

C A - I P C C	
INCOME TAX: AMENDMENTS	FOR NOV 2017 EXAM

Applicability of Income Tax Law for Nov 2017 exam: As amended by the Finance Act, 2016, Taxation Laws (Amendment) Act, 2016 and Taxation Laws (Second Amendment) Act, 2016 including significant notifications and circulars issued up to 30-Apr-2017. These notes include all applicable amendments in the syllabus w.r.t. the syllabus applicable for May 2017 exam. Students are advised to additionally read the applicable amendment notes issued earlier for May 2017 exam, apart from the regular study material.

A**RESIDENTIAL STATUS****A.1 Salary received by a NR seafarer in NRE account maintained with an Indian Bank [Sec 5(2)(a)] [Circular No. 13/2017 dated 11-Apr-2017]**

It is clarified that salary accrued to a non-resident seafarer for services rendered outside India on a foreign going ship (with Indian flag or foreign flag) shall not be included in the total income merely because the said salary has been credited in the NRE (Non-resident external) account maintained with an Indian bank by the seafarer.

B**INCOMES EXEMPT FROM TAX****B.1 Deductibility of expenditure incurred in relation to exempted income [Sec 14A r/w Rule 8D]**

- As per section 14A, expenditure incurred in relation to any exempt income is not allowed as a deduction while computing income under any of the five heads of income.
- The Assessing Officer is empowered to determine the amount of expenditure incurred in relation to such income which does not form part of total income in accordance with such method as may be prescribed by the CBDT(Rule 8D) in this regard.
- Such method should be adopted by the Assessing Officer if
 - (i) he is not satisfied with the correctness of the claim of the assessee, having regard to the accounts of the assessee.
 - (ii) where an assessee claims that no expenditure has been incurred by him in relation to income which does not form part of total income.
- As per Rule 8D, the expenditure in relation to income not forming part of total income shall be the aggregate of the following: **[Rule 8D amended by Notification No. 43/2016 dated 02-Jun-2016]**
 - (i) the amount of expenditure directly relating to income which does not form part of total income;
 - (ii) an amount equal to 1% of the annual average of the monthly averages of the opening and closing balances of the value of investment, income from which does not form part of total income.

However, the amount referred to in clause (i) and clause (ii) shall not exceed the total expenditure claimed by the assessee.

C

SALARIES**C.1 Increase in threshold limit of employer's contribution to Approved Superannuation Fund**
[Amendment in Sec 17(2)(vii) by Finance Act, 2016 w.e.f. A.Y. 2017-18]

Perquisite includes

(vii) The amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds Rs. 1 lakh 1.50 lakhs.

D

PROFITS AND GAINS OF BUSINESS OR PROFESSION**D.1 Admissibility u/s 37 of premium paid on Keyman Insurance Policy**
[Circular 38/2016 dated 22-Nov-2016]

Premium paid by a firm on the Keyman Insurance Policy of a partner, to safeguard the firm against a disruption of business, is an admissible expenditure u/s 37.

D.2 Lease rent from letting out buildings/developed space along with other amenities in an Industrial Park/ SEZ - to be treated as business income [Circular No. 16/2017 dated 25-Apr-2017]

In the case of an undertaking which develops, develops and operates or maintains and operates an industrial park/SEZ notified in accordance with the scheme framed and notified by the Government, the income from letting out of premises/developed space along with other facilities in an industrial park/SEZ is to be charged to tax under the head 'Profits and Gains of Business'.

D.3 Sec 44AD rates of deemed profits reduced to 6% if amounts/receipts through banking channel/digital means [Press Release dated 19-Dec-2016]

Under the existing provisions of Sec 44AD of the Income-tax Act, 1961, in case of certain assesseees (i.e. an individual, HUF or a partnership firm other than LLP) carrying on any business (other than transportation, agency, brokerage and commission) and having a turnover of Rs. 2 crore or less, the profit is deemed to be 8% of the total turnover.

In order to achieve the Government's mission of moving towards a less cash economy and to incentivise small traders/businesses to proactively accept payments by digital means, with effect from A.Y. 2017-18 the existing rate of deemed profit of 8% under section 44AD of the Act **has been reduced to 6% in respect of the amount of total turnover or gross receipts received through banking channel/digital means i.e., by an A/c payee cheque/bank draft or use of ECS through a bank A/c** during the previous year or before the due specified in Sec 139(1) in respect of that previous year.

Hence, for A.Y. 2017-18:

Mode of receipt of Turnover / Gross Receipts	Deemed profit
Banking channel/digital means i.e., by an A/c payee cheque/bank draft or use of ECS through a bank A/c	6% of T/O
Cash	8% of T/O

The corresponding amendment in the Income Tax Act, 1961 has been done by the Finance Act, 2017 and has been made applicable w.e.f. A.Y. 2017-18.

E

CAPITAL GAINS**E.1 Computation of period of holding in special cases:**

[Rule 8AA amended w.e.f. 01-Jun-2016 by Notification 108/2016 dated 29-Nov-2016]

In the case of a capital asset, declared under the Income Declaration Scheme, 2016,-

- (i) being an immovable property, the period for which such property is held shall be reckoned from the date on which such property is acquired if the date of acquisition is evidenced by a deed registered with any authority of a State Government; and
- (ii) in any other case, the period for which such asset is held shall be reckoned from 1-Jun-2016.

F

DEDUCTIONS FROM GTI**F.1 Admissibility of deductions on enhanced profits**

Profit based deductions under Chapter VI-A are admissible on the profits so enhanced by:

- Disallowances made u/s 32, 40(a)(ia), 40A(3), 43B, etc. of the Act and other specific disallowances related to the business activity. **[Circular 37/2016 dated 02-Nov-2016]**
- Revenue subsidies received from the Government towards reimbursement of cost of production/manufacture or for sale of the manufactured goods. **[Circular 39/2016 dated 29-Nov-2016]**

F.2 Relaxation of minimum period of employment of an employee for the purpose of deduction u/s 80JJAA, in case of assessee engaged in apparel business

[Amendment in Sec 80JJAA w.e.f. A.Y. 2017-18 by the Taxation Laws (Amendment) Act, 2016]

Additional Employee: An employee who has been employed during the PY and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year.

Exclusions from the definition:

- (a) an employee whose total emoluments are more than Rs. 25,000 per month; or
- (b) an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; or
- (c) an employee employed for a period of less than 240 days *(150 days in the case of business of manufacturing apparel)* during the previous year; or
- (d) an employee who does not participate in the recognised provident fund.

G

RETURN OF INCOME AND PAN**G.1 Scope of qualifications for e-Return Intermediary extended to include Company Secretaries, Cost Accountants and Tax Return Preparer [Notification No 66/2016, dated 09-Aug-2016]**

Apart from

- a firm of Chartered Accountants or Advocates
- or a Chartered Accountant or an Advocate,

by this notification

- a firm of Company Secretaries or Cost Accountants, if the firm has been allotted PAN
- as well as a Company Secretary or a Cost Accountant or Tax Return Preparer, who has been allotted a PAN,

would also qualify to be an e-Return intermediary.

Scope of work: E-Return Intermediary shall digitize the data of return of income for eligible person and transmit the same electronically to a server designated for this purpose by the e-Return Administrator, on or before the due date.

G.2 Cases where PAN should be quoted

[Sec 139A(5)(c)]

Rule 114B specifies the transactions in respect of which quoting of PAN is mandatory in all pertinent documents. The CBDT has, vide Notification No.104/2016 dated 15-Nov-2016, amended Rule 114B to include a transaction in respect of cash deposit with bank/post office as follows:

- *Cash deposit with a banking company / co-operative bank / post office exceeding Rs. 50,000 during any one day or Rs. 2,50,000 during the period 09-11-2016 to 30-12-2016*

G.3 Requirement to furnish PAN to banks

[Notification No. 02/2017 dated 06-Jan-2017 further amended by Notification No. 27/2017 dated 05-Apr-2017]

A person who

- has an account (other than a time deposit referred to at S.No. (d) of the Table and a Basic Saving Bank Deposit Account) maintained with a banking company or a cooperative bank and
- has not quoted his permanent account number or furnished Form No. 60, as the case may be, at the time of opening of such account or subsequently,

he shall

- furnish his PAN or Form No. 60, as the case may be, on or before ~~28-Feb-2017~~ 30-Jun-2017.

H

MISCELLANEOUS

H.1 Rate of Tax on unexplained money, investment, expenditure, etc. deemed as income u/s 68 / 69 / 69A / 69B / 69C / 69D

[Amendment in Sec 115BBE by Taxation Laws (Second Amendment) Act, 2016]

Upto A.Y.2016-17, Sec 115BBE provided for levy of tax @30%, plus surcharge, if applicable, plus cess@3% on unexplained money, investment, expenditure, etc. deemed as income u/s 68 / 69 / 69A / 69B / 69C / 69D.

This section has been amended by the Taxation Law (Second) Amendment Act, 2016 with effect from A.Y.2017-18 to provide for levy of tax @ 60% plus surcharge@25% of tax on such incomes.

Hence effective rate of tax = $60 \times 1.25 \times 1.03 = 77.25\%$

H.2 Scope of Demerger to cover splitting up / reconstruction of erstwhile public sector companies

[Amendment in definition of demerger u/s 2(19AA) w.e.f. A.Y. 2017-18 by the Taxation Laws (Amendment) Act, 2016]

The reconstruction or splitting up of a company, which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be deemed to be a demerger, if such reconstruction or splitting up has been made to give effect to any condition attached to the said transfer of shares and also fulfils such other conditions as may be notified by the Central Government in the Official Gazette.