid or deposited with the supplier for participating in any event, shall not be deductible from the value of supply of online money gaming.
- (ii) **Rule 31C** - total amount paid or payable by or on behalf of the player for -
- (a) Purchase of the tokens, chips, coins or tickets, by whatever name called, for use in casino; or
- (b) Participating in any event, including game, scheme, competition or any other activity or process, in the casino, in cases where the token, chips, coins or tickets, by whatever name called, are not required:
however, any amount returned or refunded by the casino to the player on return of token, coins, chips, or tickets, as the case may be, or otherwise, shall not be deductible from the value of the supply of actionable claims in casino.

Tax to be paid on specified actionable claims at the time of receipt of payment for such supplies by the suppliers

Taxability and valuation of personal guarantee by directors and corporate guarantee by related person, for the company [Rule 28 amended]

S.No.	Issue	Clarification
1	Whether the activity of providing personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company without any consideration will be treated as a supply of service or not and whether the same will attract GST or not?	Since director and company are related persons [in terms of Explanation (a) to section 15], the activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies is to be treated as a supply of service, even when made without consideration [in terms of section 7(1)(c) read with para 2 of Schedule I]. Value will be open market value (OMV) of such supply [in terms of rule 28]. However, as per the mandate provided by the RBI Guidelines in this regard, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits, except in exceptional cases. Consequently, there is no question of such supply/ transaction having any OMV. Accordingly, it is clarified that OMV of the said transaction/ supply may be treated as zero and therefore, no tax is payable on such supply of service by the director to the company. However, in exceptional cases, where remuneration is payable to the director(note), the taxable value of such supply of service shall be the remuneration/consideration provided to such guarantor by the company, directly or indirectly.

Note - Instances where consideration is payable to the director may include cases where the director, who had provided the guarantee, is no longer connected with the management but continuance of his guarantee is considered essential because the new management's guarantee is either not available or is found inadequate, or there may be other exceptional cases where the promoters, existing directors, are paid remuneration/ consideration in any manner, directly or indirectly.

2	Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit	Where the corporate guarantee is provided to the bank/financial institutions by: (i) a company for providing credit facilities to the other company, where both the companies are related, (ii) a holding company, for securing credit facilities for its subsidiary company [related in terms of explanation to section 15]
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<p>facilities to its subsidiary company, to the bank/ financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services?</p>	<p>the activity is to be treated as a supply of service between related parties even when made without any consideration [in terms of section 7(1)(c) read with para 2 of Schedule I]. In such cases, the taxable value will be determined as per the newly inserted sub-rule (2) to rule 28 irrespective of whether full ITC is available to the recipient of services or not. As per rule 28(2), value in above cases will be higher of: (i) 1% of the amount of such guarantee offered, or (ii) actual consideration. It is clarified that this sub-rule shall not apply for determining value in S.No. 1 above.</p>
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Thus, to reiterate rule 28 has been amended to provide for the method of valuation (given in table above) of the services of corporate guarantee provided by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/ financial institutions.

[Notification No. 52/2023 CT dated 26.10.2023 read with Circular No. 204/16/2023 GST dated 27.10.2023]

Clarification regarding internally generated services - where HO is providing certain services to the BOs for which full ITC is available to the concerned BOs

Issue	Clarification
<p>In respect of internally generated services, there may be cases where HO is providing certain services to the BOs for which full ITC is available to the concerned BOs. However, HO may not be issuing tax invoice to the concerned BOs with respect to such services, or the HO may not be including the cost of a particular component such as salary cost of employees involved in providing said services while issuing tax invoice to BOs for the services provided by HO to BOs. Whether the HO is mandatorily required to issue invoice to BOs under section 31 for such internally generated services, and/ or whether the cost of all components including salary cost of HO employees involved in providing the said</p>	<p>The value of supply of services made by a registered person to a distinct person needs to be determined as per rule 28 read with section 15(4). As per rule 28(a), the value of supply between distinct persons shall be the open market value (OMV) of such supply. The second proviso to rule 28 provides that where the recipient is eligible for full ITC, the value declared in the invoice shall be deemed to be the OMV of the goods or services. Accordingly, in respect of supply of services by HO to BOs, the value of the said supply of services declared in the invoice by HO shall be deemed to be OMV of such services, if the recipient BO is eligible for full ITC. Accordingly, in cases where full ITC is available to a BO, the</p>

<p>services has to be included in the computation of value of services provided by HO to BOs when full ITC is available to the concerned BOs?</p>	<p>value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the OMV of such services, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice. Further, in such cases where full ITC is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as OMV in terms of second proviso to rule 28</p>
<p>In respect of internally generated services provided by the HO to BOs, in cases where full ITC is not available to the concerned BOs, whether the cost of salary of employees of the HO involved in providing said services to the BOs, is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to BOs?</p>	<p>In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services, even in cases where full ITC is not available to the concerned BO.</p>

CHAPTER-8: INPUT TAX CREDIT

ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT [SECTION 16]

(1) Only **registered person** eligible to take ITC.

(2) Conditions to be satisfied for taking ITC:

(a) Possession of tax paying documents

(i)

Documents on basis of which ITC can be availed (Rule 36(1))

1. An invoice issued by the supplier of goods or services or both
2. Invoice issued by the recipient along with proof of payment of tax in case of reverse charge;
3. A debit note issued by the supplier as per sec 34
4. A bill of entry or any similar document prescribed under custom act, 1962
5. An input service distributor invoice or input service distributor credit note or any document issued by an ISD

(ii) Document must contain prescribed particulars and relevant information to be furnished by registered person.

(iii) ITC cannot be availed on tax demands on account of fraud etc.

(aa) the details of the invoice or debit note referred above has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37.

Restriction on availment of ITC [rule 36(4)] : No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under section 37(1) unless:-

- (i) The details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in **FORM GSTR-1** or using the IFF; and
- (ii) The details of input tax credit in respect of such invoices or debit notes have been communicated to the registered persons in **FORM GSTR-2B** under Rule 60(7).

(b) Receipt of goods and services [delivery of goods or services at registered persons direction is valid receipt of goods or services]

(ba) ITC must not to be restricted: The details of input tax credit in respect of the said supply communicated to such registered person u/s 38 has not been restricted.

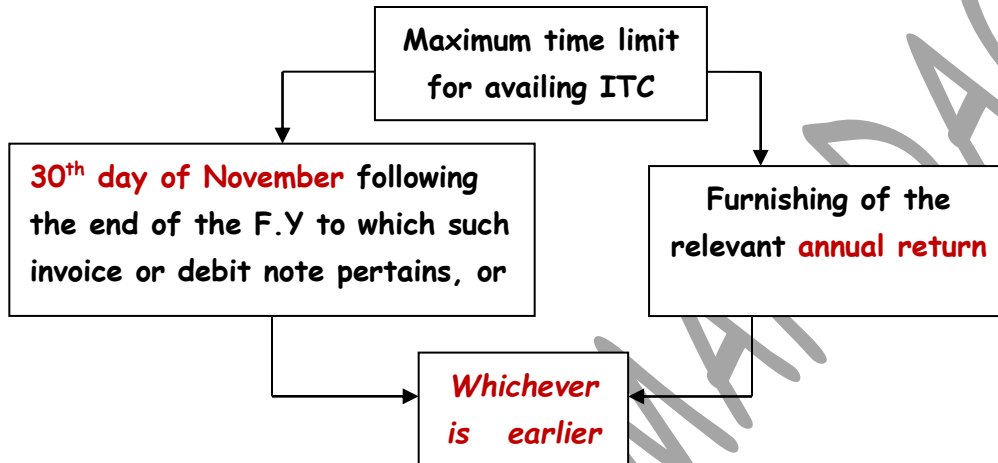
(c) Tax charged is actually paid to the government

(d) Furnishing of return.

(3) ITC not admissible if depreciation claimed on tax component

(4) Burden of proof - persons taking the credit.

TIME LIMIT FOR AVAILING ITC [Section 16(4)]



Exception: it must be further noted that the time limit under section 16(4) does not apply to claim for re-availing of credit that had been reversed earlier

Payment for the invoice to be made within 180 days [Second proviso to section 16(2)]

(i) Payment is not made within 180 days from date of invoice - ITC availed is to be paid along with interest:

As per Second Proviso to Section 16(2), where a recipient fails to pay-

- to the supplier of goods or services or both,
- the amount towards the value of supply along with tax payable thereon.
- **within a period of 180 days from the date of issue of invoice** by the supplier, an amount equal to the input tax credit availed by the recipient shall be **paid by him along with interest payable u/s 50 thereon (i.e. 18% p.a.)'**, in such manner as may be prescribed.

(ii) Re-credit when payment is made subsequently: However, the recipient shall be entitled to avail of the credit of input tax on payment made by him **to the supplier** of the amount towards the value of supply of goods or services or both along with tax payable thereon. In case part payment has been made to the supplier, proportionate credit would be allowed.

(iii) **Exceptions:** This condition of payment of value of supply plus tax **within 180 days** does not apply in the following situations:

(a) Supplies on which tax is payable under reverse charge

(b) Deemed supplies without consideration i.e. value of supplies made without consideration as specified in Schedule I of the said Act.

(c) The value of supplies on account of any amount added in accordance with the provisions Section 15(2)(b) shall be deemed to have been paid for the purposes of the second proviso to Section 16(2), i.e. additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply.

Note: Under situations given in points (b) & (c), the value of supply is deemed to have been paid.

Reversal of ITC in case of non-payment of consideration [Rule 37]: The procedural requirements are discussed as under-

- 1) **Payment is not made within 180 days from date of invoice** - ITC availed is to be paid along with interest: A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof, the amount towards the value of such supply **whether wholly or partly** along with the tax payable thereon, within 180 days from the date of invoice, **shall pay an amount equal to the input tax credit availed in respect of such supply along with interest payable thereon under section 50**, while furnishing the return in **FORM GSTR-3B** for the tax period immediately following the period of 180 days from the date of the issue of the invoice.
- 2) **Re-credit when payment is made subsequently [Rule 37(2)]:**
- 3) **Re-availing of credit reversed earlier** - time limit provisions for taking credit not applicable

Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availing thereof [Rule 37A]

- (1) **Reversal of ITC in case GSTR-3B has not been furnished by his supplier:** Where input tax credit has been availed by a registered person in the return in **FORM GSTR-3B** for a tax period in respect of such invoice or debit note, the details of which have been furnished by the supplier in the statement of outward supplies in **FORM GSTR-1** or using the invoice furnishing facility, but the return in **FORM GSTR-3B** for the tax period corresponding to the said statement of outward supplies has not been furnished by such supplier till the 30th September following

the end of financial year in which the input tax credit in respect of such invoice or debit note has been availed, the said amount of input tax credit shall be reversed by the said registered person, while furnishing a return in **FORM GSTR-3B** on or before the 30th November following the end of such financial year.

(2) **Interest liability for non reversal of ITC by 30th November**: Where the said amount of input tax credit is not reversed by the registered person in a return in **FORM GSTR-3B** on or before the **30th November** following the end of such financial year during which such input tax credit has been availed, such amount shall be payable by the said person along with interest @ **18% p.a.**

(3) **Re-availment of ITC**: Where the said supplier subsequently furnishes the return in **FORM GSTR-3B** for the said tax period, the said registered person may re-avail the amount of such credit in the return in **FORM GSTR-3B** for a tax period thereafter.

APPORTIONMENT OF CREDIT AND BLOCKED CREDIT

(1) **Ineligible inputs/capital goods/input services - blocked credits [section 17 (5)]**

(2) **Items ineligible for credit [section (5)]**: ITC shall not be available in respect of following:

(a)	Motor vehicle for transportation of passenger	Motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver) , However, credit will be available when they are used for making the following taxable supplies, namely: (A) further supply of such motor vehicles; or (B) transportation of passengers; or (C) imparting training on driving such motor vehicles.
(aa)	Vessel and aircraft	Vessels and aircraft However, credit will be available when they are used - (i) for making the following taxable supplies, namely: (a) further supply of such vessels or aircraft; or (b) transportation of passengers; or (c) imparting training on navigating such vessels; (d) imparting training on flying such aircraft; (ii) for transportation of goods.

(ab)	Insurance, repairs and maintenance of motor vehicles, vessels and aircraft	<p>Services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa).</p> <p>However, the input tax credit in respect of such services shall be available</p> <p>(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;</p> <p>(ii) where received by a taxable person engaged -</p> <p>(a) in the manufacture of such motor vehicles, vessels or aircraft; or</p> <p>(b) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;</p>
(b)	Food & beverages outdoor catering beauty treatment etc.	<p>(i) the following supply of goods or services or both-</p> <ul style="list-style-type: none"> ⦿ food and beverages, ⦿ outdoor catering, ⦿ beauty treatment, ⦿ health services, ⦿ cosmetic and plastic surgery, ⦿ leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) above except when used for the purposes specified therein, ⦿ life insurance, and ⦿ health insurance. <p>However, the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;</p> <p>(ii) membership of a club, health and fitness centre; and</p> <p>(iii) travel benefits extended to employees on</p>

		<p>vacation such as leave or home travel concession.</p> <p>However, the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.</p>
(c)	Works contract	<p>Works contract services when supplied for construction of an immovable property.</p> <p>However, credit is allowed -</p> <p>(i) Where it is an input service for further supply of works contract service.</p> <p>(ii) Where it is supplied for construction of plant and machinery.</p> <p>Explanation:</p> <p>(1) "Plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes-</p> <p>(i) land, building or any other civil structures;</p> <p>(ii) telecommunication towers; and</p> <p>(iii) pipelines laid outside the factory premises.</p> <p>(2) "Construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property.</p>
(d)	Input and input services for construction of immovable property	<p>Goods or services or both received by a taxable person for construction of an immovable property on his own account including when such goods and services or both are used in the course or furtherance of business. However, credit is allowed if they are supplied for construction of plant and machinery.</p>
(e)	Input under composition scheme	-
(f)	Inputs by NR	<p>Goods and services or both received by a non-resident taxable person except on goods imported by him</p>

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(fa)	Goods or services for CSR expenditure	Goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the companies act 2013 [Finance act, 2023]
(g)	Personal consumption	-
(h)	Lost, stolen goods etc.	-
(i)	Evasion, confiscation etc.	-

Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period. - Circular No. 195/07/2023-GST dated 17-07-2023

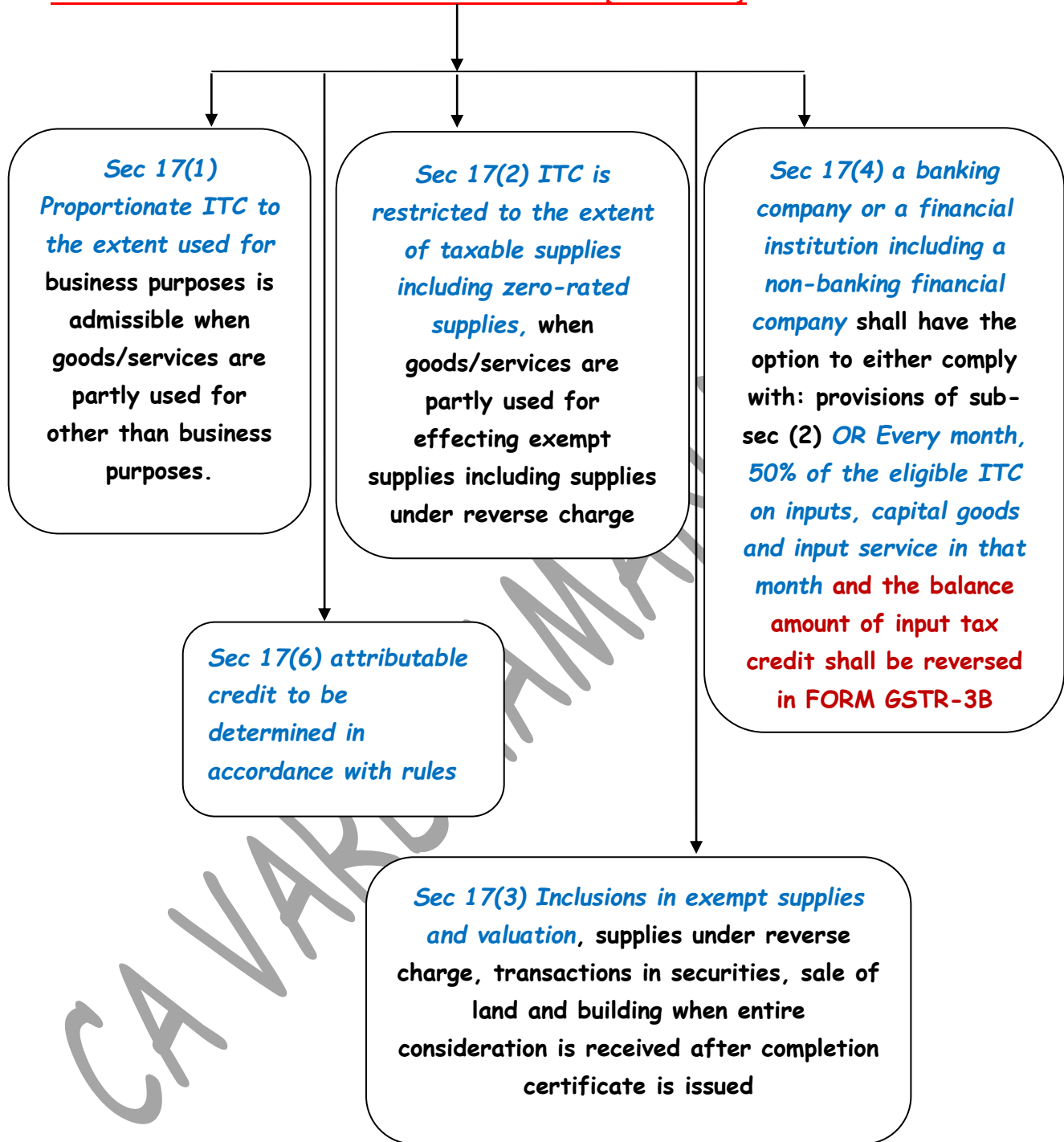
	Issue	Clarification
1.	There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of parts and/or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/repair services. Whether GST would be payable on such replacement of parts or supply of repair services, without any consideration from the customer, as part of warranty?	The value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and/or repair services to be incurred during the warranty period, on which tax would have already been paid at the time of original supply of goods. As such, where the manufacturer provides replacement of parts and/or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, no further GST is chargeable on such replacement of parts and/or repair service during warranty period. However, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.
2.	Whether in such cases, the manufacturer is required to reverse the input tax credit in respect of such replacement of parts or supply	In such cases, the value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of

	<p>of repair services as part of warranty, in respect of which no additional consideration is charged from the customer?</p>	<p>replacement of parts and/ or repair services to be incurred during the warranty period. Therefore, these supplies cannot be considered as exempt supply and accordingly, the manufacturer, who provides replacement of parts and/ or repair services to the customer during the warranty period, is not required to reverse the input tax credit in respect of the said replacement parts or on the repair services provided.</p>
<p>3.</p>	<p>Whether GST would be payable on replacement of parts and/ or repair services provided by a distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?</p>	<p>In such cases, as no consideration is being charged by the distributor from the customer, no GST would be payable by the distributor on the said activity of providing replacement of parts and/ or repair services to the customer. However, if any additional consideration is charged by the distributor from the customer, the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.</p>
<p>4</p>	<p>In the above scenario where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor and the manufacturer and whether the distributor would be required to reverse the input tax credit in respect of such replacement of parts?</p>	<p>(a) There may be cases where the distributor replaces the part(s) to the customer under warranty either by using his stock or by purchasing from a third party and charges the consideration for the part(s) so replaced from the manufacturer, by issuance of a tax invoice, for the said supply made by him to the manufacturer. In such a case, GST would be payable by the distributor on the said supply by him to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of CGST Act. In</p>

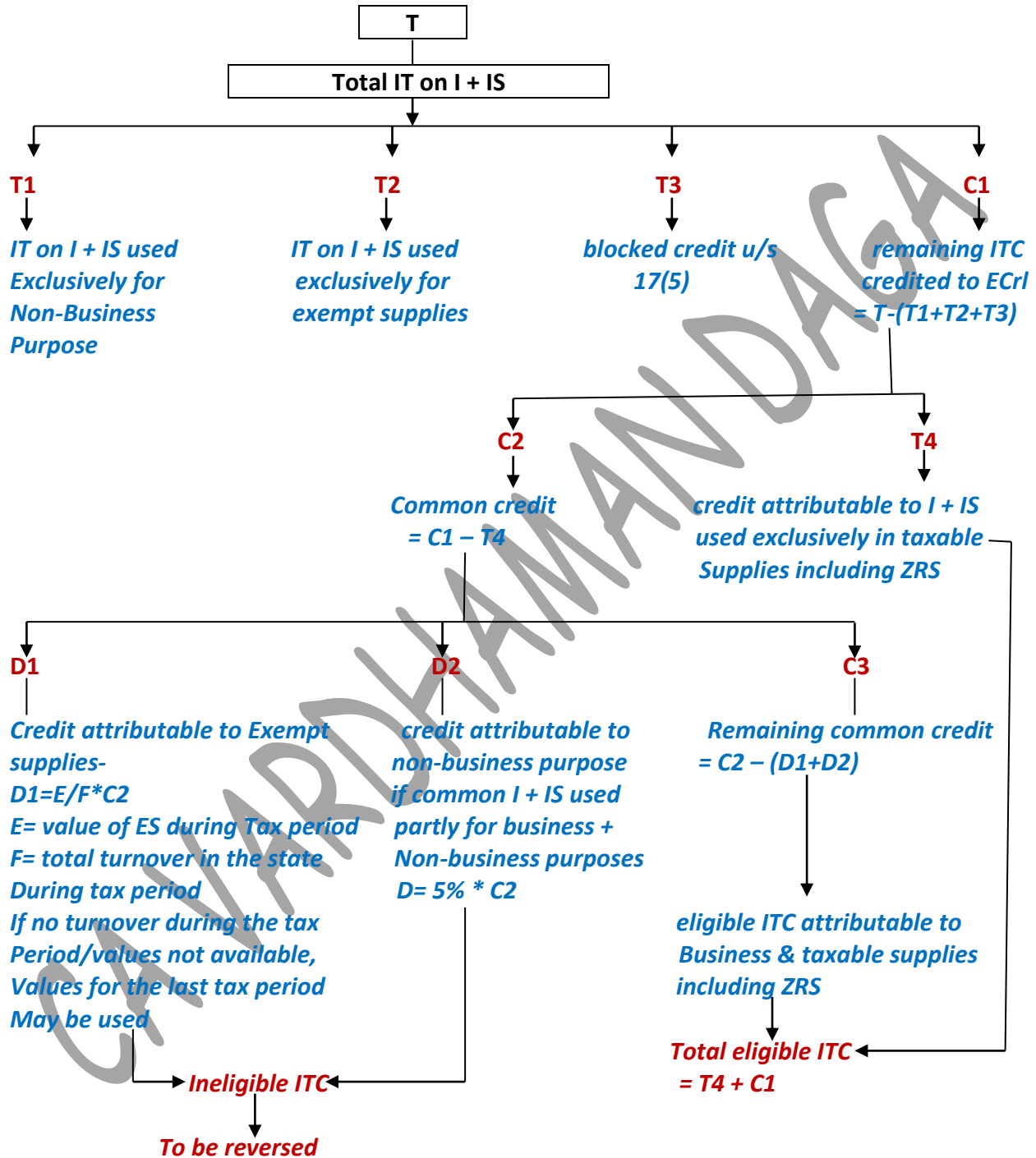
		<p>such case, no reversal of input tax credit by the distributor is required in respect of the same.</p> <p>(b) There may be cases where the distributor raises a requisition to the manufacturer for the part(s) to be replaced by him under warranty and the manufacturer then provides the said part(s) to the distributor for the purpose of such replacement to the customer as part of warranty.</p> <p>In such a case, where the manufacturer is providing such part(s) to the distributor for replacement to the customer during the warranty period, without separately charging any consideration at the time of such replacement, no GST is payable on such replacement of parts by the manufacturer. Further, no reversal of ITC is required to be made by the manufacturer in respect of the parts so replaced by the distributor under warranty.</p> <p>(c) There may be cases where the distributor replaces the part(s) to the customer under warranty out of the supply already received by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced subject to provisions of Section 34(2) of the CGST Act. Accordingly, the tax liability may be adjusted by the manufacturer, subject to the condition that the said distributor has reversed the ITC availed against the parts so</p>
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		replaced.
5.	Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?	<p>In such scenario, there is a supply of service by the distributor and the manufacturer is the recipient of such supply of repair services in accordance with the provisions of Section 2(93)(a) of the CGST Act, 2017.</p> <p>Hence, GST would be payable on such provision of service by the distributor to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of CGST Act.</p>
6	Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?	<p>(a) If a customer enters in to an agreement of extended warranty with the manufacturer at the time of original supply, then the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly.</p> <p>(b) However, in case where a consumer enters into an agreement of extended warranty at any time after the original supply, then the same is a separate contract and GST would be payable by the service provider, whether manufacturer or the distributor or any third party, depending on the nature of the contract (ie. whether the extended warranty is only for goods or for services or for composite supply involving goods and services)</p>

APPORTIONMENT OF CREDIT AND BLOCKED CREDIT [SECTION 17]



APPORTIONMENT OF COMMON CREDIT IN CASE OF INPUT AND INPUT SERVICES [not applicable for CA – inter]

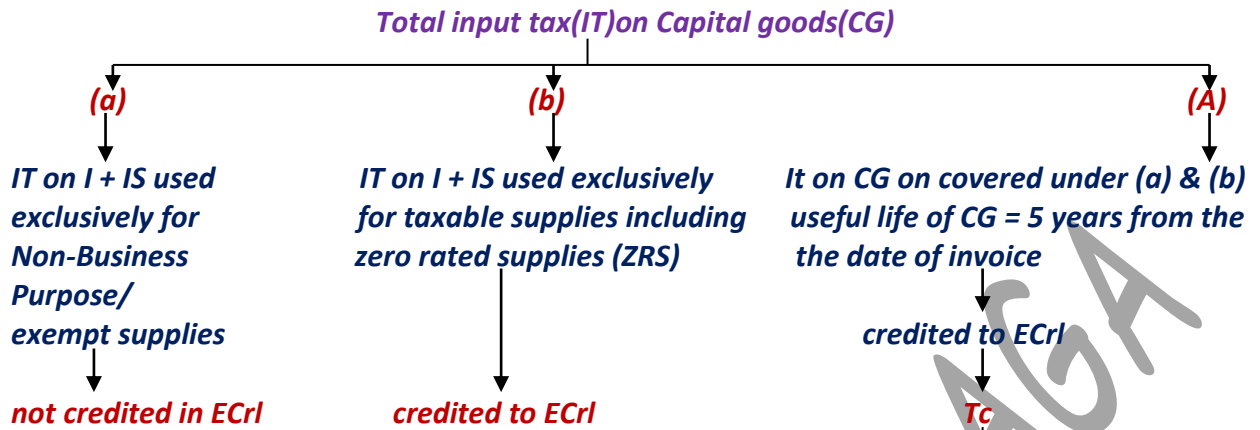


- C3 will be computed separately for ITC of CGST, SGCT/UTGST and IGST
- Total (D1+D2) will be computed for the whole financial year, by taking exempted turnover and aggregate turnover for the whole financial year. If this amount is more than the amount already reversed every month, the differential

amount will be reversed in any of the month till September of succeeding year along with interest @18% from 1st april of succeeding year till the date of payment.

- If the amount is less than the amount reversed every month, the additional amount paid is to be claimed back as credit in the return of any month till September of the succeeding year.
- Exempt supplies include reverse charge and transactions in securities.
- Exempt supplies exclude (i) activities specified in schedule 1 except sale of land and building when entire consideration is received post completion certificate/first occupation whichever is earlier, (ii) services of extending deposits, extending loan and advances where the consideration is interest/discount when the same are provided by persons other than banking company/financial institution including NBFC, and (iii) outbound (overseas) transportation of goods by vessel.
- Aggregate value of exempt supplies and total turnover exclude central excise duty, state excise duty, central sales tax and VAT.
- Value of exempt supply in respect of land and building is the stamp duty value and for security is 1% of the sale value of such security.
- IT=input tax, I = inputs, IS = input service, ECrl = electronic credit edger, ZRS = zero rated supply, ES = exempt supplies.

APPORTIONMENT OF COMMON CREDIT ON CAPITAL GOODS [not applicable for CA – inter]



common credit on CG = T_c = total(A)

⇒ if CG under (a) subsequently gets covered under (A), then (A) = then input tax in respect of such capital goods denoted as "A" shall be credited to ECRI further, ineligible credit attributable to the period during which such capital goods were covered by (i) above, shall be computed @ 5% points per quarter or part thereof and will be added to output tax liability of the tax period in which such credit is claimed.

⇒ If CG under (b) subsequently gets covered Under (A), then (A) = the entire ITC claimed in respect of such capital goods shall be added to arrive at the aggregate value "Tc".

Common credit of CG for a tax period during their Useful life $T_m = T_c/60$

EXPLANATION: for the removal of doubt, it is clarified that useful life of any capital goods shall be considered as 5 years from the date of invoice and this formula shall be applicable during the useful life of such capital goods.

T_e

Common credit towards exempted supplies $T_e = E/F * Tr$
E – aggregate value of exempt supplies during tax period,

F – total turnover in state during the tax period, if no turnover during the tax period/values not available, values for last tax period may be used



Added to output tax liability along with interest

- ***Te*** will be computed separately for ITC of CGST, SGST/UTGST and IGST
- Exempt supplies exclude (i) activities specified in schedule 1 except sale of land and building when entire consideration is received post completion certificate/first occupation whichever is earlier, (ii) services of extending deposits, extending loan and advances where the consideration is interest/discount when the same are provided by persons other than banking company/financial institution including NBFC, and (iii) outbound (overseas) transportation of goods by vessel.
- Aggregate value of exempt supplies and total turnover exclude central excise duty, state excise duty, central sales tax and VAT.
- Value of exempt supply in respect of land and building is the stamp duty value and for security is 1% of the sale value of such security.

UTILIZATION OF INPUT TAX CREDIT

Availment of input tax credit [Section 41(1)] [Amended by Finance Act, 2022 w.e.f. 01-10-2022]: Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

Reversal of credit if tax has not been paid by the supplier [Section 41(2)]: The credit of input tax availed by a registered person in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed.

Re-availment of ITC when tax deposited by the supplier: Where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

CGST credit - CGST and uske baad IGST se use ho sakti hai
SGST credit - SGST and uske baad IGST se use ho sakti hai
IGST credit - IGST uske baad CGST and uske baad SGST se use ho sakti hai
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SGST credit - CGST se use nahi ho sakti hai

Clarification in respect of utilization of input tax credit under GST (circular no. 98/17/2019-GST dated 23-04-2019) -

ITC of integrated tax can be utilized towards the payment of central tax and state tax/Union territory tax, in any order subject to the condition that the entire ITC on account of integrated tax is completely exhausted first before the input tax credit on account of central tax or state tax/ union territory tax can be utilized.

Rule 86A - conditions of use of amount available in electronic credit ledger

(1) Restriction on utilization of balance in ErCL - Conditions:

- (a) The credit of input tax has been availed on the strength of tax invoices or debit notes or any other document
 - (i) Issued by a registered person who has been found non-existent or not to be conducted any business from any place for which registration has been obtained; or
 - (ii) Without receipt of goods or services or both; or
- (b) Tax has not been paid to the government
- (c) Registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document.

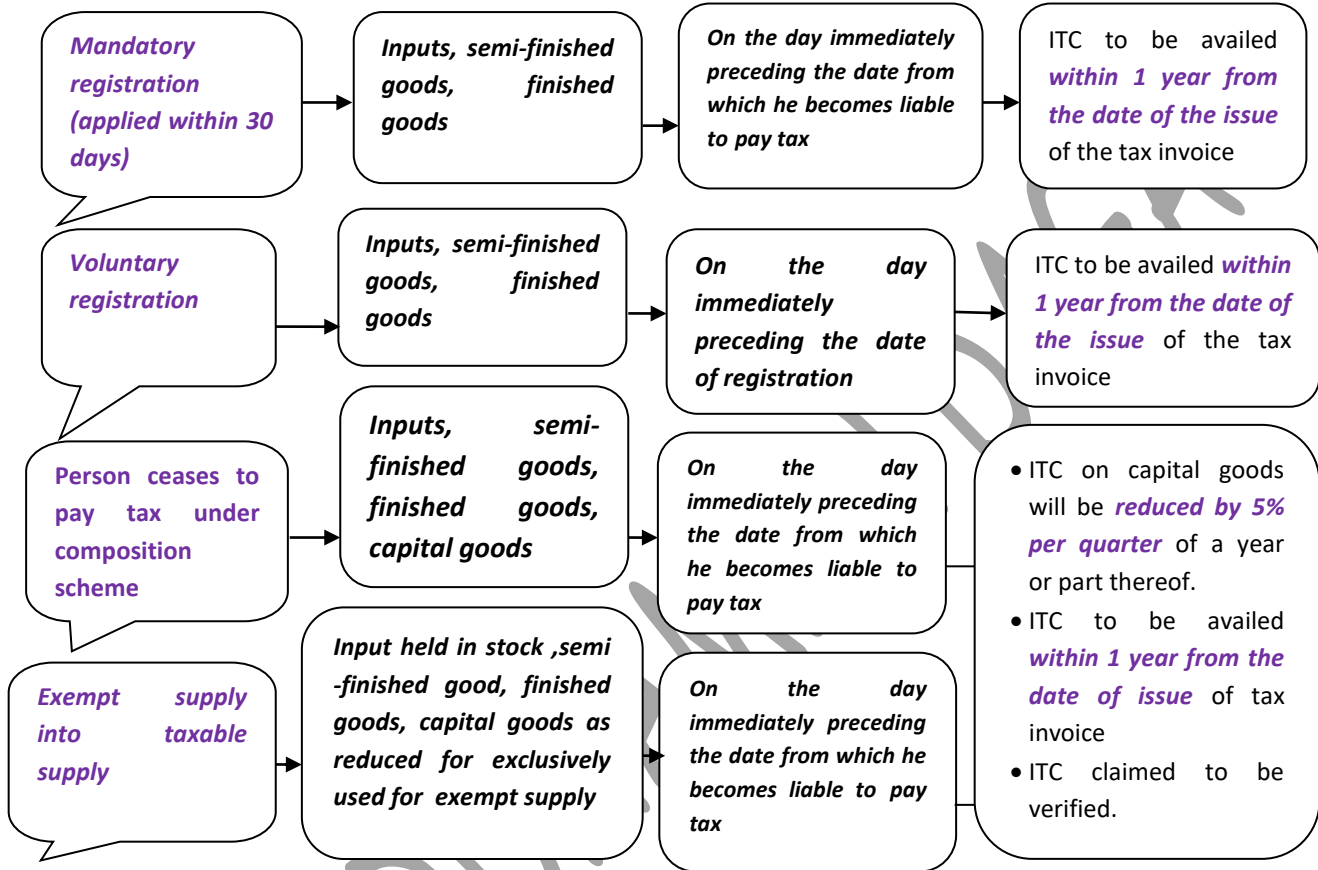
(2) Maximum period of restriction - one year

Rule 86B - Restrictions on use of amount available in electronic credit ledger

- ✦ **Applicability of Rule 86B** - registered person having value of taxable supply (other than exempt supply and zero-rated supply) in a month exceeding ₹ 50 lakh.
- ✦ **Nature of restriction imposed** - ITC to be utilized to the extent of 99% of the output tax liability.
- ✦ **Non applicability** -
 - a) **Payment of income tax of more than ₹ 1,00,000** - registered person, proprietor or karta or the managing director, any of its tow partners, whole-time directors, members of managing committee of association or board of trustees, as the case may be in **each of the two financial year** for which time limit to file return of income has expired under section 139(1).
 - b) **Refund of ITC of more than ₹ 1,00,000** - on account of zero rated supply or on account of inverted tax structure.
 - c) **Cumulative discharge of tax liability of more than 1% during the financial year.** (reverse charge liability not included)

- d) **Specified registered person** - government department, a public sector undertaking, local authority, statutory body.

AVAILABILITY OF CREDIT IN SPECIAL CIRCUMSTANCES (Section 18)



- Time limit for filing declaration within 30 days
- Certification by CA/CMA if the claim of ITC exceed ₹ 200000.

Manner of claiming credit in special circumstances (Rule 40)

<p>Capital Goods Sec 18(1)(c) &(d)</p>	<ul style="list-style-type: none"> ▪ ITC shall be claimed after reducing tax paid by 5% points per quarter of a year or part thereof ▪ From date of invoice or such other documents.
<p>E form & Time limit</p>	<ul style="list-style-type: none"> ▪ Within 30 days from date of becoming eligible to avail ITC u/s.18(1) or as extended ▪ Declaration in Form GST ITC 01

MANNER OF REVERSAL OF CREDIT UNDER SPECIAL CIRCUMSTANCES [Rule 44]

(1) Reversal of ITC [Rule 44(1)]:

- (a) **For inputs** - credit to be calculated proportionately on the basis of corresponding invoices
- (b) **For capital goods** - credit to be calculated on pro rata basis taking useful life of capital goods **5 years**
- (2) **Tax invoice of inputs not available** - credit amount to be estimated on basis of market price.
- (3) **Furnishing of details of credit** - FORM GST ITC-03

ITC IMPLICATIONS ON SUPPLY OF CAPITAL GOODS OR PLANT AND MACHINERY ON WHICH ITC HAS BEEN TAKEN [section 18(6) read with rule 40(2) of CGST rules, 2017]

- (1) supply of plant and machinery after use - shall pay higher of the following amount:
 - * an amount equal to the ITC taken on the said capital goods or plant and machinery **reduced @ 5% points for every quarter or part thereof** from the date of issue of invoice or
 - * **the tax on the transaction value**
- (2) **refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap** - tax leviable on transaction value is to be paid
- (3) **amount determined is greater than tax on transaction value** - to be added to output tax liability.

CHANGE IN CONSTITUTION SEC 18(3)

Change in constitution of registered taxable person

On account of

- Sale
- Merger
- Demerger
- Amalgamation
- Lease
- Transfer of business

Transfer of unutilized ITC in the books allowed to such :

- Sale
- Merger
- Demerger
- Amalgamation
- Lease
- Transfer of business

RULE 41

TRANSFER OF CREDIT ON SALE, MERGER, AMALGAMATION, LEASE OR TRANSFER OF BUSINESS

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E-FORM

- Transfer of unutilized ITC lying in Electronic Credit Ledger to transferee
- Form **GST ITC- 02**
- In case of Demerger ITC shall be apportioned in ratio of value of assets as over scheme.
- Value of assets means value of entire assets of business whether ITC availed or not.

CERTIFICATE

- Certificate by practicing Chartered Accountant or Cost Accountant
- Certifying transfer of business has been done with a specific provision for the transfer of liabilities.

ACCEPTANCE

- Post filing of **GST ITC -02**
- Transferee shall accept in common portal details furnished by transferor

ACCOUNTING

- Inputs and capital goods so transferred shall be duly accounted by the transferee in his books of accounts.

RULE 41 A

- Transfer of credit on obtaining separate registration for multiple places of business within a state or UT
- ITC in electronic credit ledger to newly registered unit
- Within 30 days from obtaining registration
- **Form GST ITC-02**
- Acceptance by transferee

TRANSFER OF CREDIT ON OBTAINING SEPARATE REGISTRATION FOR MULTIPLE PLACES OF BUSINESS WITHIN A STATE OR UNION TERRITORY [Rule 41A]

- (1) Details of transfer of ITC to be furnished on account of separate registration for multiple places of business - **FORM GST ITC - 02A**
- (2) Transfer details to be accepted by transferee.

Clarification regarding availment of ITC in respect of common input services procured from a third party but attributable to both HO and BOs or exclusively to one or more BOs

The following clarification has been issued:

Issues	Clarification
Whether HO can avail the ITC in respect of common input services procured from a third party but attributable: (i) to both HO and BOs or (ii) exclusively to one or more BOs, issue tax invoices under section 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether is it mandatory for the HO to follow	It is clarified that in such a case, as per the present provisions of the law, it is not mandatory for the HO to distribute such ITC by ISD mechanism. HO has an option to: (i) distribute ITC in respect of such common input services by following ISD mechanism, or (ii) issue tax invoices under section 31 to the concerned BOs in respect of common input

the Input Service Distributor (ISD) mechanism⁴ for distribution of ITC in respect of such common input services?

services procured from a third party by HO but attributable to the said BOs and the BOs can then avail ITC on the same subject to the provisions of sections 16 and 17.

ISD mechanism can be opted only if the said input services are attributable to the said BO or have actually been provided to the said BO. In case ISD mechanism is opted, HO is required to get itself registered mandatorily as an ISD⁵. Similarly, the HO can issue tax invoices under section 31 to the concerned BOs, only if the common input services have actually been provided to the concerned BOs.

(3) [Circular No. 199/11/2023 GST dated 17.07.2023]

CHAPTER - 9: REGISTRATION

NEED FOR REGISTRATION

1. **Advantages of registration:**
 - ✦ Legally recognized as supplier of goods or services.
 - ✦ Proper accounting of taxes paid
 - ✦ Legally authorized to collect tax
2. No centralized registration
3. No tax specific registration

PERSON LIABLE FOR REGISTRATION [SECTION 22]

Threshold limit for registration:

States with threshold limit of Rs 10 lakh for both goods and services	States with threshold limit of Rs 20 lakh for both goods and services	States with threshold limit of Rs 20 lakh for services and Rs 40 lakh for goods (i.e persons engaged exclusively in supply of goods)
Manipur, Mizoram, Nagaland, Tripura	Arunachal Pradesh, Meghalaya, Sikkim, Uttarakhand, Puducherry, Telangana	Jammu and Kashmir, Assam, Himachal Pradesh, All other states

Analysis of aggregate turnover:

1. Aggregate turnover to include total turnover of all branches with same PAN.
2. Outward supplies taxed on reverse charge basis - to be included in turnover of the supplier.
3. Aggregate turnover to include all supplies made on behalf of principal
4. Supply of goods by job worker to be included in supplies of principal

PERSONS NOT LIABLE FOR REGISTRATION - SEC 23

Aggregate Turnover < 20 L/10L → No registration in following cases

Persons not liable for registration in GST

- ✓ Person exclusively engaged in the business of supplying goods/ services that are **not liable to tax**.
- ✓ Persons exclusively engaged in the business of supplying goods/services that are **wholly exempt from tax**
- ✓ **Agriculturist**, to the extent of supply of produce out of cultivation of land

Sec. 23(2)

The Government may, on the recommendations of the council, by notification, specify the category of persons who may be exempted from registration under this act.

Persons making reverse charge supply e.g. Advocates, GTA.

Persons supplying through E-commerce

Supplier of goods having aggregate turnover not exceeding 40L

Persons making interstate supplies of taxable services having aggregate turnover not exceeding 20L

Persons making interstate taxable supplies of notified handicraft goods upto Rs 20L (Rs 10L in case of special category)

Job-workers engaged in making interstate supply of services-exempt from obtaining registration

EXCEPT

- Persons required to get compulsory registration
- Supplier of Ice cream , pan masala , Tobacco, fly ash bricks or fly ash aggregate, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks and earthen or roofing tiles
- Persons engaged in making intra state supply in special category states.
- Persons exercising options of voluntary registration. Sec.25(3)
- Registered persons who intend to continue with their registration.

Services provided by the commission agent for sale/purchase of agriculture produce:

A commission agent making supplies on behalf of such an agriculturist - not a taxable person - is not liable for compulsory registration. However, where a commission agent is liable to pay tax under reverse charge, such an agent will be required to get registered compulsory.

Aggregate Turnover means the aggregate value of all taxable supplies (excluding the Value of inward supplies, on which tax is payable on reverse charge basis), exempt

supplies, export of goods or services or both or inter-state supplies of people having same permanent account Number, to be computed in all India basis but excludes central tax, state tax, Union territory tax, Integrated tax and cess.

Exemption to persons making supply of goods through e-commerce operator subject to fulfillment of specified conditions:

The Central Government has exempted the persons making supplies of goods through an electronic commerce operator who is required to collect tax at source u/s 52 of the said Act and having an aggregate turnover in the preceding financial year and in the current financial year not exceeding the amount of aggregate turnover above which a supplier is liable to be registered in the State or Union territory in accordance with the provisions of Section 22(1) of the said Act, from obtaining registration under the said Act, subject to the following conditions, namely:

- (i) such persons shall not make any inter-State supply of goods;
- (ii) such persons shall not make supply of goods through electronic commerce operator in more than one State or Union territory;
- (iii) such persons shall be required to have a Permanent Account Number issued under the Income-tax Act, 1961;
- (iv) such persons shall, before making any supply of goods through electronic commerce operator, declare on the common portal their Permanent Account Number issued under the Income-tax Act, 1961, address of their place of business and the State or Union territory in which such persons seek to make such supply, which shall be subjected to validation on the common portal;
- (v) such persons have been granted an enrolment number on the common portal on successful validation of the Permanent Account Number;
- (vi) such persons shall not be granted more than one enrolment number in a State or Union territory;
- (vii) no supply of goods shall be made by such persons through electronic commerce operator unless such persons have been granted an enrolment number on the common portal; and
- (viii) where such persons are subsequently granted registration under section 25 of the said Act, the enrolment number shall cease to be valid from the effective date of registration.

- Notification No. 34/2023- CT dated 31-7-2023 w.e.f 01-10-2023 J

COMPULSORY REGISTRATION UNDER CERTAIN CASES [SECTION 24]

- (i) **Persons making any inter-state taxable supply:** (C.G has granted exemption from registration to person making interstate supplies of taxable services

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having aggregate turnover not exceeding up to Rs 20 lakh/Rs 10 lakh in special category states)

- (ii) **Casual Taxable persons making taxable supply:** [Sec2(20) "Casual taxable person" means a persons who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as a principal agent or in any other capacity, in a state or a Union Territory where he has no fixed place of business.] C.G has granted exemption from interstate registration up to Rs 20 lakh/Rs 10 lakh in special category states.

Compulsory Registration u/s 25 (without any turnover limit)

1.	Persons liable to pay tax under RCM
2.	Electronic commerce Operator [covered un section 9(5)]
3.	Non - resident taxable person
4.	Persons required to deduct tax u/s 51
5.	Supplier of goods on behalf of other taxable person whether as agent or otherwise
6.	Input service distributor
7.	Person who Supplies Goods/services through E-commerce Operator who are required to collect TCS. (however person who are suppliers of service and supplying services through e-commerce operator are not required to get registered if there aggregate turnover does exceed the limit specified) other than section 9(5)
8.	Every E-commerce operator required to deduct TCS u/s 52
9.	Every person supplying OIDAR services outside India, other than registered person
10.	Any person or class of person notified by CG
11.	every person supplying online money gaming from a place outside India to a person in India

PROCEDURE FOR REGSITRATION [SECTION 25]

- (1) Application to be made **within 30 days** in every state/ UT in which such **person is liable for registration.**

Supplier making supply from territorial water of India (TWI) - registration to be obtained from nearest costal state or union territory

Separate registration of SEZ units and NON - SEZ units.

- (2) **One registration per state:** we declare one place as Principal place of business (PPOB) and branches as Additional place of business (APOB) for single registration within state. However separate registration can be obtained for multiple place of business in a state/UT.

- (3) **Voluntary registration - all provisions of registration applicable.**

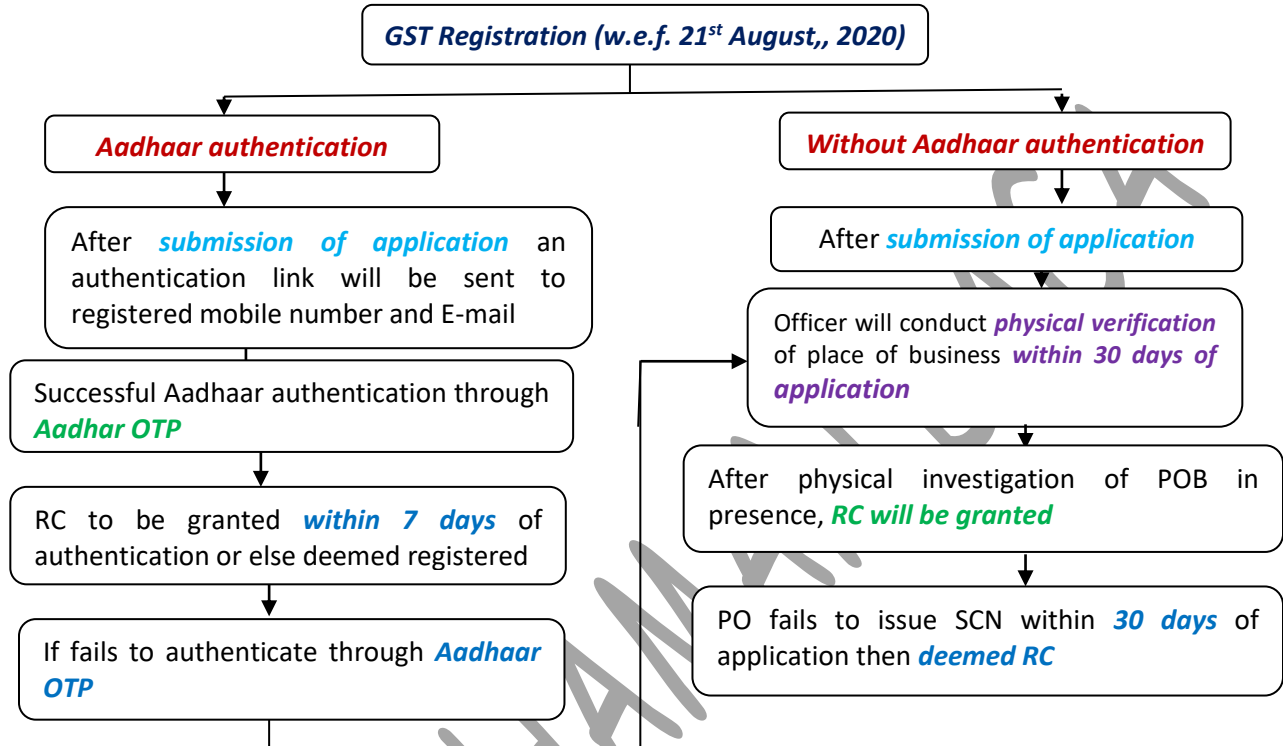
- (4) Person having more than one registration - each registration to be treated as distinct persons.
- (5) Premises in separate states - deemed distinct person.
- (6) PAN mandatory for registration, however TAN is required by a person who is required to deduct tax u/s 51
- (7) Non-resident taxable person - registration can be granted on basis of other documents.
- (8) Failure to obtain registration - then officer may compel to mandatory register.
- (9) UIN to be granted to specialized agency of UNO/consulate/embassy of foreign country/other notified persons.
- (10) RC/UIN to be granted or rejected after due verification within 3 days.
- (11) RC to be issued in prescribed form.
- (12) RC/UIN nor granted within prescribed period - deemed to be granted.
- (13) Aadhaar Authentication of registered person: every person shall undergo authentication, or furnish proof of possession of Aadhar number. Alternate means of authentication if Aadhar number not assigned. If authentication failed then registration invalid.
- (14) Non-individuals - authentication by Aadhaar number of authorised persons
The central government as the date from which the -
- (a) Authorised signatory of all types;
 - (b) Managing and authorised partners of a partnership firm; and
 - (c) Karta of an hindu undivided family,
- Shall undergo authentication of possession of Aadhaar number, as specified in rule 8 of the CGST rules, 2017, in order to be eligible for registration under GST
- (15) Non-applicability [section 25(6D)]:
Persons exempted from Aadhaar authentication: the central government, on the Recommendations of the council, hereby notifies that Aadhaar authentication provisions shall not apply to a person who is not a citizen of India or to a class of persons other than the following class of persons, namely -
- (a) Individual;
 - (b) Authorised signatory of all types;
 - (c) Managing and authorised partner; and
 - (d) Karta of an hindu undivided family

Application for registration [Rule 8 of CGST Rules, 2017]

- **Aadhaar authentication [Rule 8(4A)]:** where an applicant, other than a person notified under section 25(6D), opts for authentication of Aadhar number, he shall, while submitting the registration application, w.e.f 21-8-2020, undergo authentication of Aadhar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhar number, or **15**

days from the submission of the application in Part B of FORM GST REG-01, whichever is earlier.

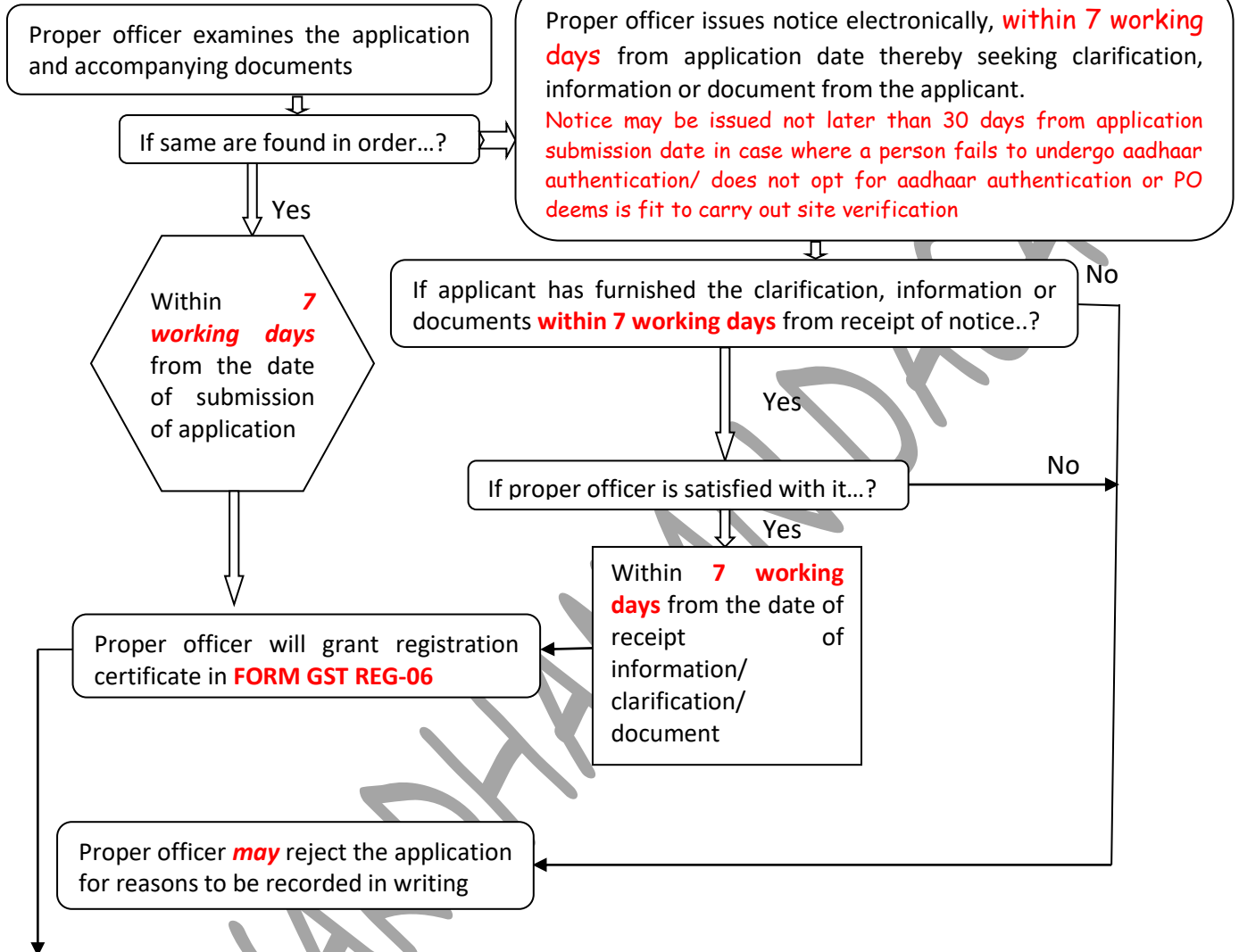
AADHAAR BASED GST REGISTRATION PROCEDURE



Note: if Tax official raises SCN within 30 days working days , then applicant will have to reply within 7 working days. Tax official can take further action on that reply within 7 working days. If Tax official doesn't take any action within 7 working days, then application will be deemed approved after 7 working days.

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PART II



Deemed approval of application

If the proper officer fails to take any action -

- *Within 7 working days from the date of submission of application, or*
- *Within 30 days from the date of submission of application where a person fails to undergo Aadhaar authentication or doesn't opt for the same*
- *Within 7 working days from the date of receipt of clarification, information or documents furnished by the applicant,*

The application for grant of registration shall be deemed to have been approved.

Application for registration [Rule 8 of CGST Rules, 2017]:



Aadhaar Authentication [Rule 8(4A) & (4B)]: Where an applicant, other than a person exempt from Aadhaar authentication, opts for authentication of

Aadhaar number, he shall, while submitting the application, undergo authentication of Aadhaar number.

The date of submission of the application in such cases shall be -

- (a) the date of authentication of the Aadhaar number, or
- (b) **15 days** from the submission of the application in **Part B of FORM GST REG-01**,

whichever is earlier:

Biometric-based Aadhaar authentication: Every application made under by a person, other than a person exempt from Aadhaar authentication, who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified u/s 25(6C) where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in **FORM GST REG-01** at one of the notified Facilitation Centers and the application shall be deemed to be complete only after completion of the said process.

The Central Government may notify the States or Union territories wherein the provisions of biometric-based Aadhaar authentication will not apply.

Vide Notification No. 27/2022-CT dated 26-12-2022 as amended by Notification No. 31/2023-CT dated 31-07-2023, the Central Government has notified that the provisions of Rule 8(4A) shall not apply in all the States and Union territories except the State of Gujarat and the State of Puducherry.

Verification of the application and approval [Rule 9 of CGST Rules, 2017]:

- (1) **Application found in order** - Approval to grant RC within 7 working days [Rule 9(1)]: The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of 7 working days from the date of submission of the application.

However, where-

- (a) a person, other than a person exempt from Aadhaar authentication, fails to undergo authentication of Aadhaar number or does not opt for authentication of Aadhaar number; or

- (b) a person, who has undergone authentication of Aadhaar number, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or
- (c) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business, the registration shall be granted within 30 days of submission of application, after physical verification of the place of business ~~in the presence of the said person~~, in the manner provided under rule 25 and verification of such deem fit.

2) **Deficiency found in application - E-Notice within 7 working days [Rule9(2)]:** Where the application submitted is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically **in FORM GST REG-03 within a period of 7 working days** from the date of submission of the application.

- (a) a person, other than a person exempt from Aadhaar authentication, fails to undergo authentication of Aadhaar number or does not opt for authentication of Aadhaar number; or
- (b) a person, who has undergone authentication of Aadhaar number, is identified on the common portal based on data analysis and risk parameters, for carrying out physical verification of places of business; or
- (c) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the notice in **FORM GST REG-03** may be issued **not later than 30 days** from the date of submission of the application.

E-Clarification, information etc. within 7 working days of receipt of notice: The applicant shall furnish such clarification, information or documents electronically, in **FORM GST REG-04**, within a period of 7 working days from the date of the receipt of such notice.

PHYSICAL VERIFICATION OF BUSINESS PREMISES IN CERTAIN CASES [RULE 25]

(1) **Physical verification after grant of registration:** **Where the proper officer is satisfied that the physical verification of the place of business of a person is required after the grant of registration, he may get such verification of the place of business done and the verification report along with the other documents, including**

photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of 15 working days following the date of such verification.

(2) Physical verification before grant of registration: Where the physical verification of the place of business of a person is required before the grant of registration in the circumstances specified in the proviso to Rule 9(1), the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal at least 5 working days prior to the completion of the time period specified in the said proviso.⁴

ISSUE OF REGISTRATION CERTIFICATE [RULE OF CGST Rules, 2017]

- (1) Grant of RC on approval of application - 15 digit GSTN: in FORM GST REG-06
- (2) If application made within 30 days - registration effective from the date on which the person become liable to registration.
- (3) If application not made within 30 days - registration effective from the date of grant of registration.
- (4) RC to be digitally signed
- (5) Grant of RC within 7 working days.
- (6) Furnishing of Bank Account Details [Rule 10A]: After a certificate of registration in FORM GST REG-06 has been made available on the common portal and a GSTIN has been assigned, the registered person, except those who have been granted registration under rule 12 (ie. registered persons required to deduct tax at source or to collect tax at source) or, as the case may be rule 16 (ie. persons who take suo motu registration), shall -
 - within a period of 30 days from the date of grant of registration, or
 - before furnishing the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using invoice furnishing facility, whichever is earlier, furnish information with respect to details of bank account on the common portal.

Aadhar authentication for registered person [rule 10B]

- ✦ **Purposes for which aadhar authentication is required:** The registered person, other than a person notified u/s 25(6D), who has been issued a certificate of registration shall, undergo authentication of the aadhaar number for the following purposes:
 - (a) For filing of application for revocation of cancellation of registration in FORM GST REG-21 under Rule 23
 - (b) For filing of refund application in FORM RFD-01 under rule 89
 - (c) For refund under rule 96 of the integrated tax paid on goods exported out of India.

✦ Persons whose Aadhar authentication will be done:

	Category of persons	Person whose Aadhar authentication is required
1.	Proprietorship firm,	Proprietor
2.	Partnership firm	Any partner
3.	HUF	Karta
4.	Company	MD or WTD
5.	AOP/BOI/Society	Any of the members of the managing director,
6.	Trust	Trustee in the board of trustees or authorized signatory

✦ Documents to be furnished if aadhar number is not assigned: if aadhar number has not been assigned to the person required to undergo authentication of the aadhar number, such person shall furnish the following identification documents namely:-

- (a) His/her aadhar enrolment ID slip; and
- (b) (i) bank passbook with photograph; or
(ii) voter identity card or
(iii) passport; or
(iv) driver license

Such person shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the aadhar number.

SEPARATE REGISTRATION FOR MULTIPLE PLACES OF BUSINESS WITHIN A STATE OR UNION TERRITORY [RULE 11]

(1) Conditions:

- (a) More than one place of business
- (b) Person not paying tax under section 10
- (c) All separately registered places of business of such person paying tax

(2) Separate registration application for each places of business: in FORM GST REG-01

(3) Verification and grant of registration certificate.

SUO MOTO REGISTRATION [RULE 16 OF CGST Rules 2017]

(1) Temporary registration by proper officer: in FORM GST REG-12

(2) Effective date of registration: date of granting of order.

(3) Application for registration to be made within 90 days of temporary registration; if appeal filed against order of temporary registration is dismissed - within 30 days of appellate order

(4) Verification and grant of registration certificate.

(5) GSTIN to be effective from the date of temporary registration.

DISPLAY OF REGISTRATION CERTIFICATE AND GSTIN ON THE NAME BOARD [RULE 18 OF CGST RULES, 2017]

- (1) RC to be displayed at principal and additional place of business.
- (2) GSTIN to be displayed on the name board.

METHOD OF AUTHENTICATION [RULE 26 OF CGST RULES, 2017]

E-application, replies etc. to be authenticated by E-signature. Digital signature mandatory for companies. E-notices certificates, etc to be authenticated by DSC.

ASSIGNMENT OF UIN TO CERTAIN SPECIAL ENTITIES [RULE 17 OF CGST RULES, 2017]

- (1) E-Application for grant of UIN: in FORM GST REG-13
- (2) UIN applicable to the territory of India.
- (3) UIN to be assigned and RC to be given within 3 working days: from the date of submission of the application

DEEMED REGISTRATION [SECTION 26]

- (1) RC/UIN granted under SGST/UTGST Act - deemed registration under CGST Act.
- (2) Rejection of registration application under SGST/UTGST Act - deemed rejection under CGST Act

EXTENSION IN PERIOD OF OPERATION BY CASUAL TAXABLE PERSON AND NON-RESIDENT TAXABLE PERSON [RULE 15 OF CGST RULES, 2017]

- (1) Application for extension before the end of the validity of registration period: in FORM GST REG-11
- (2) Acknowledgement of application only on advance deposit of tax.
- (3) Casual taxable person(CTP) - advance tax to be deposited while taking registration should be 100% of the estimated tax liability payable in cash i.e. estimated gross tax liability after deducting the due eligible ITC which might be available to CTP

AMENDMENT OF REGISTRATION [SECTION 28]

- (1) Change in formation relating to RC/UIN to be furnished to proper officer: within 15 days from such change.
- (2) Approval / rejection of amendments: in such form manner as may be prescribed.
Opportunity of being heard must be given before rejection.
- (3) Rejection or approval of amendments under SGST/UTGST act - deemed rejection or approval under CGST.

AMENDMENT FOR REGISTRATION [RULE 19 OF CGST RULES, 2017]

- (1) E-application for change in particulars within 15 days of such change: in FORM GST REG - 14.
Approval of amendment:
 - (a) In case of amendment of core fields of information, approval of amendment within 15 days :Where the change relates to core field

- (i) of information i.e., legal name of business;
- (ii) address of the principal place of business (PPoB) or any additional place(s) of business (APoB); or
- (iii) addition, deletion or retirement of partners or directors, Karta, Managing Trustees, Chief Executive Officer or equivalent, responsible for the day to day Committee, Board of affairs of the business, which does not warrant cancellation of registration under Section 29, the proper officer shall, after due verification, approve the amendment **within a period of 15 working days** from the date of the receipt of the application in **FORM GST REG-14** and issue an order in **FORM GST REG-15** electronically and **such amendment shall take effect from the date of the occurrence of the event warranting such amendment;**
- (b) **Change to be effective in all registrations obtained on basis of same PAN :** The change relating to core field information in any State or Union territory shall be applicable for all registrations of the registered person obtained under the provisions of this Chapter on the same PAN;
- (c) **Where change relates to non-core fields of information To be effective upon submission of the application:** Where the change relates to any particulars other than those specified in (a) above, the certificate of registration shall stand amended upon submission of the application in **FORM GST REG-14** on the common portal; **Change in the mobile number or e-mail address of the authorised signatory Online verification for such change through OTP:** Any change in the mobile number or e-mail address of the authorised signatory submitted under this rule, as amended from time to time, shall be carried out only after online verification through the common portal in the manner provided under Rule 8(2).
- (d) **Fresh registration in case of change in PAN:** person shall apply for fresh registration in **FORM GST REG-01**.
- (2) **Retrospective amendment to be effective on commissioner's order.**
- (3) **SCN to be issued prior to rejection of amendment application: within a period of 15 working days in FORM GST REG -14, serve a notice in FORM GST REG -03, required the registered person to show cause , within a period of 7 days**
- (4) **Reply to SCN within 7 days in FORM GST REG-04**
- (5) **Rejection of application in FORM GST REC -05**
- (6) **Deemed amendment:** if the proper officer fails to take any action-
 - (a) Within a period of 15 working days
 - (b) Within a period of 7 working days

CANCELLATION OR SUSPENSION OF REGISTRATION | SECTION 29 |

(1) Cancellation of registration either suo motu or an application by registered person:

The proper officer may -

- ♣ either on his **own motion**, or
 - ♣ on an **application filed by the registered person**, or by his legal heirs, in case of death of such person,
- cancel the registration, in such manner and within such period as may be prescribed,

Circumstances in which Registration is Cancelled: The registration can be cancelled having regard to the following circumstances where, -

(a) the business has been

- ♦ discontinued,
- ♦ transferred fully for any reason including death of the proprietor,
- ♦ amalgamated with other legal entity,
- ♦ demerged, or
- ♦ otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person, other than the person registered under Section 25(3) i.e. Voluntary Registration, is no longer liable to be registered under Section 22 or Section 24.

Suspension of registration during pendency of cancellation of proceedings: During pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.

Cancellation of registration by proper officer - Reasons thereof [Section 29(2) and Rule 21 of CGST Rules, 2017]: The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where, -

- a) a registered person has contravened such provisions of the Act or the rules made thereunder i.e. -
- i. he does not conduct any business from the declared place of business; or
 - ii. he issues invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder.
 - iii. he violates the provisions of Section 171 [i.e. Anti Profiteering Measure] of the Act or the rules made thereunder;
 - iv. violates the provision of rule 10A (i.e. Furnishing of Bank Account Details)
 - v. avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder; or
 - vi. furnishes the details of outward supplies in FORM GSTR-1 under section 37 for one or more tax periods which is in excess of the outward supplies

- declared by him in his valid return under section 39 for the said tax periods; or
- vii. violates the provision of rule 86B i.e. utilises ITC in excess of 99% of output tax liability; or
 - viii. being a registered person required to file return u/s 39(1) for each month or part thereof, has not furnished returns for a continuous period of six months;
 - ix. being a registered person required to file return u/s 39(1) under QRMP scheme for each quarter or part thereof, has not furnished returns for a continuous period of two tax periods.
- b) a person paying tax under section 10 (ie. composition supplier) has not furnished the return for a financial year beyond three months from the due date of furnishing the said return; or
- c) any registered person, other than a composition supplier, has not furnished returns for a such continuous tax period as may be prescribed; or
- d) any person who has taken voluntary registration under Section 25(3) has **not commenced business within 6 months** from the date of registration; or
- e) registration has been obtained by means of **fraud, wilful misstatement or suppression of facts**.

Opportunity of being heard before cancellation.

Suspension of registration during pendency of cancellation of proceedings.

(2) Cancellation of registration - not to affect tax liability

(3) Cancellation under SGST/UGST Act - deemed cancellation under CGST ACT.

(4) On cancellation - pay ITC availed on goods in stock or output tax whichever is higher.

(5) On cancellation - payment in respect of capital goods shall be amount equal to ITC taken on capital goods as reduced by the percentage i.e. ITC involved in the remaining useful life of the capital goods will be reversed on pro-rata basis, taking the useful life as 5 years or tax on transaction value, whichever is higher.

PROCEDURE FOR CANCELLATION OF REGISTRATION [RULE 20 OF CGST RULES, 2017]

- (1) Application for cancellation of registration - a registered person other than, TDS or UIN in Form GST Reg-16 including therein details of inputs, liability and payment **within a period of 30 days**

SUSPENSION OF REGISTRATION [RULE 21A]

- (1) Deemed suspension on application for cancellation of registration.

- (2) Suspension shall be by proper officer [without affording the said person reasonable opportunity of being heard]
- (3) Suspension of registration on account significant differences or anomalies in returns and statement of outward/ inward supplies [Rule 21A(2A)]:

Where, -

(a) a comparison of the returns furnished by a registered person under section 39 with the details of outward supplies furnished in FORM GSTR-1 or the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1, or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made there under, leading to cancellation of registration of the said person, or

(b) there is a contravention of the provisions of rule 10A by the registered person i.e. bank account details has not been furnished, the registration of such person shall be suspended.

Said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time.

In this intimation for suspension and notice for cancellation of registration, the said differences, anomalies or non-compliances and asking him to explain, within a period of 30 days, as to why his registration shall not be cancelled.

- (4) Taxable supplies not to be effected / return not to be filed during suspension
- (5) In a case where the cancellation is initiated by the department on its own and registration of a person has been suspended, such person shall not be granted any refund under section 54 of the CGST act, during the period of suspension of his registration.

- (6) **Revocation of suspension [Rule 21A(4)]:** The suspension of registration under 21A(1)/(2)/(2A) shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect.

However, the suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

Revocation of suspension on furnishing of returns: Where the registration has been suspended under Rule 21A(2A) for contravention of the provisions contained in section 29(2)(b)/(c) i.e. non furnishing of returns and the

registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns.

- (8) Revised tax invoice and first return provisions applicable in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

CANCELLATION OF REGISTRATION [RULE 22 OF CGST RULES, 2017]

- (1) SCN for cancellation of registration in FORM GST REG - 17 within a period of 7 working days from the date of service of notice
- (2) Reply to SCN in FORM GST REG - 18 within 7 days working days from the date of service of notice
- (3) Order for cancellation of registration in FORM GST REG - 19 within a period of 30 days from the date of application or the date of reply to the show cause issued.
- (4) Dropping of proceedings for cancellation of Registration [Rule 22(4)]: Where the reply furnished under rule 22(2) or in response to the notice issued under rule 21(2A) is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in FORM GST REG-20.

However, where the person instead of replying to the notice served under rule 22(1) for contravention of the provisions contained in Section 29(2)(b)/(c) [i.e. failure to furnish returns for a continuous period of 6 months or 2 tax periods, as the case may be (return for a F.Y. beyond 3 months from due date of furnishing the said return in case of composition scheme supplier)], furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in FORM GST-REG 20.

- (5) Shall apply to legal heirs.

REVOCAION FOR CANCELLATION OF REGISTRATION [SECTION 30]

- (1) Application for restoration of registration to be made within 90 days from the service of cancellation order - in such manner, within such time and subject to such conditions and restrictions, as may be prescribed.
- (2) Acceptance/rejection of application - opportunity of heard must be given.
- (3) Restoration of RC under STCG/UTCG act - deemed restoration under CGST Act.

REVOCAION OF CANCELLATION OF REGISTRATION [RULE 23 OF CGST RULES, 2017]

(1) Restoration Application to be filed in 90 days - [Rule 23(1)]: A registered person, whose registration is cancelled by the proper officer on his own motion, may, subject to the provisions of rule 10B, submit an application for revocation of cancellation of registration, in FORM GST REG-21, to such proper officer, within a period of 90 days from the date of the service of the order of cancellation of registration, at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

Extension - 180 days: Such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, for a further period not exceeding 180 days.

Cancellation on account of failure to furnish returns - Restoration Application shall not be filed 01-10-2023 until returns furnished and tax has been paid: No application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.

(2) Order for approval / rejection of restoration application:

(a) Order for approval of restoration application in FORM GST REG - 22 within a period of 30 days

(b) Order for rejection of restoration application in FORM GST REG -05.

(3) Issuance of SCN before rejection in FORM GST REG - 24 within a period of 7 working days.

(4) Disposal of application in FORM GST REG - 24 within a period of 30 days from the date of the receipt of such information or clarification from the applicant.

Simplified registration scheme for a person supplying OIDAR services from a place outside India to a non-taxable online recipient also made applicable for a person supplying online money gaming from a place outside India to a person in India [Rule 8(1) and rule 14 amended]

CHAPTER - 10: TAX INVOICE, CREDIT & DEBIT NOTES AND E-WAY BILL

Invoice requirement in case of export/SEZ supplies: same as in case of tax invoice except where the recipient is unregistered and value of supply is Rs 50000 or more, instead of name of the state and its code, in case of an export invoice, name of the country of destination is to be mentioned.

Tax invoice [Rule 46]:- Quick response code, having embedded invoice reference number (IRN) in it, in case e-invoice has been issued under Rule 48(4).

- A declaration as below, that an e-invoice is not required to be issued u/r 48(4), in all cases where an invoice is issued, other than an e-invoice, by the taxpayer having aggregate turnover in any preceding financial year from 2017-18 onwards more than ₹ 5 crores.

If recipient is unregistered and value of supply is-	Particulars of invoice
→ ₹ 50,000 or more;	Name and address of the recipient and the address of delivery, along with the name of the State and its code;
→ ₹ less than 50,000.	Un-registered recipient may still request the aforesaid details to be recorded in the tax invoice; However, where any taxable service is supplied by or through an ECO or by a supplier of OIDAR services to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name and address of the recipient along with its PIN code and the name of the State of the recipient and the same shall be deemed to be the address on record of the recipient

Invoice having QR code: The central government has notified that -

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- An invoice issued by a registered person, whose aggregate turnover in any preceding financial year from 2017-18 onwards exceed ₹ 500 crore
- Other than those referred to Rule 54(2)/(3)/(4)/(4A) (i.e service suppliers of notified services), and registered person referred to in section 14 of the IGST Act, 2017 (i.e OIDAR service suppliers)
- To an unregistered person (hereinafter referred to as B2C invoice), shall have Dynamic QR code.

However, where such registered person makes a Dynamic QR code available to the Recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic QR code, shall be deemed to be having QR code.

Clarification in respect of applicability of Dynamic Quick Response (QR) code on B2C invoices (circular)

	Issues	Clarification
1	To which invoice is Notification No 14/2020-CT dated 21-03-2020 applicable? Would this requirement be applicable on invoices issued for supplies made for Exports?	<p>This notification is applicable to a tax invoice issued to an unregistered person by a registered person (B2C invoice) whose annual aggregate turnover exceeds ₹500 crore in any of the financial years from 2017-18 onwards.</p> <p>However, the said notification is not applicable to an invoice issued in following cases:</p> <p>(i) Where the supplier of taxable service is:</p> <p>(a) an insurer or a banking company or a financial institution, including a non-banking company;</p> <p>(b) a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage;</p> <p>(c) supplying passenger transportation service;</p> <p>(d) supplying services by way of admission to exhibition of cinematograph in films in multiplex screens.</p> <p>(ii) OIDAR supplies made by any registered person, who has obtained registration under section 14 of the IGST Act 2017, to an unregistered person.</p> <p>As regards the supplies made for exports, though such supplies are made by a</p>

		registered person to an unregistered person, however, as e-invoices are required to be issued in respect of supplies for exports, in terms of Notification no. 13/2020-CT, dated 21-03-2020 treating them as Business to Business (B2B) supplies, Notification no. 14/2020-CT dated 21-03-2020 will not be applicable to them.
2	What parameters/ details are required to be Response (QR) captured In the Quick Code?	Dynamic QR Code, in terms of Notification No. 14/2020-CT, dated 21-03-2020 is required, inter-alia, to contain the following information: (i) Supplier GSTIN number (ii) Supplier UPI ID (iii) Payee's Bank A/C number and IFSC (iv) Invoice number & invoice date, (v) Total Invoice Value and (vi) GST amount along with breakup i.e. CGST, SGST, IGST, CESS, etc. Further, Dynamic QR Code should be such that it can be scanned to make a digital payment.
3	If a supplier provides/ displays Dynamic QR Code, but the customer opts to make payment without using Dynamic QR Code then will the cross reference of such payment, made without use of Dynamic QR Code, on the invoice, be considered as compliance of Dynamic QR Code on the invoice?	If the supplier has issued invoice having Dynamic QR Code for payment, the said invoice shall be deemed to have complied with Dynamic QR Code requirements. In cases where the supplier, has digitally displayed the Dynamic QR Code and the customer pays for the invoice: (i) Using any mode like UPI, credit/ debit card or online banking or cash or combination of various modes of payment, with or without using Dynamic QR Code, and the supplier provides a cross reference of the payment (transaction id along with date, time and amount of payment, mode of payment like UPI, Credit card, Debit card, online banking etc.) on the invoice; or (ii) In cash, without using Dynamic QR Code and the supplier provides a cross reference of the amount paid in cash, along with date

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		<p>of such payment on the invoice; The said invoice shall be deemed to have complied with the requirement of having Dynamic QR Code.</p>
4	<p>If the supplier makes available to customers an electronic mode of payment like UPI Collect, UPI Intent or similar other modes of payment, through mobile applications or computer based applications, where though Dynamic QR Code is not displayed, but the details of merchant as well transaction are as displayed/ captured otherwise, how can the requirement of Dynamic QR Code as per this notification be complied with?</p>	<p>In such cases, if the cross reference of the payment made using such electronic modes of payment is made on the invoice, the invoice shall be deemed to comply with the requirement of Dynamic QR Code. However, if payment is made after generation issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.</p>
5	<p>Is generation/ printing of Dynamic QR Code on B2C invoices mandatory for pre paid invoices i.e. where payment has been made before issuance of the invoice?</p>	<p>If cross reference of the payment received either through electronic mode or through cash or combination thereof is made on the invoice, then the invoice would be deemed to have complied with the requirement of Dynamic QR Code. In cases other than pre-paid supply i.e. where payment is made after generation/issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.</p>
6	<p>Once the E-commerce operator (ECO) or the online application has complied with the Dynamic QR Code requirements, will the suppliers using such e-commerce portal or application for supplies still be required to comply with the requirement of Dynamic QR Code?</p>	<p>The provisions of the notification shall apply to each supplier/ registered person separately, if such person is liable to issue invoices with Dynamic QR Code for B2C supplies as per the said notification. In case, the supplier is making supply through the E commerce portal or application, and the said supplier gives cross references of the payment received in respect of the said supply on the invoice, then such invoices would be deemed to have complied with the requirements of Dynamic QR Code. In cases other than pre-paid supply i.e. where</p>

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		payment is made after generation/ issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.
7	Whether Dynamic QR Code is to be provided on an invoice, issued to a person who has obtained a Unique Identity Number as per the provisions of Section 25(9) of Section 25 of CGST Act 2017?	Any person, who has obtained a Unique Identity Number (UIN) as per the provisions of Section 25(9) of CGST Act 2017, is not a "registered person" as per the definition of registered person provided in section 2(94) of the CGST Act 2017. Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.
8	UPI ID is linked to the bank account of the payee/ person collecting money. Whether bank account and IFSC details also need to be provided separately in the Dynamic QR Code along with UPI ID?	Given that UPI ID is linked to a specific bank account of the payee/ person collecting money, separate details of bank account and IFSC may not be provided in the Dynamic QR Code.
9	In cases where the payment is collected by some person other than the supplier (ECO or any other person authorized by the supplier on his/ her behalf), whether in such cases, in place of UPI ID of the supplier, the UPI ID of such person, who is authorized to collect the payment on behalf of the supplier, may be provided?	Yes. In such cases where the payment is collected by some person, authorized by the supplier on his/ her behalf, the UPI ID of such person may be provided in the Dynamic QR Code instead of UPI ID of the supplier.
10	In cases, where receiver of services is located outside India, and payment is being received by the supplier of services in foreign exchange, through RBI approved modes of payment, but as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such	No. Wherever an invoice issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier in foreign currency, through RBI approved mediums, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient

	<p>supply of services is not considered as export of services as per the IGST Act 2017. Whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?</p>	<p>located outside India for making payment to the supplier.</p>
<p>11</p>	<p>In some instances of retail sales over the counter, the payment from the customer is received on the payment counter by displaying dynamic QR code on digital display, whereas the invoice, along with invoice number, is generated on the processing system being used by supplier/merchant after receiving the payment. In such cases, it may not be possible for the merchant/supplier to provide details of invoice number in the dynamic QR code displayed to the customer on payment counter. However, each transaction i.e. receipt of payment from a customer is having a unique Order ID/ sales reference number, which is linked with the invoice for the said transaction. Whether in such cases, the order ID/reference number of such transaction can be provided in the dynamic QR code displayed digitally, instead of invoice number.</p>	<p>In such cases, where the invoice number is not available at the time of digital display of dynamic QR code in case of over the counter sales and the invoice number and invoices are generated after receipt of payment, the unique order ID/ unique sales reference number, which is uniquely linked to the invoice issued for the said transaction, may be provided in the Dynamic QR Code for digital display, as long as the details of such unique order ID/ sales reference number linkage with the invoice are available on the processing system of the merchant/ supplier and the cross reference of such payment along with unique order ID/ sales reference number are also provided on the invoice.</p>
<p>12</p>	<p>When part-payment has already been received by the merchant/supplier, either in advance or by adjustment (e.g. using a voucher, discount coupon etc), before the</p>	<p>The purpose of dynamic QR Code is to enable the recipient/ customer to scan and pay the amount to be paid to the merchant/ supplier in respect of the said supply. When the part-payment for any supply has</p>

<p>dynamic QR Code is generated, what amount should be provided in Dynamic QR Code for "invoice value"? the</p>	<p>already been received from the customer/ recipient, in form of either advance or adjustment through voucher/ discount coupon etc., then the dynamic QR code may provide only the remaining amount payable by the customer/ recipient against "invoice value". The details of total invoice value, along with details/ cross reference of the part-payment/ advance/ adjustment done, and the remaining amount to be paid, should be provided on the invoice.</p>
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- **Relaxation in respect of quoting of HSN/accounting code:** the board may, on the recommendations of the council, by notification, specify -
 - (i) The number of digits of harmonised system of Nomenclature code for goods or services that a class of registered persons shall be required to mention; or
 - (ii) A class of supply of supply of goods or services for which specified number of digits of Harmonised system a Nomenclature code shall be required to be mentioned by all registered taxpayers; and
 - (iii) The class of registered persons that would not be required to mention the Harmonised system of Nomenclature code for goods or services.

Sl.No.	Annual Turnover in the preceding Financial Year	Number of Digit of HSN Code
1.	Upto Rs 5 crores	4
2.	More than Rs 5 crores	6

However, a registered person having aggregate turnover up to Rs 5 crores in the previous financial year may not mention 4 digit of HSN Code in a tax invoice issued by him under the said rules in respect of supplies made to unregistered persons.

Invoice-cum-bill of supply [Rule 46A]: Where a registered person issupplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies. The said single "invoice-cum-bill of supply" shall contain the particulars as specified under rule 46 or rule 54, as the case may be, and rule 49.

MANNER OF ISSUING INVOICE [RULE 48]

SUPPLY OF GOODS	SUPPLY OF GOODS
Triplicate	Duplicate

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Original copy for recipient Duplicate copy for transporter and Triplicate copy for supplier	Original copy for recipient Duplicate copy for supplier
The serial no. of invoices issued during the month/quarter shall be furnished electronically in FORM GSTR - 1	

✚ **E - invoicing [Rule 48(4)]**: The invoice shall be prepared by such class of registered persons as may be notified by the government, on the recommendations of the council, by including such particulars contained in FORM GST INV-01 after obtaining an Invoice Reference Number by uploading information contained therein on the common Goods and Service Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification.

Exemption by commissioner: However, the Commissioner through notification may exempt a person or a class of registered persons from issuance of e-invoice for a specified period, subject to such conditions and restrictions as may be specified in the said notification.

Applicability of e-invoice - more than ₹ 5 crore from 1st Aug 2023

✚ **Invoices other than E-invoice - not regarded as invoice [Rule 48(5)]**

E-invoicing not applicable to a government department and a local authority

All registered businesses with an aggregate turnover in any preceding financial year from 2017-18 onwards **greater than ₹ 5 crore** are mandatory required to issue e-invoices except -

- ✚ Special economic zone units
- ✚ Insurer or banking company or financial institution including NBFC
- ✚ GTA supplying services in relation to transportation of goods by road in a goods carriage
- ✚ Supplier of passenger transportation service
- ✚ Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- ✚ Government department
- ✚ Local authority

Exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.

E-invoices are required to be issued for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc. who are registered only for the purpose of tax deduction at source. - Circular No. 198/10/2023-GST dated 17-07-2023

Issue	Clarification
Whether e-invoicing is applicable for	Government Departments or

supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments/ Government agencies/ local authorities/ PSUs which are registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act

establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct tax at source as per provisions of section 51 of the CGST/SGST Act, are liable for compulsory registration in accordance with section 24(vi) of the CGST Act.

Therefore, Government Departments or establishments/ Government agencies/ local authorities/ PSUs, registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act, are to be treated as registered persons under the GST law as per provisions of Section 2 (94) of CGST Act. Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc under rule 48(4) of CGST Rules

REVISED TAX INVOICE

- Revised tax invoice to be issued in respect of taxable supplies affected during the period from effective date of registration to date of issuance of certificate of registration.
- Revised invoice may be issued within 1 month.
- Consolidated revised tax invoice in respect of taxable supplies to an unregistered person, if the value of supply does not exceed Rs 200000.
- Tax invoice is not required to be issued if value of supply is less than Rs 200 + recipient is unregistered + recipient does not require such invoice. Then consolidated tax invoice can be issued at the end of each day.

RECEIPT VOUCHER

When the recipient pay an advance to supplier, then supplier issue receipt voucher to recipient.

When at the time of receipt of advance rate is	
not identifiable	18%
Nature of supply is not determinable	Treated as interstate supply

REFUND VOUCHER

Refund voucher if no supply is made and advance refunded (no supply is made and no tax invoice is issued)

INVOICE REQUIREMENT IN CASE OF REVERSE CHARGE

- Where the recipient is registered and receives the supplies taxable on reverse charge basis u/s 9(3)/(4)[whether supplier is registered or not]: recipient will issue payment voucher at the time of making payment to supplier.
- Where the recipient is registered and receives the supplies taxable on reverse charge basis u/s 9(3)/(4)[whether supplier is unregistered]: recipient will issue invoice.

BILL OF SUPPLY

- (1) Bill of supply instead of tax invoice to be issued in case of exempted supply or composition scheme
- (2) No bill of supply if value is less than Rs 200.
- (3) It shall contain QR code
- (4) However, the government may, by notification, on the recommendations of the council, and subject to such conditions and restrictions as mentioned therein, specify that the bill of supply shall have Quick Response (QR) code.

TAX INVOICE IN SPECIAL CASES

- (1) Relaxation from issuance of tax invoice in respect of notified services.
- (2) Notified supplies:
 - (a) Insurers, banks etc. - consolidated monthly tax invoice may be issued - no serial numbering and no address of service recipient.
 - (b) GTA - additional requirements as may be prescribed.
 - (c) Passenger transportation service - ticket is invoice
 - (d) Multiplex screens exhibiting films - electronic ticket is invoice

SOME IMP CIRCULARS

- ♥ Goods moved within the state or from the state of registration to another state for supply on approval basis - removal under delivery challan - on conformation of sale IGST payable.
- ♥ Removal of art work by an artist to art galleries for exhibition is in various states is not regarded as supply and supply of goods by artist to customers from galleries will be liable to GST. Supplies of art work to galleries - not regarded as supply and not liable to GST.
- ♥ Goods sent/taken out of India for exhibition or on consignment basis for export promotion - not supply, hence cannot be regarded as zero-rated supply.

PROHIBITION OF UNAUSTHORISED COLLECTION OF TAX

Unregistered person not to collect tax. Amount of tax to be indicated in tax invoice and other document

CREDIT NOTE AND DEBIT NOTE

Scenarios of Credit/Debit Note

Section 34(1)

Section 34(3)

Taxable value > Actual value

Tax charged > Actual tax

Goods are returned by recipient

Goods are found to be deficient

Taxable value < Actual value

Tax charged < Actual tax

The registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit note for supplies made in a financial year containing such particulars as may be as prescribed

The registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit note for supplies made in a financial year containing such particulars as may be as prescribed

Details of credit note to be given in Return [Section 34(2)]

Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note-

- in the return for the month during which such credit note has been issued but not later than **30th November** following the end of the financial year in which such supply was made, or
- the date of furnishing of the relevant annual return, **whichever is earlier**, and the tax liability shall be adjusted in such manner as may be prescribed

Sec 34(4) Any regd person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued.

ELECTRONIC WAY BILL (E-WAY BILL)

E-WAY BILL: A way bill is a receipt or a document issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, the point of origin of the consignment, its destination and route.

BENEFITS OF E-WAY

1. Physical interface to pave way for digital interface resulting in elimination of state boundary check posts.
2. It will facilitate faster movement of goods.
3. It will improve the turnaround time of trucks and helps the logistics industry by increasing the average distance travelled as well as time and costs.

Inspection of goods in Movement (Section 68)

1. **Carrying of E-WAY Bill (sec 68(1)):** The govt. may require person in charge of conveyance to carry the e-way bill.
2. **Validation of E-way Bill Section 68(2):** The details of documents should be validated.
3. **Transit check of E-way Bill Section 68(3):** Where any conveyance is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed.

Every Registered person who causes movement of goods of **consignment value exceeding Rs.50000 -**

1. In relation to supply or,
2. For reasons other than supply or,
3. due to inward supply from an unregistered person

Shall before commencement of such movement, furnish information relating to the said goods in **Part A OF Form GST EWB-01**, electronically on the common portal.

Special situations where e-way bill need to be issued even **if the value of consignments is less than Rs.50000:**

- (1) **Inter-State transfers of goods by Principal to job Worker:** where goods sent by principal to job worker from one territory/state to another territory/state, the e-way bill shall be generated either by principal or job worker irrespective of consignment value.
- (2) **Interstate transfer of handicraft goods by a person exempted from obtaining registration.**

Validity period of E-way Bill consolidated E-way Bill (Rule 138(10))

1. **Upto 200 km** - one day in cases of over dimensional cargo or multimodal shipment in which at least one leg involves transport by ship.
2. **For every 200km or part thereof** - one day additional in case of over dimensional cargo or multimodal shipment in which at least one leg involves transport by ship.
3. **Upto 20 KM** - ONE day in case of over dimensional cargo or multimodal shipment in which at least one leg involves transport by ship.
4. **For every 20 km. or part thereof** - one additional day in case of over dimensional cargo or multimodal shipment in which at least one leg involves transport by ship.

- ♥ **Cancellation of E-way:** within 24 hours of generation
- ♥ **Acceptance or rejection of E-way bill:** if E-way bill is not accepted within 72 hours from the time of generation of E-way bill or the time of delivery of goods whichever is earlier, it will be deemed he has accepted the details.
- ♥ **Inspection and verification of goods report to be submitted within 3 days of such inspection**

Restriction on furnishing of information in PART A of FORM GST EWB-01 [RULE 138E] - no person shall be allowed to furnish the information in PART A of FORM GST EWB-01, in respect of any outward movement of goods of a registered person, who,

- ✚ Non furnishing of CMP-08 statement for consecutive two quarters
- ✚ Non furnishing of GSTR-3B returns for consecutive two months
- ✚ Non furnishing of GSTR-1 statement for any two months/quarters
- ✚ Registration suspended

E-way bill generation facility to be blocked only in respect of outward movements of goods, by the defaulting registered person [Rule 138E]

Blocking of GSTIN for e-way bill generation would only be for the defaulting supplier GSTIN and not for the defaulting recipient or transporter GSTIN. Suspended GSTIN cannot generate e-way bill as supplier. However, the suspended GSTIN can get the e-way bill generated as recipient or as transporter.

In other words, e-way bill generation facility is blocked only in respect of any outward movement of goods of the registered person who is not eligible for e-way bill generation as per rule 138E. E-way bills can be generated in respect of inward supplies of said registered person.

INFORMATION TO BE FURNISHED IN CASE OF INTRA-STATE MOVEMENT OF GOLD, PRECIOUS STONES, ETC. AND GENERATION OF E- WAY BILLS THEREOF [RULE 138F]

(1) Generation of e-way bill in case of intra-State movement of gold etc. if consignment value ₹ 2,00,000 or more:

Where-

(a) a Commissioner of State tax or Union territory tax mandates furnishing of information regarding intra-State movement of Natural or cultured pearls and precious or semi- precious stones precious metal and metals clad with precious metals, Jewellery, goldsmiths' and silversmiths' wares and other articles excepting Imitation Jewellery in accordance with rule 138F(1) of the SGST/ UTGST Rules,

and

(b) the consignment value of such goods exceeds such amount, not below ₹ 2 lakhs, as may be notified by the Commissioner of State tax or Union territory tax, in consultation with the jurisdictional Principal Chief Commissioner or Chief Commissioner of Central Tax, or any Commissioner of Central Tax authorised by him, every registered person who causes intra- State movement of such goods, -

(i) in relation to a supply; or

(ii) for reasons other than supply; or

(iii) due to inward supply from an un-registered person,

shall, before the commencement of such movement within that State or Union territory, furnish information relating to such goods electronically, as specified in Part A of FORM GST EWB-01, against which a unique number shall be generated.

However, where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency.

(2) Part B information not to be furnished:

The information as specified in PART B of FORM GST EWB-01 shall not be required to be furnished in respect of movement of goods and after furnishing information in Part-A of FORM GST EWB-01, the e-way bill shall be generated in FORM GST EWB-01, electronically on the common portal.

(3) Information of E-way bill to registered supplier:

The information furnished in Part A of FORM GST EWB-01 shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in FORM GSTR-1.

(4) Cancellation of E-way bill:

Where an e-way bill has been generated, but goods are either not transported or are not transported as per the details furnished in the e-waybill, the e-way bill may be cancelled, electronically on the common portal, within 24 hours of generation of the e-way bill.

However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.

(5) E-way bill not required to be generated:

No e-way bill is required to be generated -

(a) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;

(b) where the goods are being transported -

(i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or

(ii) under customs supervision or under customs seal.

(6) Applicability of other rules:

The provisions of Rule 138(10)/(11)/(12), rule 138A, rule 138B, rule 138C, rule 138D and rule 138E shall, mutatis mutandis, apply to an e-way bill generated under this rule.

Consignment Value [Explanation] : The consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State tax or Union territory tax charged in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.

E-way bill not required to be generated [Rule 138(14)]: Notwithstanding anything contained in this rule, no e-way bill is required to be generated-

(a) where the goods being transported are specified in Annexure (Annexure contains a list of items where E-way bill is not required to be generated being -

(i) LPG for supply to household and non-domestic exempted category (NDEC) customers;

- (ii) Kerosene oil sold under PDS
- (iii) Postal baggage transported by Department of Posts
- (iv) Natural or cultured pearls and precious or semi-precious stones precious metal and metals clad with precious metals (Chapter 71)
- (v) Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71) **excepting Imitation Jewellery (7117).**
- (vi) Currency
- (vii) Used personal and household effects
- (viii) Coral, unworked (0508) and worked coral (9601)

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CHAPTER - 11: ACCOUNTS AND RECORDS

11.2 ACCOUNTS AND OTHER RECORDS [SECTION 35]

(1) **List of records and place of maintenance of records [Section 35(1)]:**

Every registered person shall keep and maintain, at his **principal place of business, as mentioned in the certificate of registration, a true and correct account of-**

- (a) production or manufacture of goods;
- (b) inward supply of goods or services or both;
- (c) outward supply of goods or services or both;
- (d) stock of goods;
- (e) input tax credit availed;
- (f) output tax payable and paid; and
- (g) such other particulars as may be prescribed.

Records to be maintained at each place of business

Records found at other places - Presumption thereof [Rule 56(10)]:

"Place of business" includes-

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
- (b) a place where a taxable person maintains his books of account; or
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called. [Section 2(85)]

"Principal place of business" means the place of business specified as the principal place of business in the certificate of registration. [Section 2(89)]

(2) **Records prescribed by the Rules [Rule 56(1)]:** As prescribed by CGST Rules, 2017 following records are required to be maintained:

(a) **Accounts and documents pertaining to goods or services imported or exported etc. to be kept:** Every registered person shall keep and maintain, in addition to the particulars mentioned in Section 35(1), a true and correct account of-

- (i) **the goods or services imported or exported, or**
- (ii) **supplies attracting payment of tax on reverse charge,**

along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.

(b) **Commodity wise stock account to be maintained by non-composition supplier [Rule 56(2)]**

(c) **Separate accounts for advances [Rule 56(3)]**

(d) Accounts containing tax details [including ITC] to be kept by person other than composite supplier [Rule 56(4)]

(e) Suppliers, Recipients and Storage Details [Rule 56(5)]

(3) Additional accounts or documents by Notified Persons [Section 35(3)]

(4) Relaxation in manner of maintenance of records [Section 35(4)]

(5) Non accountal of goods or services - Deemed supply - Liable for tax [Section 35(6)]

(6) Tax payable on goods stored at undeclared places without valid documents [Rule 56(6)]: the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.

11.3 PERIOD OF RETENTION OF ACCOUNTS [SECTION 36]

(1) Accounts to be kept for 72 months from the due date of furnishing of Annual return

(2) Accounts pertaining to subject matter of appeal etc. - to be kept for a period of ONE year after final disposal of such appeal etc. or for 72 months from the due date of furnishing of annual return which ever period expires later

11.4 RECORDS WHICH ARE TO BE MAINTAINED ONLY BY A SUPPLIER OTHER THAN A SUPPLIER OPTING FOR COMPOSITION LEVY [RULE 56(2) & (4)]

A supplier who has opted for composition scheme is not required to maintain such records.

(1) Commodity wise stock account

(2) Accounts containing tax details including ITC

11.5 RECORDS TO BE MAINTAINED BY AGENT [RULE 56(11)]

1. **Meaning of Agent:** Agent means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].

2. **Records to be maintained by Agent [Rule 56(11)]:** Every agent referred to in Section 2(5) shall maintain accounts depicting the, -

(a) particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;

(b) particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;

- (c) particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
- (d) details of accounts furnished to every principal; and
- (e) tax paid on receipts or on supply of goods or services effected on behalf of every principal.

11.6 RECORDS TO BE MAINTAINED BY A MANUFACTURER [RULE 56(12)]

Every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.

11.7 RECORDS OF SERVICE SUPPLIERS [RULE 56(13)]

Every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

11.8 RECORDS BY CARRIER AND C&F AGENTS [RULE 56(17)]

Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer.

11.9 RECORDS OF WORKS CONTRACTORS [RULE 56(14)]

Every registered person executing works contract shall keep separate accounts for works contract showing-

- (a) the names and addresses of the persons on whose behalf the works contract is executed;
- (b) description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
- (c) description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract,
- (d) the details of payment received in respect of each works contract; and
- (e) the names and addresses of suppliers from whom he received goods or services.

11.10 RECORDS TO BE MAINTAINED BY OWNER OR OPERATOR OF GODOWN OR WAREHOUSE AND TRANSPORTERS [SECTION 35 (2) READ WITH RULE 58]

(1) Obligation of Owner/Operator of Warehouse and Transporter to Maintain Records [Section 35(2)]: Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.

(2) Records to be maintained by owner or operator of godown or warehouse and transporters [Rule 58]:

(a) Enrolment, if not already registered in GST - Business details to be submitted: Generation and communication of unique enrollment number

(b) Application for unique common enrollment number: A transporter who is registered in more than one State or Union Territory having the same Permanent Account Number, he may apply for a unique common enrolment number by submitting the details in FORM GST ENR-02 using any one of his GSTIN's, and upon validation of the details furnished, a unique common enrolment number shall be generated and communicated to the said transporter.

However, where the said transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the GSTIN for the purposes of E-Way Bills under Chapter XVI of these rules.

(c) Deemed enrollment if already enrolled in other state or UT:

(d) Amendment of details

(e) Type of records: The following records are to be maintained-

(i) Records to be maintained by a transporter:

(ii) Records to be maintained by an owner/operator of a warehouse/godown:

(f) Manner of storage of goods by warehouse owner/operator: The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

11.11 MAINTENANCE OF ACCOUNTS BY REGISTERED PERSONS [RULE 56]

(1) Records may be in electronic form [Rule 56(15)]

(2) Accounts to be kept all places mentioned in RC [Rule 56(7)]

(3) No entry to be erased/overwritten [Rule 56(8)]: Any entry in registers, accounts and documents shall not be erased, effaced or overwritten. All incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and there after correct entry shall be recorded. Where the registers

and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.

(4) Serial Number [Rule 56(9)]

(5) Production of records on demand [Rule 56(18)]

(6) Preservation of records [Rule 56(16)]: Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period as provided in Section 36 (i.e., 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records) and shall, where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.

11.12 GENERATION AND MAINTENANCE OF ELECTRONIC RECORDS [RULE 57]

(1) Back up of e-records

(2) Production of hard copy or soft copy on demand

(3) Audit trail etc. to be produced

CHAPTER - 12: PAYEMENT OF TAX

PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNT [SECTION 49]

(1) Amount deposited to be credited to the electronic cash ledger: by internet banking, debit card or credit card, NEFT, RTGS and other mode as may be prescribed.

(2) ITC credited to electronic credit ledger.

Transfer of CGST to IGST/ SGST/UTT in electronic cash ledger of the same or distinct person [Section 49(10)]: A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for, -

- a) integrated tax, central tax, State tax, Union territory tax or
- b) integrated tax or central tax of a distinct person as specified in Section 25(4)/(5), in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

However, no such transfer under Section 49(10) (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

Utilisation of amount in Electronic credit ledger - For payment of output tax under CGST and IGST Act [Section 49(4)]: The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the IGST Act in such manner and subject to such conditions and restrictions within such time as may be prescribed.

Maximum proportion of output tax liability to be discharged through E-credit ledger to be specified (Section 49(12))

Order of discharge of liabilities [Section 49(7)]: Every taxable person shall discharge his tax and other dues under this act or the rules made thereunder in the following order namely-

- (a) self assessed tax, and other dues of previous tax period
- (b) self assessed tax, and other dues of current tax period
- (c) any other amount payable under this act or the rules made thereunder including the demand determined under section 73 or section 74

ELECTRONIC CASH LEDGER [RULE 87]

(1) Shall be maintained in **FORM GST PMT - 05**

(2) Generation of **challan in FORM GST PMT - 06**, validity for a period of 15days

(3) It reflect all deposit made in cash, and TDS/TCS made on account of the tax payer.

(4) Ledger can be used for making any payment towards tax, interest, penalty, fees or any other amount on GST

Modes of deposit of amount in Electronic Cash Ledger [Rule 87(3)]: The deposit under Rule 87(2) shall be made through any of the following modes, namely:-

- i. Internet Banking through authorised banks;
- ii. Unified Payment Interface (UPI) from any bank;
- iii. Immediate Payment Services (IMPS) from any bank;
- iv. Credit card or Debit card through the authorised bank;
- v. National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
- vi. Over the Counter payment through authorised banks for deposits up to 10,000 per challan per tax period, by cash, cheque or demand draft.

Mandate form for NeFT or RTGS payments [Rule 87(5)]: Where the payment is made by way of National Electronic Fund Transfer or Real Time Gross Settlement or Immediate Payment Service mode from any bank, the mandate form shall be generated along with the challan on the common portal and the same shall be submitted to the bank from where the payment is to be made.

Transfer of amount from one account head to another - FORM GST PMT-09

Representation to bank on non generation of CIN despite payment [Rule 87(8)]: Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no CIN is generated or generated but not communicated to the common portal, the said person may represent electronically in FORM GST PMT-07 through the common portal to the bank or electronic gateway through which the deposit was initiated.

However, where the bank fails to communicate details of CIN to the Common Portal, the E-Cash Ledger may be updated on the basis of e-Scroll of the RBI in cases where the details of the said e-Scroll are in conformity with the details in challan generated in FORM GST PMT-06 on the Common Portal.

Transfer of cash balance to distinct person [Rule 87(14)]: A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for central tax or integrated tax of a distinct person as specified in Section 25(4)/(5), in FORM GST PMT-09.

However, no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

ELECTRONIC CREDIT LEDGER [RULE 86]

- Shall be maintained in **FORM GST PMT -02**
- Re-credit in **FORM GST PMT-03**
- Communication of discrepancy in **FORM GST PMT-04**
- It will reflect ITC as self assessed in monthly returns
- The credit in this ledger can be used to make payment of **ONLY TAX** i.e. output tax not other amount such as interest, penalty, fees etc.

Repayment of erroneous refund - to be credited to ledger [Rule 86(4B)]: Where a registered person deposits the amount of erroneous refund sanctioned to him, -

- a) under Section 54(3) of the Act, or
- b) under Rule 96(3), in contravention of Rule 96(10),

along with interest and penalty, wherever applicable, through **FORM GST DRC-03**, by debiting the electronic cash ledger, on his own or on being pointed out, an amount equivalent to the amount of erroneous refund deposited by the registered person shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03A**.

ELECTRONIC LIABILITY REGISTER [RULE 85]

- Shall be maintained in **FORM GST PMT - 01**
- Discrepancy to be communicated in **FORM GST PMT - 04**
- It reflects the total tax liability of a tax payer (after netting) for a month.

INTEREST ON DELAYED PAYMENT [SECTION 50]

- ⊗ **Interest payable on delayed payment of tax not exceeding 18%** from the date following the due date of payment to the actual date of payment of tax
- ⊗ **Interest payable on net amount payable through E-cash ledger:** The interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of Section 39, except where such return is furnished after commencement of any proceeding under section 73 or section 74 in respect of the said period, shall be levied in that portion of the tax that is paid by debiting the electronic cash ledger.
Thus, interest on delayed payment of tax is to be levied on the net tax liability i.e after allowing the credit of input tax.
- ⊗ **Interest on wrong availment or utilisation of ITC [Section 50(3)]** - Where the input tax credit has been wrongly availed and utilised, the registered persons shall pay interest on such input tax credit wrongly availed and utilised, at such

rate **not exceeding 24%** as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.

Note - rate of interest u/s 50(3) is notified vide notification no. 13/2017-CT dated 28.06.2017. earlier, the rate of interest notified under said section was 24% p.a. notification no. 13/2017-CT dated 28.06.2017 has been amended by the finance act 2022 retrospectively with effect from 1/7/2017 to reduce the rate of interest under section 50(3) from 24% to 18%.

Manner of calculating interest on delayed payment of tax [Rule 88B]

(1) **Supplies declared in the belated return filed for tax period** - Interest payable on tax paid through cash ledger: In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, @ **18% p.a.**

(2) **Other cases** - Interest payable on outstanding amount: In all other cases, where interest is payable in accordance with Section 50(1), the interest shall be calculated on the amount of tax which remains unpaid, for the period starting from the date on which such tax was due to be paid till the date such tax is paid, @ **18% p.a.**

(3) **Computation of Interest on wrongly availed and utilised ITC**: In case, where interest is payable on the amount of input tax credit wrongly availed and utilised in accordance with Section 50(3), the interest shall be calculated on the amount of input tax credit wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount, @ **18% p.a.**

Utilisation of wrongly availed ITC: Input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

Date of utilisation of ITC: The date of utilisation of such input tax credit shall be taken to be,-

- a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or

- b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.

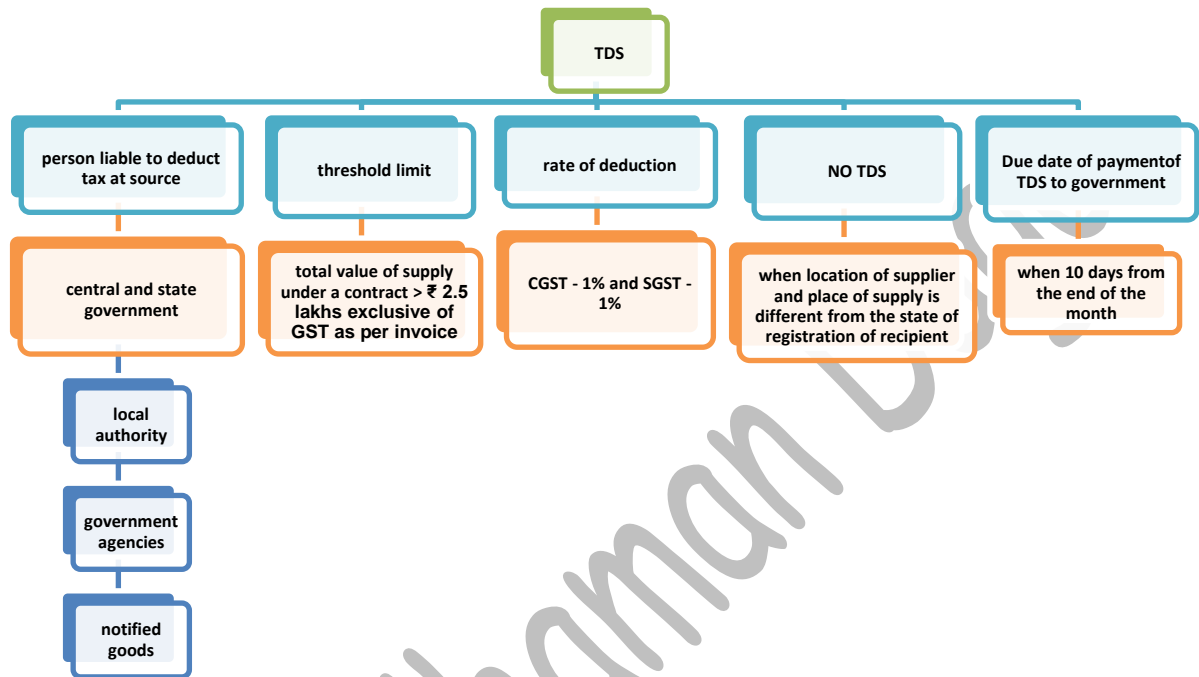
Clarification on charging of interest u/s 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof. - Circular No. 192/04/2023-GST dated 17-07-2023

	Issue	Clarification
1.	<p>In the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B of CGST Rules, whether the balance of input tax credit available in electronic credit ledger under the head of IGST only needs to be considered or total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.</p>	<p>Since the amount of input tax credit available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B of CGST Rules and for determining as to whether the balance in the electronic credit ledger has fallen below the amount of wrongly availed input tax credit of IGST, and to what extent the balance in electronic credit ledger has fallen below the said amount of wrongly availed credit.</p> <p>Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under section 50(3) of CGST Act if, during the time period starting from such availment and up to such reversal, the balance of input tax credit (ITC) in the electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in electronic credit ledger individually falls below the amount of such wrongly availed IGST credit.</p> <p>However, when the balance of ITC, under the heads of IGST, CGST and SGST of</p>

		<p>electronic credit ledger taken together, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization will be the extent to which the total balance in electronic credit ledger under heads of IGST, CGST and SGST taken together falls below such amount of wrongly availed IGST credit, and will attract interest as per section 50(3) of CGST Act, read with section 20 of Integrated GST Act, 2017 and rule 88B (3) of CGST Rules.</p>
2.	<p>Whether the credit of compensation cess available in electronic credit ledger shall be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under rule 88B (3) of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.</p>	<p>As per proviso to section 11 of Goods and Services Tax (Compensation to States) Act, 2017, input tax credit in respect of compensation cess on supply of goods and services leviable under section 8 of the said Act can be utilised only towards payment of compensation cess leviable on supply of goods and services.</p> <p>Thus, credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/or reversals of credit under the said heads.</p> <p>Accordingly, credit of compensation cess available in electronic credit ledger cannot be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under Rule 88B(3) of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.</p>

CHAPTER - 13: TAX DEDUCTION AT SOURCE AND COLLECTION OF TAX AT SOURCE

14.2 TAX DEDUCTION AT SOURCE [SECTION 51]



For the purpose of Section 51(1)(d), the following persons have been notified

- (i) an authority or a board or any other body.
 - (a) set up by an Act of Parliament or a State Legislature, or
 - (b) established by any Government, with 51% or more participation by way of equity or control, to carry out any function,
- (ii) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860,
- (iii) public sector undertakings.

14.3 REGISTRATION OF PERSONS LIABLE TO DEDUCT TAX AT SOURCE

(1) Registration of tax deductor:

A deductor has to compulsorily register without any threshold limit. The deductor has a privilege of obtaining registration under GST without requiring PAN.

(2) Grant of registration to persons required to deduct tax at source [Rule 12 of CGST Rules, 2017] :

- (a) **E-Application by tax deductor electronically:** in **FORM GST REG-07** for the grant of registration through the common portal.
- (b) **Procedure if tax deductor do not have principal place of business in the state in which registration application is made:** shall mention the name of the State or Union

territory in PART A of the application in **FORM GST REG-07** and mention the name of the State or Union territory in **PART B** thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in **PART A**.

(c) **RC to be issued within 3 Working Days:** in **FORM GST REG-06** within a period of **3 working days** from the date of submission of the application.

(d) **Cancellation of RC:** Where on request made in writing by registered person or upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in **FORM GST REG-06** has been issued is no longer liable to deduct tax at source, the said officer may cancel the registration and such cancellation shall be communicated to the said person electronically in **FORM GST REG-08**.

(3) Form and manner of submission of return by a person required to deduct tax at source [Rule 66]:

(i) Furnishing of GSTR-7 Return:

(ii) Details of TDS to be made available to deductee:

(iii) Certificate to deductee: in **FORM GSTR-7A** on the basis of the return furnished above.

14.5 COLLECTION OF TAX AT SOURCE [SECTION 52]

(5) Annual Statement to be filed upto 31st December of succeeding financial year [Section 52(5)]:

(6) Rectification of mistake in monthly statement by ECO [Section 52(6)]:

Time limit of rectification: No such rectification of any omission or incorrect particulars shall be allowed after-

- 30th November following the end of the financial year, or
- the actual date of furnishing of the relevant annual statement, whichever is earlier.

(7) Claim of TCS by the supplier [Section 52(7)] :

(8) Matching of details furnished by the e-commerce operator with the details furnished by the supplier [Section 52(8)]:

(9) Communication of discrepancy in details furnished by the e-commerce operator and the supplier [Section 52(9)]:

(10) Non-rectification of discrepancy, addition of amount of discrepancy to output tax liability of supplier [Section 52(10)]:

(11) Interest payable on amount added to the output tax liability of the supplier [Section 52(11)]:

(12) Issuance of notice to furnish details of supplies and stock [Section 52(12)] :

Any authority not **below the rank of Deputy Commissioner** may serve a notice along with summary thereof electronically in form **GST DRC-01**, either before or during the course of any proceedings under this Act, requiring the ECO to furnish such details relating to-

(a) supplies of goods or services or both effected through such ECO during any period; or

(b) stock of goods held by the suppliers making supplies through such ECO in the godowns or warehouses, by whatever name called, managed by such ECO and declared as additional places of business by such suppliers, as may be specified in the notice.

(13) Information to be furnished within 15 days from service of notice [Section 52(13)]:

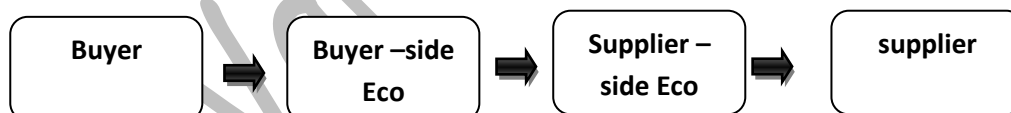
(14) Penalty for failure to furnish information - Upto ₹ 25,000

(15) When TCS provisions do not apply: TCS provisions are not applicable where GST is payable under reverse charge. TCS provisions also do not apply in case of exempt supply. TCS provisions do not apply on import of goods or services.

"Concerned supplier" shall mean the supplier of goods or services or both making supplies through the ECO.

Clarification on TCS liability u/s 52 of the CGST Act, 2017 in case of multiple E-commerce Operators in one transaction - Circular No. 194/06/2023-GST dated 17-07-2023

Issue 1: In a situation where multiple ECOS are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier in the said supply, who is liable for compliances under section 52 including collection of TCS?



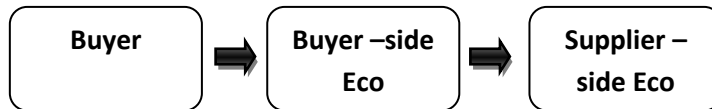
Clarification: In such a situation where multiple ECOS are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier of the said goods or services, the compliances under section 52 of CGST Act, including collection of TCS, is to be done by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him.

e.g.: Buyer-side ECO collects payment from the buyer, deducts its fees/commissions and remits the balance to Seller-side ECO. Here, the Seller-side ECO will release the payment to the supplier after deduction of his fees/commissions and therefore will also be required to collect TCS, as applicable and pay the same to the Government in accordance with section 52 of CGST Act and also make other compliances under section 52 of CGST Act.

In this case, the Buyer-side ECO will neither be required to collect TCS nor will be required to make other compliances in accordance with section 52 of CGST Act with

respect to this particular supply.

Issue 2: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the Supplier-side ECO is himself the supplier of the said supply, who is liable for compliances under section 52 including collection of TCS?



Clarification: In such a situation, TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the particular supply being made through it. e.g.: Buyer-side ECO collects payment from the buyer, deducts its fees and remits the balance to the supplier (who is itself an ECO as per the definition in Sec 2(45) of the CGST Act). In this scenario, the Buyer-side ECO will also be required to collect TCS, as applicable, pay the same to the Government in accordance with section 52 of CGST Act and also make other compliances under section 52 of CGST Act.

➤ Special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by composition taxpayers. - Notification No. 36/2023 dated 4-8-2023 w.e.f 1-10-2023

The Central Government has notified that the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow the following special procedure in respect of supply of goods made through it by the persons paying tax under composition scheme (hereinafter referred to as the said person), namely:-

(i) the electronic commerce operator shall not allow any inter-State supply of goods through it by the said person;

(ii) the electronic commerce operator shall collect tax at source u/s 52(1) of the said Act in respect of supply of goods made through it by the said person and pay to the Government as per provisions of Section 52(3) of the said Act; and

(iii) the electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8 electronically on the common portal.

➤ Special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by unregistered persons. - Notification No. 37/2023 dated 04-08-2023 w.e.f 01-10-2023

The Central Government has notified that the electronic commerce operator who is required to collect tax at source under section 52 shall follow the following special procedure in respect of supply of goods made through it by the persons exempted from obtaining registration (hereinafter referred to as the said person):

(1) the electronic commerce operator shall allow the supply of goods through it by the said person only if enrolment number has been allotted on the common portal to the said person;

- (ii) the electronic commerce operator shall not allow any inter-State supply of goods through it by the said person;
- (iii) the electronic commerce operator shall not collect tax at source u/s 52(1) in respect of supply of goods made through it by the said person; and
- (iv) the electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8 electronically on the common portal.

Where multiple electronic commerce operators are involved in a single supply of goods through electronic commerce operator platform, "the electronic commerce operator" shall mean the electronic commerce operator who finally releases the payment to the said person for the said supply made by the said person through him.

Issue		Clarification
<p>GST on service supplied by restaurants through e-commerce operators [Circular No. 167/23/2021- GST dated 17-12-2021]: Certain representations have been received requesting for clarification regarding modalities of compliance to the GST laws in respect of supply of restaurant service through e-commerce operators (ECO). Clarifications are as follows:</p>		
1.	<p>Would ECOS have to still collect TCS in compliance with section 52 of the CGST Act, 2017?</p>	<p>As 'restaurant service' has been notified u/s 9(5) of the CGST Act, 2017, the ECO shall be liable to pay GST on restaurant services provided, with effect from the 1s January, 2022, through ECO. Accordingly, the ECOS will no longer be required to collect TCS and file GSTR 8 in respect of restaurant services on which it pays tax in terms of section 9(5). On other goods or services supplied through ECO, which are not notified u/s 9(5), ECOS will continue to pay TCS in terms of section 52 of CGST Act, 2017 in the same manner at present</p>
2.	<p>Would ECOS have to mandatorily take a separate registration w.r.t supply of restaurant service [notified under 9(5)] through them even though they are registered to pay GST on services on their own account?</p>	<p>As ECOS are already registered in accordance with rule 8(in Form GST-REG 01) of the CGST Rules, 2017 (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOS for payment of tax on restaurant service under section 9(5) of the CGST Act, 2017.</p>
3.	<p>Would the ECOS be liable to pay tax on supply of restaurant service made by</p>	<p>Yes. ECOS will be liable to pay GST on any restaurant service supplied through</p>

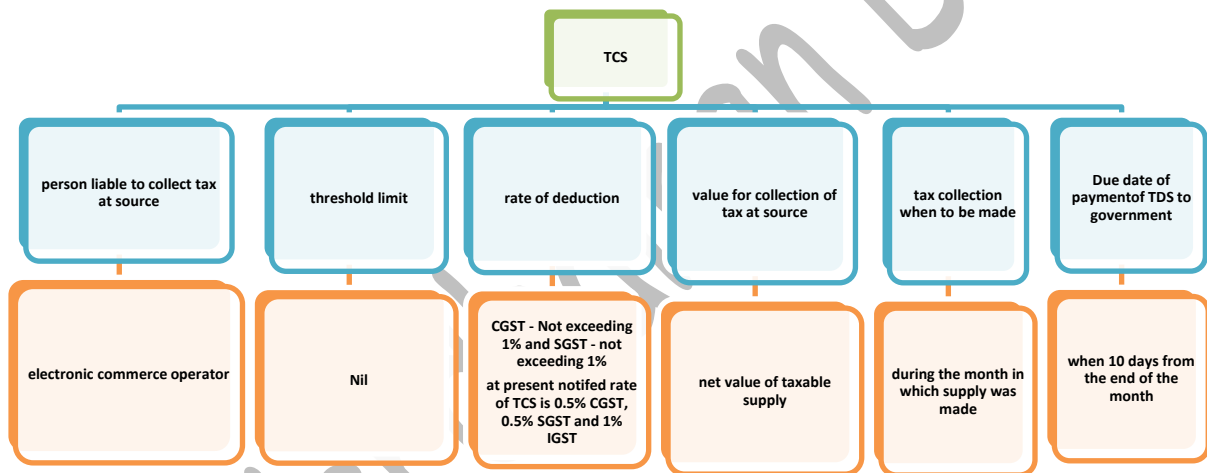
GST Summary Book (Applicable for MAY'24/JUNE'24/NOV'24/DEC'24)

	unregistered business entities?	them including by an unregistered person.
4	What would be the aggregate turnover of person supplying 'restaurant service' through ECOS?	It is clarified that the aggregate turnover of person supplying restaurant service through ECOS shall be computed as defined in section 2(6) of the CGST Act, 2017 and shall include the aggregate value of supplies made by the restaurant through ECOS. Accordingly, for threshold consideration or any other purpose in the Act, the person providing restaurant service through ECO shall account such services in his aggregate turnover
5	Can the supplies of restaurant service made through ECOS be recorded as inward supply of ECOS (liable to reverse charge) in GSTR 3B?	No ECOS are not the recipient of restaurant service supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply (liable to reverse charge)
6	Would ECOS be liable to reverse proportional input tax credit on his input goods and services for the reason that input tax credit is not admissible on 'restaurant service'?	ECOS provide their own services as an electronic platform and an intermediary for which it would acquire inputs/ input service on which ECOS avail input tax credit (ITC). The ECO charges commission/ fee etc. for the services it provides. The ITC is utilised by ECO for payment of GST on services provided by ECO on its own account (say, to a restaurant). The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service ECO would be eligible to ITC as before. Accordingly, it is clarified that ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of section 9(5) of the Act. It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO).
7	Can ECO utilize its Input Tax Credit to pay tax w.r.t 'restaurant service' supplied	No. As stated above, the liability of payment of tax by ECO as per section

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	through the ECO?	9(5) shall be discharged in cash.
8	Would supply of goods or services other than 'restaurant service' through ECOS be taxed at 5% without ITC?	<p>ECO is required to pay GST on services notified u/s 9(5), besides the services/other supplies made on his own account.</p> <p>On any supply that is not notified u/s 9(5), that is supplied by a person through ECO, the liability to pay GST continues on such supplier and ECO shall continue to pay TCS on such supplies.</p> <p>Thus, present dispensation continues for ECO, on supplies other than restaurant services. On such supplies (other than restaurant services made through ECO) GST will continue to be billed, collected and deposited in the same manner as is being done at present. ECO will deposit TCS on such supplies.</p>
9	Would 'restaurant service' and goods or services other than restaurant service sold by a restaurant to a customer under the same order be billed differently? Who shall be liable for raising invoices in such cases?	<p>Considering that liability to pay GST on supplies other than 'restaurant service' through the ECO, and other compliances under the Act, including issuance of invoice to customer, continues to lie with the respective suppliers (and ECOS being liable only to collect tax at source (TCS) on such supplies), it is advisable that ECO raises separate bill on restaurant service in such cases where ECO provides other supplies to a customer under the same order.</p>
10	Who will issue invoice in respect of restaurant service supplied through ECO whether by the restaurant or by the ECO?	<p>The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO.</p>
11	Clarification may be issued as regard reporting of restaurant services, value and tax liability etc in the GST return.	<p>A number of other services are already notified u/s 9(5). In respect of such services, ECO operators are presently paying GST by furnishing details in GSTR 3B.</p> <p>The ECO may, on services notified u/s 9(5) of the CGST Act, 2017, including on restaurant service provided through ECO, may continue to pay GST by furnishing the details in GSTR 3B,</p>

	<p>reporting them as outward taxable supplies for the time being.</p> <p>Besides, ECO may also, for the time being, furnish the details of such supplies of restaurant services u/s 9(5) in Table 7A(1) or Table 4A of GSTR-1, as the case maybe, for accounting purpose.</p> <p>Registered persons supplying restaurant services through ECOs u/s 9(5) will report such supplies of restaurant services made through ECOS in Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B, for the time being.</p>
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#Net Value of Taxable Supplies:

	Amount
Aggregate value of taxable supplies of goods and/or services (other than notified services under section 9(5) by all registered persons)	xxx
Less: Taxable supplies returned to supplier	xxx
Net value of Taxable Supplies	xxx

14.6 PROCEDURAL REQUIREMENTS OF E-COMMERCE OPERATOR

(1) Registration:

The e-Commerce Operator who is required to collect tax at source as well as the supplier supplying goods or services through an Operator need to compulsorily register under GST. As per Section 24(x) of CGST Act, Every ECO (Electronic Commerce

Operator) who is required to collect tax at source under section 52 is specifically required to take registration.

Service suppliers entitled for threshold exemption: Also, supplier who supplies through an e-commerce operator needs to be mandatorily registered irrespective of its turnover [**Section 24(ix) of CGST Act**].

However, Persons making supplies of services, other than supplies specified u/s 9(5) through an ECO who is required to collect tax at source u/s 52, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of 20 lakh (10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) in a financial year, have been exempted from obtaining registration vide Notification No. 65/2017-CT dated 15-11-2017.

Where the e-commerce operators are liable to pay tax on behalf of the suppliers under a notification issued under section 9(5) of the CGST Act, 2017 the suppliers of such services are entitled for threshold exemption.

(2) Grant of registration to persons required to collect tax at source [Rule 12 of CGST Rules, 2017]:

(a) E-Application by Tax collector electronically [Rule 12(1)]: in FORM GST REG-07 for the grant of registration through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(b) Procedure if tax collector do not have principal place of business in the state in which registration application is made: A person applying for registration to collect tax in accordance with the provisions of section 52, in a State or Union territory where he does not have a physical presence, shall mention the name of the State or Union territory in PART A of the application in FORM GST REG-07 and mention the name of the State or Union territory in PART B thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in PART A.

(c) RC to be issued within 3 working days [Rule 12(2)]: The proper officer may grant registration after due verification and issue a certificate of registration in **FORM GST REG-06** within a period of **3 working days** from the date of submission of the application.

(d) Cancellation of RC [Rule 12(3)]: Where, on request made in writing by registered person or upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in FORM GST REG-06 has been issued is no longer liable to collect tax at source under Section 52, the said officer may cancel the registration issued under Rule 12(2) and such cancellation shall be communicated to the said person electronically in **FORM GST REG-08**.

However, the proper officer shall follow the procedure as provided in Rule 22 for the cancellation of registration.

(3) Form and manner of submission of statement of supplies through an e-commerce operator [Rule 67]:

(a) **E-commerce operator to furnish return in FORM GSTR-8:** Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in **FORM GSTR-8** electronically on the common portal, either directly or from a Facilitation Centre notified by the Commissioner, containing details of supplies effected through such operator and the amount of tax collected as required under section 52(1).

(b) **Details to be made available to supplier:** The details furnished by the operator shall be made available electronically to each of the suppliers on the common portal after filing of **FORM GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.**

CHAPTER - 14: RETURNS

FURNISHING DETAILS OF OUTWARD SUPPLIES [Section 37]

- × **Person liable to furnish the details of outward supply** - every registered person and casual registered person except ISD, non-resident taxable person, composition scheme, person deducting tax at source, person collecting at source, OIDAR.
- × **Form for submission of details of outward supplies** - Form GSTR-1 on monthly or quarterly basis.
- × **Due date of furnishing GSTR-1** - 10th of the next month (time limit can be extended by commissioner)
- × **QRMP Scheme** -
 - (a) **Quarterly statement** - GSTR - 1 quarterly by 13th day of the month succeeding quarter
 - (b) **IFF** - for the first two month by 13th of the succeeding month. The details of the outward supplies does not exceed ₹ 50 lakh in each month.
 - (c) **Details of the outward supplies furnished using IFF shall not be furnished in GSTR-1**

GSTR-1 cannot be furnished in certain cases [Section 37(4)] : A registered person shall not be allowed to furnish the details of outward supplies for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him.

However, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies, even if he has not furnished the details of outward supplies for one or more previous tax periods.

As per provisions of Rule 59(6) of the CGST Rules, 2017, A registered person shall not be allowed to furnish GSTR-1 statement in the following cases-

- a) **When GSTR 3B not furnished for preceding 1 month**: A registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for preceding one month.
- b) **When GSTR-3B not furnished for preceding tax period by QRMP taxpayer**: A registered person, required to furnish quarterly return, shall not be allowed to

furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period.

- c) **Tax liability on excess supply declared in GSTR-1 in comparison to GSTR- 3B is not paid**: A registered person, to whom an intimation has been issued on the common portal under the provisions of Rule 88C(1) in respect of a tax period, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility for a subsequent tax period, unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of Rule 88C(2).

Note: Where the tax payable by a registered person, in accordance with the statement of outward supplies furnished by him in FORM GSTR-1 or using the Invoice Furnishing Facility in respect of a tax period, exceeds the amount of tax payable by such person in accordance with the return for that period furnished by him in FORM GSTR-3B, he is given intimation for payment of the differential liability under Rule 88C of the CGST Rules, 2017.

- (d) **Excess ITC claimed not paid or reasons not explained**: A registered person, to whom an intimation has been issued on the common portal under the provisions of Rule 88D(1) in respect of a tax period or periods, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility for a subsequent tax period, unless he has either paid the amount equal to the excess input tax credit as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess input tax credit that still remains to be paid.

- (e) **Non furnishing of bank account details**: A registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the details of the bank account as per the provisions of rule 10A.'

- (6) **Maximum time limit to furnish GSTR-1 statement - 3 years from the due date [Section 37(5)]**: A registered person shall not be allowed to furnish the details of outward supplies for a tax period after the expiry of a period of 3 years from the due date of furnishing the said details.

However, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies for a tax period, even after the expiry of the said period of 3 years from the due date of furnishing the said details.

Some imp points:

- ✓ There is no mechanism for revision of return
- ✓ Rectification of errors/omissions is allowed.
- ✓ No rectification is allowed after the due date of furnishing the return for the month of September following the end of the financial year to which such details pertains or furnishing of the relevant annual return, whichever is earlier.
- ✓ B2B agar transaction hai toh chahе INTRA ya INTER ho invoice wise details dalna padega. But agar B2C hai toh INTER ke case me agar Rs 250000 se jayada gaya toh invoice wise details otherwise consolidated and agar INTRA raha toh consolidated.
- ✓ Small taxpayer whose aggregate turnover does not exceed Rs 2 crore does not require to get audited.
- ✓ Notice to return defaulters u/s 46, a notice shall be issued requiring him to furnish such return within 15 days.
- ✓ Persons supplying online information technology and database access retrieval [OIDAR] services not required to furnish annual return and reconciliation statement
- ✓ Nil GSTR can be furnished by SMS through OTP.

Amendment in the details of outward supply furnished for prior period [Section 37(3)]

- Amendment on communication of mismatch report
- Rectification of unmatched entries and in case of short payment of tax - tax and interest to be paid.
- Time limit for rectification is earliest of following -
 - (a) in the return for the month during which such credit note has been issued but not later than 30th November following the end of the financial year in which such supply was made, or
 - (b) the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed.

Communication of details of inward supplies and input tax credit [Section 38]: The relevant provisions are as under-

- 1) **The details of outward supplies** furnished by the registered persons under Section 37(1) and of such other supplies as may be prescribed, and an auto-generated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.
- 2) **The auto-generated statement shall consist of -**
 - a) details of inward supplies in respect of which credit of input tax may be available to the recipient; and
 - b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under Section 37(1) -
 - i. by any registered person within such period of taking registration as may be prescribed; or
 - ii. by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or
 - iii. by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or
 - iv. by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or
 - v. by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of Section 49(12) subject to such conditions and restrictions as may be prescribed; or
 - vi. by such other class of persons as may be prescribed.

FORM AND MANNER OF ASCERTAINING DETAILS OF INWARD SUPPLIES [RULE 60]

Form GSTR-2B

- It is an **auto-generated** read only statement containing the details of ITC - is made available to the registered person (recipient) for every month. It is a static statement and is available only once a month.

FURNISHING OF RETURN [Section 39]

- × **Furnishing of monthly return** - every registered person and casual registered person except ISD, non-resident taxable person, composition scheme,

person deducting tax at source, person collecting at source, OIDAR shall pay tax and such other particulars in **Form GSTR - 3B** by **20th** of the succeeding month and such liability should be discharged by debiting electronic cash ledger or electronic credit ledger.

× **Quarterly return by notified person [QRMP Scheme]**

Monthly payment of taxes by prescribed persons [First proviso to Section 39(7)]:

Every registered person furnishing return under QRMP scheme shall pay to the Government, in such form and manner, and within such time, as may be prescribed, -

- a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or
- b) in lieu of the amount referred to in (a) above, an amount determined in such manner and subject to such conditions and restrictions as may be prescribed.

× Time limit for rectification is same

× **When return cannot be filed**: A registered person shall not be allowed to furnish a return for a tax period if-

- a) the return for any of the previous tax periods; or
- b) the details of outward supplies under Section 37(1) for the said tax period, has not been furnished by him.

However, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies for the said tax period.

× **Maximum time limit to furnish returns - 3 years from due date [Section 39(11)]:**

A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of 3 years from the due date of furnishing the said return.

However, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return for a tax period, even after the expiry of the said period of 3 years from the due date of furnishing the said return."

Explain the manner of dealing with difference in liability reported in statement of outward supplies and that reported in return.

Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return [Rule 88C]

- (1) **Intimation of difference in liability reported in GSTR-1 and GSTR-3B:** Where the tax payable by a registered person, in accordance with the statement of outward supplies furnished by him in **FORM GSTR-1** or using the IFF in respect of a tax period, exceeds the amount of tax payable by such person in accordance with the return for that period furnished by him in **FORM GSTR-3B**, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference in **Part A of FORM GST DRC-01B**, electronically on the common portal, and a copy of such intimation shall also be sent to his registered e-mail address, highlighting the said difference and directing him to--
 - (a) **pay the differential tax liability, along with interest** u/s 50, through **FORM GST DRC-03**; or
 - (b) **explain the aforesaid difference** in tax payable on the common portal, **within a period of 7 days.**
- (2) **Response to Intimation:** The registered person shall, upon receipt of the intimation, either, -
 - (a) **pay the amount of the differential tax liability**, as specified in **Part A of FORM GST DRC-01B**, fully or partially, along with interest under section 50, through **FORM GST DRC-03** and furnish the details thereof in **Part B of FORM GST DRC-01B** electronically on the common portal; or
 - (b) furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any, in **Part B of FORM GST DRC-01B**, **within the said period of 7 days.**
- (3) **Recovery as per Section 79.**

MANNER OF DEALING WITH DIFFERENCE IN INPUT TAX CREDIT AVAILABLE IN AUTO-GENERATED STATEMENT CONTAINING THE DETAILS OF INPUT TAX CREDIT AND THAT AVAILED IN RETURN [RULE 88D]

- (1) **Intimation for excess avilment of ITC:** Where the amount of input tax credit availed by a registered person in the return for a tax period or periods furnished by him in **FORM GSTR-3B** exceeds the input tax credit available to such person in accordance with the auto-generated statement containing the details of input tax

credit in FORM GSTR-2B in respect of the said tax period or periods, as the case may be, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference in Part A of FORM GST DRC-01C, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said difference and directing him to-

(a) pay an amount equal to the excess input tax credit availed in the said FORM GSTR-3B, along with interest payable under section 50, through FORM GST DRC-03, or

(b) explain the reasons for the aforesaid difference in input tax credit on the common portal, within a period of 7 days.

(2) **Response to Intimation:** The registered person shall, upon receipt of the intimation either, -

(a) pay an amount equal to the excess input tax credit, as specified in Part A of FORM GST DRC-01C, fully or partially, along with interest payable under section 50, through FORM GST DRC-03 and furnish the details thereof in Part B of FORM GST DRC-01C, electronically on the common portal, or

(b) furnish a reply, electronically on the common portal, incorporating reasons in respect of the amount of excess input tax credit that has still remained to be paid, if any, in Part B of FORM GST DRC-01C, within the period of 7 days from receipt of Intimation

(3) **SCN:** Where any amount specified in the intimation remains to be paid within the specified period of 7 days and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74, as the case may be.

LIST OF STATEMENT AND RETURNS UNDER GST

RETURN	DESCRIPTION	WHO FILES...?	DATE FOR FILING
GSTR-1	Monthly statement of outward supplies of	Registered person under regular scheme (including a	10 th of the next month. However

GST Summary Book (Applicable for MAY'24/JUNE'24/NOV'24/DEC'24)

	goods and / or services	casual taxable person)	presently, the same is being extended to 11 th of the next month
	Quarterly statement of outward supplies of goods and / or services	Registered person opting for QRMP scheme (including a casual taxable person)	13 th of the next month succeeding the quarter has been notified as the due date for the recent quarter.
GSTR-3B	Monthly return	Registered person under regular scheme (including a casual taxable person)	20 th of the month
	Quarterly return	Registered person opting for QRMP scheme (including a casual taxable person)	22 nd or 24 th of the month depending upon the state or union territory in which they are registered.
GSTR-4	Return for a financial year	Registered person paying tax under composition scheme	30 th April of the next financial year
GST CMP-08	Quarterly statement for payment of tax	Registered person paying tax under composition scheme	18 th of the month succeeding the quarter
GSTR-5	Monthly return	Registered non resident tax payer	13 th of the next month or within 7 days after the expiry of registration, whichever is earlier
GSTR-5A	Monthly return	Registered person providing OIDAR services from a place outside India to a non-taxable online recipient	20 th of the next month
GSTR-6	Monthly return for input service distributor	Input service distributor	13 th of the next month
GSTR-7	Monthly return for Tax deduction at	Tax deductor at source	10 th of the next month

GST Summary Book (Applicable for MAY'24/JUNE'24/NOV'24/DEC'24)

	source		
GSTR-8	Monthly return for Tax collection at source	e-commerce operator who is required to collect tax at source [note]	10 th of the next month
GSTR-9	Annual return	Registered person other than ISD, tax deductor/tax collector, casual taxable person, and a non-resident taxpayer	31 st December of the next financial year
GSTR-10	Final return	Taxable person whose registration has been surrendered or cancelled	Within three months of the date of cancellation or date of order of cancellation, whichever is later.
GSTR-9A	Annual return	Composition scheme	31 st December of the next financial year
GSTR-9B	Annual return	E-commerce operator	31 st December of the next financial year
GST-9C	Reconciliation statement	Registered person whose aggregate turnover during the financial year exceed ₹2 crore	To be submitted along with the annual return [GSTR-9/9A]
GSTR - 10	Final return	Taxable person whose registration has been suspended or cancelled	Within 3 months of the date of cancellation or date of order of cancellation, whichever is later.
GSTR-11	Details of inward supplies	Person who have been issued a UIN	

Note:

Maximum time limit to furnish statement - 3 years from due date [Section 52(15)]:
The operator shall not be allowed to furnish a GSTR-8 statement after the expiry of a period of 3 years from the due date of furnishing the said statement.

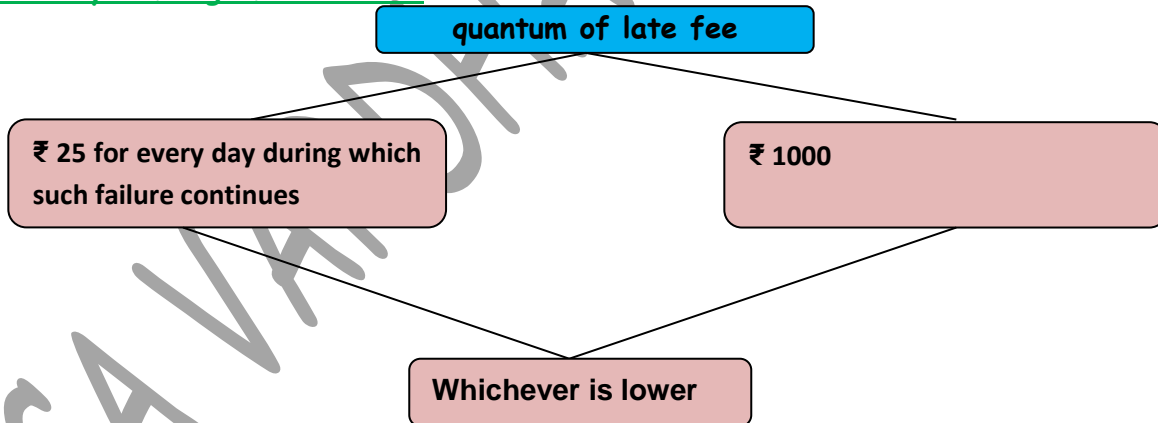
However, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein,

allow an operator or a class of operators to furnish a statement, even after the expiry of the said period of 3 years from the due date of furnishing the said statement.

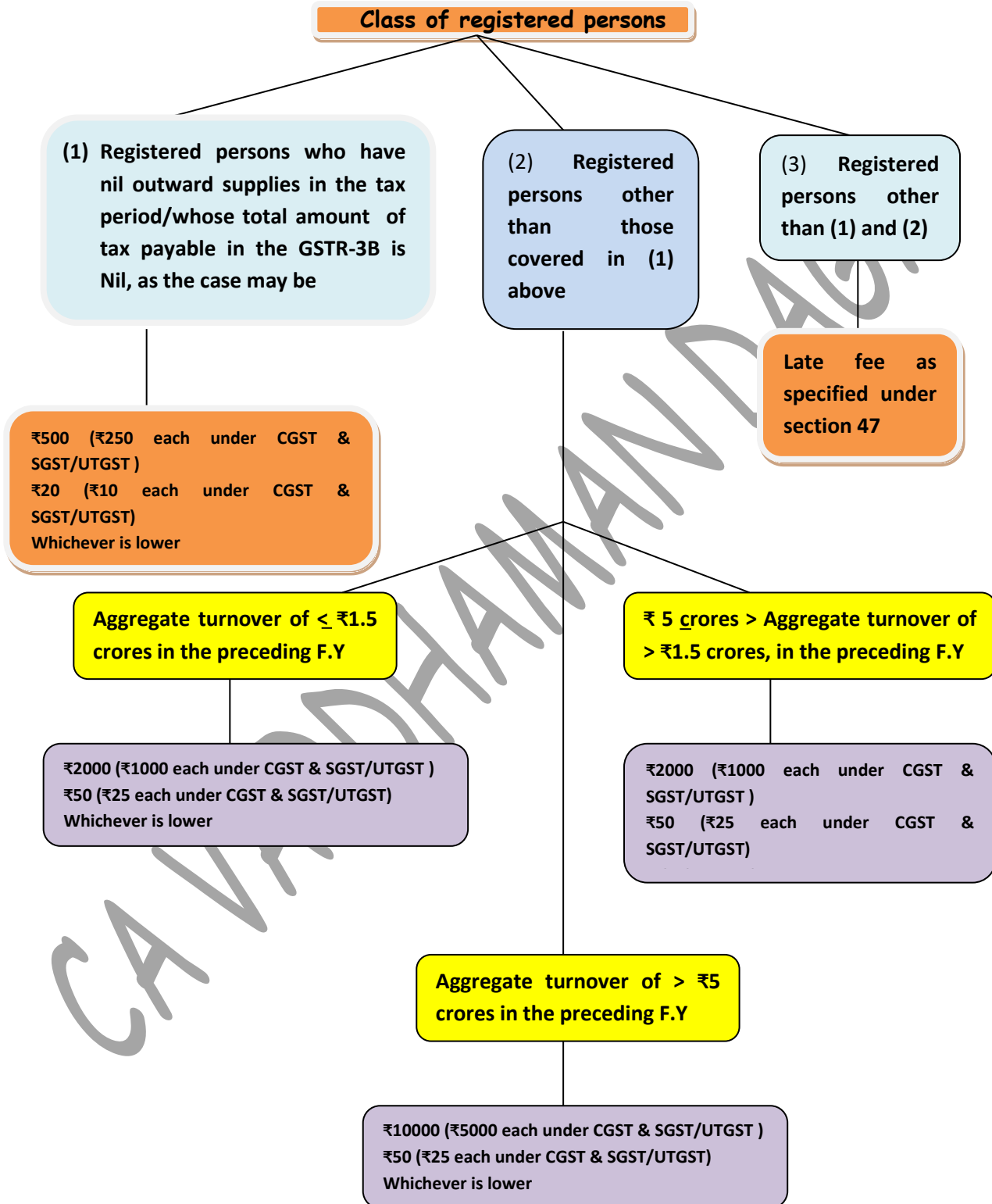
LATE FEE FOR DELAY IN FILING OF RETURN [SECTION 47]

- (a) **Delay in furnishing return - fees of ₹ 100 per day subject to maximum of ₹ 5,000 payable:** As per Section 47(1), any registered person who fails to furnish the details of outward supplies required under Section 37 or returns required u/s 39 or Section 45 or Section 52 by the due date shall pay a late fee of -
- (i) ₹ 100 for every day during which such failure continues; or
 - (ii) ₹ 5000
- Whichever is less
- (b) **Delay in furnishing annual return - Fees of ₹ 100 per day subject to maximum of 0.25% of turnover in the state/UT:** As per Section 47(2), any registered person who fails to furnish the return required under section 44 i.e., annual return by the due date shall be liable to pay a late fee of -
- (i) ₹ 100 for every day during which such failure continues; or
 - (ii) 0.25% of his turnover in the state or union territory
- Whichever is less

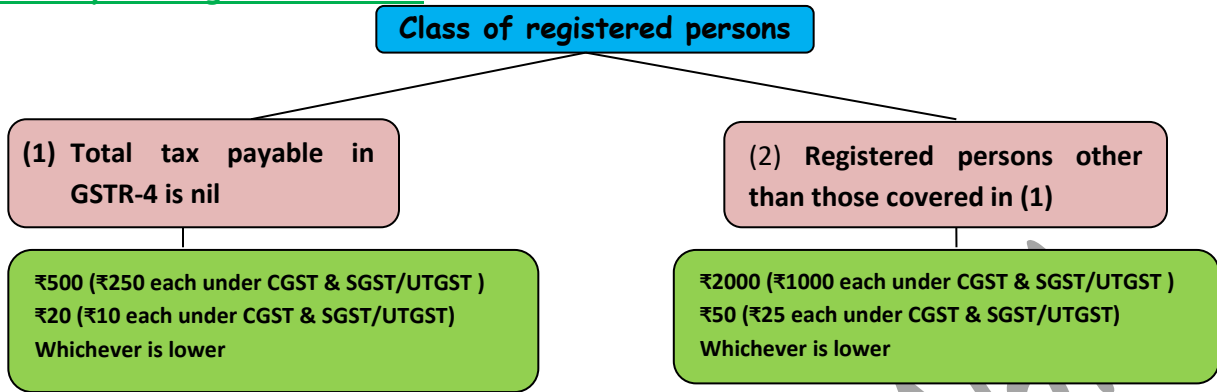
For delayed filing of GSTR-7:-



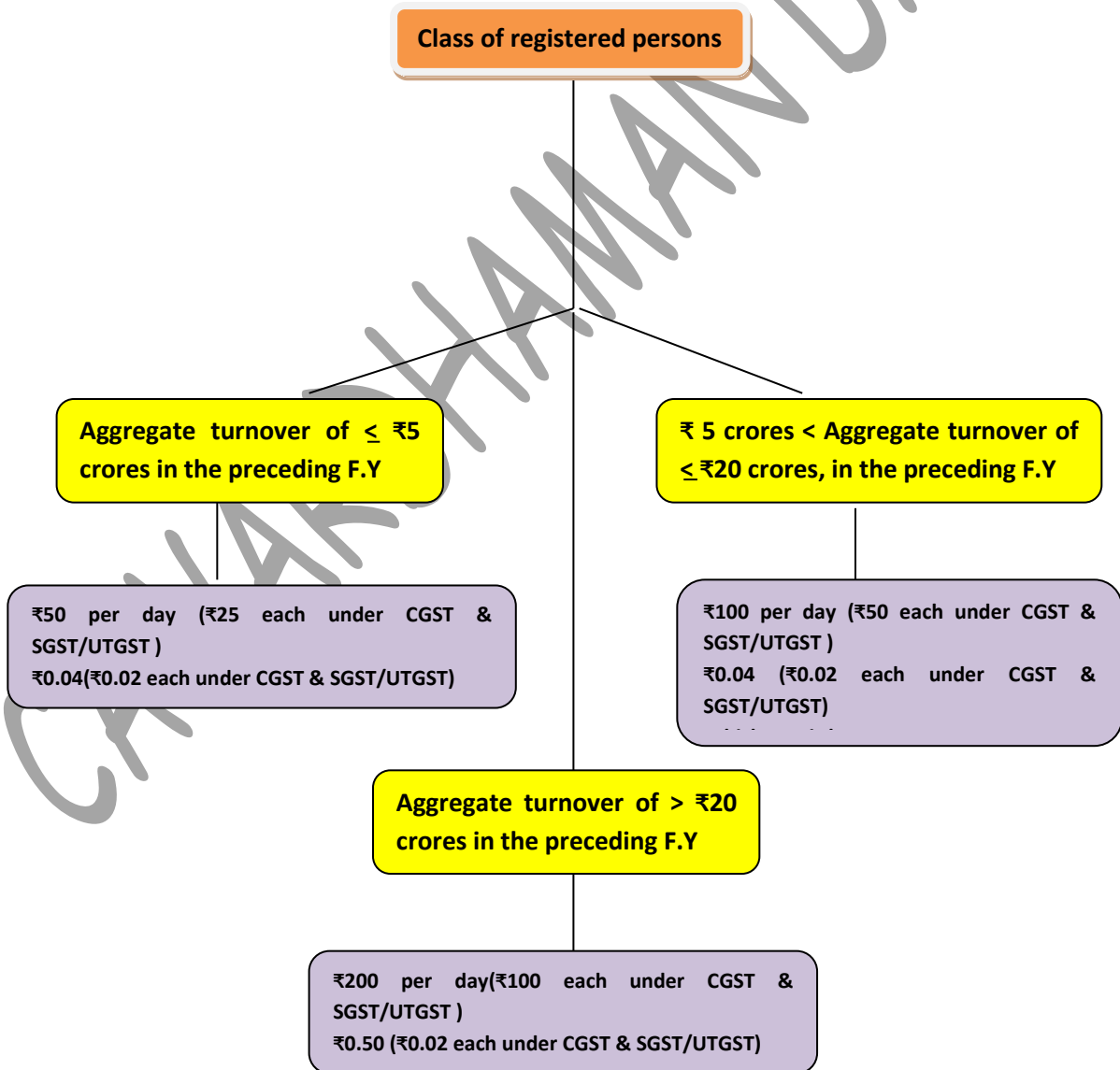
For delayed filing of GSTR-1 and/or GSTR-3B (quantum of late fee):-



For delayed filing of GSTR-4:-



For delayed filing of GSTR-9:-



SECTION 39

- ***Manner of furnishing of return or details of outward supplies by short messaging service facility [Rule 67A]:*** A registered person who is required to furnish a Nil return under Section 39 in FORM GSTR-3B or a Nil details of outward supplies under section 37 in FORM GSTR-1 for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies through a short messaging service using the registered mobile number and the said return or the details of outward supplies shall be verified by a registered mobile number based One Time password facility.

A Nil return or Nil details of outward supplies shall mean a return under section 39 or details of outward supplies under section 37, for a tax period that has nil or no entry in all the Tables in FORM GSTR-3B or FORM GSTR-1, as the case may be

- A return furnished u/s 39(1) on which self assessed tax has been paid in full is considered as a valid return.
- Filing of returns for current month is possible only when returns of the previous month have been filed.
- A taxpayer needs to electronically sign the submitted return otherwise it will be considered not filed.
- Taxpayers can electronically sign their returns using DSC (mandatory for all types of companies and LLPs), E-sign (Aadhaar-based OTP verification), or EVC (electronic verification code sent to registered mobile number of the authorized signatory)

ANNUAL RETURN [SECTION 44]

Mandatory requirement of submitting reconciliation statement audited by specified professional, done away with [section 44 substituted]

Substituted section 44 reads as follows:

Every registered person, other than an input service distributor, a person paying tax under section 51 or section 52, a causal taxable person and a non-resident taxable person shall furnish an annual return which may include a self certified reconciliation statement, the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed.

However, the commissioner may, on the recommendations of the council, by notification, exempt any class of registered persons from filing annual return under this section.

Further, nothing contained section 44 shall apply to any department of the central government or a state government or a local authority, whose books of accounts are subject to audit by the comptroller and auditor general of India, or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force

ANNUAL RETURN [RULE 80]

- Every registered person whose aggregate turnover exceed Rs 5 crore shall get his account audited as specified under section 35(5) and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C for the said financial year, electronically through the common portal either directly or through a facilitation centre notified by the commissioner.
- Maximum time limit to furnish annual return - 3 years from due date [Section 44(2)]: A registered person shall not be allowed to furnish an annual return for a financial year after the expiry of a period of 3 years from the due date of furnishing the said annual return.
However, the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year, even after the expiry of the said period of 3 years from the due date of furnishing the said annual return.

Return form - GSTR-5A also to (i) contain details of supplies made by the OIDAR service provider outside India to registered persons in India and (ii) be furnished by persons supplying online money gaming from a place outside India to a person in India [Rule 64 amended]

Earlier, rule 64 stipulated that every registered person providing OIDAR services from a place outside India to a person in India other than a registered person shall file return in Form GSTR-5A. Thus, earlier GSTR-5A did not capture the details or supplies made by the OIDAR service provider to registered persons in India; tax on such services is payable under reverse charge basis.

With effect from 01.10.2023, rule 64 has been amended to include the details of supplies made by the OIDAR service provider located outside India to registered persons in India other than non-taxable online recipient in India for tracking of payment of tax on reverse charge basis by registered taxpayers. Further, a registered person providing online money gaming from a place outside India to a person in India is also required to furnish Form GSTR-5A.

Amended rule 64 provides as follows:

Every registered person either providing:

(i) online money gaming from a place outside India to a person in India,
or

(ii) providing OIDAR services from a place outside India:

(a) to a non-taxable online recipient referred to in section 14 of the IGST Act or

(b) to a registered person other than a non-taxable online recipient,

shall file return in GSTR-5A on or before 20th day of the month succeeding the calendar month or part thereof.

[Effective from 01.10.2023]

[Notification No. 38/2023 CT dated 04.08.2023 and 51/2023 CT dated 29.09.2023]

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THANK YOU.