

CA - IPCC COURSE MATERIAL

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**TAXATION AMENDMENTS MATERIAL
FOR MAY 2016 IPCC EXAMS**

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CA - IPCC

COURSE MATERIAL

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INCOME TAX

AMENDMENTS BY FINANCE ACT 2015

S.No	Chapter	Additions	Deletions	Modifications
1	Introduction To Income Tax	Nil	Nil	Tax rates (surcharge rates), 2(24)
2	Residential Status	Nil	Nil	Sec.6(1) & 6(3)
3	Exempted Incomes	10 (23EE)	Nil	10(11A), 10(23FBA / FBB) 10(23C), 10(23FC)
4	Salaries	Nil	Nil	10(14) & Rule 2B
5	Income From House Property	Nil	Nil	Nil
6	PGBP-I & II	32AD	Nil	32(1), 35(2AB), 35(2AA), 36(1)(iii),(vii), (xii)
7	Capital Gains	47(xviii), 2(42A), 49(2AD), 49(2ABB)	Nil	47(viab), (vicc), 49(1)
8	Income From Other Sources	Nil	Nil	Nil
9	Clubbing Provisions	Nil	Nil	Nil
10	Set off & carry forward of losses	Nil	Nil	Nil
11	Chapter VI A Deductions	80CCD(1B)	Nil	80C, 80D, 80DD, 80DDB, 80G, 80JJAA, 80U
12	Return of Income	Nil	Nil	139(1)
12	Advance Tax & Interest	Nil	Nil	Nil
13	TDS & TCS	192(2D)	Nil	192A, 197A, 194A, 194C, 194LD, 195(6), 203A

AMENDMENTS AT A GLANCE – FINANCE ACT, 2015

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1. BASIC CONCEPTS

1) INCOME TAX RATES APPLICABLE FOR THE A.Y. 2016-17

A. Individual/Hindu undivided Family/ AOP /BOI

TAXABLE INCOME(Rs.)	MALE / FEMALE <60 YRS. (Non – resident)	H.U.F / AOP / BOI < 60 YRS.	RESIDENT SENIOR CITIZEN ≥ 60 & < 80 YRS.	RESIDENT VERY SR.CITIZEN ≥ 80 YRS.
UP TO 2,50,000	Nil	Nil	Nil	Nil
2,50,001 to 3,00,000	10%	10%	Nil	Nil
3,00,001 to 5,00,000	10%	10%	10%	Nil
5,00,001 to 10,00,000	20%	20%	20%	20%
Above 10,00,000	30%	30%	30%	30%

Primary & Secondary Education Cess: 3% cess on (tax + surcharge) in all cases.

B. Firm / LLP / Local Authority / Company (Domestic or Foreign)

The rate of tax for A.Y.2016-17 is

- Firm / LLP / Local Authority / Domestic Company @ 30%
- Foreign Company @ 40%

C. SURCHARGE: It is a tax on tax.

Assessee	Applicable Surcharge		
	TI ≤ Rs.1 Crore	TI > Rs. 1 Crore, but TI ≤ Rs. 10 Crores	TI > Rs. 10 Crores
1. Domestic Companies	-	7% (earlier 5%)	12% (earlier 10%)
2. Foreign Companies	-	2%	5%
3. Others	-	12% (earlier 10%)	12% (earlier 10%)

D. Marginal relief:

a) **In case of non – corporate assessee's (other than company) exceeds 1 crore.**
Marginal relief is available in respect of these assessee's.

Illustration:

Mr. Ram derives a taxable income of Rs.1,03,00,000. Compute the tax liability for the year ended 31.03.2016.

Solution:

The tax payable on total income of Rs. 1,03,00,000 of X Ltd. computed (including surcharge @ 12%) is Rs. 32,64,800. However, the tax cannot exceed Rs. 31,25,000 (i.e., the tax of Rs. 28,25,000 payable on total income of Rs. 1 crore plus Rs. 3,00,000, being the amount of total income exceeding Rs. 1 crore). Therefore, the tax payable on Rs. 1,03,00,000 would be Rs. 31,25,000. The marginal relief is Rs. **1,39,800** (i.e., Rs. 32,64,800 - Rs. 31,25,000).

b) **In case of a domestic company, whose total income is > Rs. 1 crore but ≤ Rs. 10 crore**

Illustration:

Compute the tax liability of X Ltd., a domestic company, assuming that the total income of X Ltd. is Rs. 1,01,00,000 and the total income does not include any income in the nature of capital gains.

Solution:

The tax payable on total income of Rs. 1,01,00,000 of X Ltd. computed @ 32.1% (including surcharge@7%) is Rs. 32,42,100. However, the tax cannot exceed Rs. 31,00,000 (i.e., the tax of Rs. 30,00,000 payable on total income of Rs. 1 crore plus Rs. 1,00,000, being the amount of total income exceeding Rs. 1 crore). Therefore, the tax payable on Rs. 1,01,00,000 would be Rs. 31,00,000. The marginal relief is Rs. 1,42,100 (i.e., Rs. 32,42,100 - Rs. 31,00,000).

c) In case of a domestic company, whose total income is > Rs.10 crore

Illustration:

Compute the tax liability of X Ltd., a domestic company, assuming that the total income of X Ltd. is Rs. 10,01,00,000 and the total income does not include any income in the nature of capital gains.

Solution:

The tax payable on total income of Rs. 10,01,00,000 of X Ltd. computed@ 33.6% (including surcharge@12%) is Rs. 3,36,33,600. However, the tax cannot exceed Rs. 3,22,00,000 [i.e., the tax of Rs. 3,21,00,000 (32.1% of Rs. 10 crore) payable on total income of Rs. 10 crore plus Rs. 1,00,000, being the amount of total income exceeding Rs. 10 crore]. Therefore, the tax payable on Rs. 10,01,00,000 would be Rs. 3,22,00,000. The marginal relief is Rs. 14,33,600 (i.e., Rs. 3,36,33,600 - Rs. 3,22,00,000).

- 2) **Insertion of new clause in Definition of income (sec.2(24)(xviii):** Any Assistance provided by central government or state government or any authority or body or Agency by way of “subsidy or grant or incentive or Duty Draw Back(DDB) or Waiver or Concession or Re-imburement or BY WHAT EVER NAME called, will be treated as income (TAXABLE UNDER PGBP) of the Assessee.(ICDS VII – Government Grants)

However, if the grant is received in respect of Depreciable Assets then it shall be reduced from “Actual cost” Defined under ‘Explanation1 to Sec. 43(1)’.

2. RESIDENTIAL STATUS

- 1) **Determination of Residential Status of Crew Member of a ship:** W.e.f. 01.04.2016 in the case of an individual, being a Indian citizen and a Member of the Crew of a Foreign-bound Ship leaving India, the period(s) of stay in India shall, in respect of such voyage, be determined in the manner and subject to such prescribed conditions. For determining the period of Stay in India, the following period shall **not** be included-

Period beginning From	Period ending to
Date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage	Date entered into Continuous Discharge Certificate in respect of the signing off by that individual from the ship in respect of such voyage .

Meaning of Terms:

- a) **Continuous Discharge Certificate** shall have the meaning assigned to it in the Merchant Shipping (Continuous Discharge Certificate – Cum-Seafarer’s Identity Document) Rules, 2001 under Merchant Shipping Act, 1958.
- b) **Eligible voyage** shall mean a voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where-
- For the voyage having originated from any port in India, has as its destination any port outside India and
 - For the voyage Originated from any port outside India, has as its destination any port in India.

Illustration: Determination of Residential Status of Crew Member of a Ship.

In the Previous Year 2015-2016, Mr. Krishnan, Indian Citizen, is vessel Manager in Blue Ocean Transits Ltd which operates Freight voyage from Cochin Port (India) to Colombo Port (Srilanka) on regular basis. It does not involve in transit of passengers.

Mr. Krishnan, being a Crew Member of Ship, provides you the following information about his voyage during the FY 2015-16:

- a) Date entered into the Continuous Discharge Certificate (For Joining the ship) – 03.08.2015
- b) Date entered into the Continuous Discharge Certificate (signing off) – 31.12.2015
- c) On 01.01.2016, he reached his native place of Cochin and resigned his job.

Is he a Resident or not for the AY 2016-2017? Comment.

Solution:

Principles	1. U/s 6(1), any person who stays in India for a period of 182 days or more, during the Relevant Previous Year is a Resident for that year.	
	2. For a Member of the Crew of a Foreign-bound Ship leaving India, to determine the period of Stay in India, the following period shall not be included:	
	Period beginning From Date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage	Period ending to Date entered into Continuous Discharge Certificate in respect of the signing off by that individual from the ship in respect of such voyage
Analysis	Period of Exclusion from Stay in India = From 3.08.2015 to 31.12.2015 = 150 days	
Conclusion	Since Mr. Krishnan stayed in India for a period of 182 days or more, (365 days-150 days) during the relevant previous year 2015-16, he is a resident for AY – 2016-17.	

The above voyage is a Eligible Voyage as the Ship is engaged in the carriage of freight in international traffic having originated from a port in India, and has as its destination any port outside India (Cochin Port to Colombo Port).

2) Residential Status Of Company

- a) **Resident:** Company would be resident in India in any previous year, if –
 - i) It is an Indian company (or)
 - ii) Its place of effective management (POEM), in that year, is in India.

In any other case the company shall be considered as non – resident

Explanation:

1. Indian Company	Always Resident (irrespective of where its POEM functions.)
2. Other companies(foreign company) – if place of effective management <ul style="list-style-type: none">(a) In India(b) Outside India	Resident Non – Resident

Note: Place of effective management to mean a place where key management and commercial decisions are necessary for the conduct of the business of an entity as a whole are, in substance made.

- 3) **Section – 9: explanation 6 to section 9(1)(i):** Explanation 5 to section 9(1)(i) inserted vide Finance Act, 2012 has the effect of bringing within tax net the transfer of share or interest (“interest”) in a foreign company or entity (“entity”) by a non-resident outside India, if such interest in the entity derives its value substantially from the assets located in India, commonly referred to as “indirect transfer”. It was not clear before the amendment as to what would constitute for the purpose of the above explanation.

It is now provides that the share or interest of the foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if, on the specified date the value of Indian assets-

- a) Exceeds the amount of Rs. 10 crores; and
- b) Represents at least a 50% of the value of all the assets owned by the company or entity;

The value of an asset shall be the fair market value as on the specified date, of such asset without deduction of liabilities, if any, in respect of the asset, determined in such manner as may be prescribed

The taxation of the gains arising on the transfer of a share or interest deriving, directly or indirectly, its value substantially from assets located in India will be on proportional basis. The method of determining proportionality will be on proportional basis. The method of determining proportionality will be specified in the rules. However such indirect transfers **will not be taxed in the following cases:**

Where the non-resident transferor, individually or along with its associated enterprises, at any time in the 12 months preceding the date of transfer of interest in an entity.

- i) Neither holds the right of the management or control in such entity which directly holds assets in India nor holds right of the management or control in such entity which would enable it to the right of the management or control of the entity which holds assets in India.
- ii) Neither holds more than 5% of the total voting power or share capital or interest in such entity directly owning assets in India nor does it holds a percentage of the total voting power or share capital or interest in any entity which results in more than 5% of the total voting power or share capital or interest in the entity directly owning assets in India.

- 4) **Sec 9(1)(v):** Sec 9(1)(v) relates to interest income and provides that the income by way of interest, if payable by the specified persons shall be sec 9(1)(v)(c) deemed to accrue or arise in india.

An Explanation has been inserted after providing that in the case of a non- resident, being a person engaged in the business of banking, any interest payable by the permanent establishment(PE) in India of such non-resident to the head office or any PE or any other part of such non-resident outside India, shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable tom PE in India and the PE in India shall be deemed to be a person separate and independent of the non-resident person of which it is PE and the provisions of the act relating to computation of total income, determination of tax and collection and recovery shall apply accordingly.

3. INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

S.no	SECTION	CONDITIONS FOR EXEMPTION
1	10(11A)	Any payment (interest accruing and withdrawals) from an account, opened as per sukanya samridhhi Account Rules, 2014 made under the Government savings bank Act,1873,is exempt from Tax.
2	10(23c)	Without any conditions the Income of <ul style="list-style-type: none"> • Swachh bharat kosh (F- Act-2015, w.e.f. A.Y. 2015 – 16) • Clean Ganga Fund (F- Act-2015, w.e.f. A.Y. 2015 – 16) Is exempted
3	10(23EE)	Specified income of core settlement guarantee fund is exempt: <ul style="list-style-type: none"> a) Entity: Core settlement guarantee Fund ,set up by a recognized clearing corporation b) Exempt incomes: following incomes of above fund is exempt- <ul style="list-style-type: none"> i) Contribution received from specified persons, ii) Penalties imposed by the recognized clearing corporation and credited to the core settlement guarantee fund, or

		<p>iii) Income from investment made by the fund.</p> <p>c) Taxable if shared with specified person: if any amount standing to the credit of the fund and not charged to income-tax during any previous year is shared, either wholly or in part with the specified person, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly be chargeable to income-tax.</p> <p>d) “Specified person” shall mean ,-</p> <ul style="list-style-type: none"> • Any recognized clearing corporation which establishes and maintains the core settlement guarantee fund, and • Any recognized stock exchange being a shareholder in such recognized clearing corporation, or as a contributor to the core settlement guarantee fund, and any clearing member contributing to the core settlement guarantee fund.
4	10(23FBA)	Any income of an investment fund other than the income chargeable under the head “profits and gains of business or profession”(incomes from investment funds/ unit holders are exempt)
5	10(23FBB)	Any income referred to in sec.115UB, accruing or arising to, or received by , a unit holder of an investment fund, being that proportion of income which is of the same nature as income chargeable under the head “profits and gains of business or profession”. (incomes from investments fund / unit holder are exempt) NOTE: investment fund is as specified under sec.115UB Explanation 1 clause (a).
6	10(23FCA)	Any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust, shall be exempt.
7	10(38)	Exemption of long term capital gain arising from sale of unit of business trust subjected to STT

4. INCOME FROM SALARIES

Increase in the maximum limit for exemption of transport allowance [notification no. 39/2015, dated 13 – 04 – 2015] (**sec 10(14) & Rule 2BB**)

<p>Transport allowance: it is given to meet the employee's expenditure for traveling from his residence to office and back.</p> <p>Transport allowance received.</p> <p>Less: Exempt u/s 10(14) Rs.1600 p.m. (EARLIER 800 p.m.)(If employee is blind / handicapped, Rs.3200 p.m. (EARLIER 1600 p.m.))</p>	<p>XXX</p> <p>XXX</p>
TAXABLE AMOUNT	XXX

5. PROFITS AND GAINS OF BUSINESS OR PROFESSION

1. Amendments Relating To Additional Depreciation

- a) **Additional depreciation @ 20%:** An assessee who is engaged in manufacturing activity or engaged in power sector is eligible to claim an additional depreciation @ 20% of actual cost (**50% of 20%** in case of the asset put to use **for less than 180 days**). in respect of “ELIGIBLE PLANT AND MACHINERY “

- b) **Additional depreciation @ 35%:** In order to encourage acquisition and installation plant and machinery for setting up of manufacturing units in the notified backward areas of the **states of Andhra Pradesh, Bihar, Telangana and West Bengal**, a proviso has been inserted to section 32(1)(ia) to allow higher additional depreciation @ 35% (instead of 20%)(**50% of 35%** in case of the asset put to use **for less than 180 days**) in respect of the actual cost of new machinery or plant (other than a ship and aircraft) acquired and installed during **the period between 1st April, 2015 and 31st March, 2020** by a manufacturing undertaking or enterprise which is set up in the notified backward areas of these specified States **on or after 1st April, 2015**.
- c) **Balance 50% of additional depreciation to be allowed in the subsequent year (applicable to both (a) & (b) points):** Balance 50% of the additional depreciation on new plant and machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant & machinery, shall be allowed in the immediately succeeding previous year.

Illustration:

XYZ Ltd., a manufacturing concern, furnishes the following particulars:

S.No	Particulars	Rs.
1.	Opening WDV of plant and machinery as on 1.4.2015	30,00,000
2.	New plant and machinery purchased and put to use on 08.06.2015	20,00,000
3.	New plant and machinery acquired and put to use on 15.12.2015	8,00,000
4.	Computer acquired and installed in the office premises on 2.1.2016	3,00,000

Compute the amount of depreciation and additional depreciation as per the income tax Act, 1961 for the A.Y. 2016-17.

Solution:

Computation of depreciation and additional depreciation for A.Y. 2016-17

Particulars	Plant & Machinery (15%)	Computer (60%)
Normal depreciation:		
• @ 15% on Rs. 50,00,000 [See Working Notes 1 & 2]	7,50,000	-
• @ 7.5% (50% of 15%, since put to use for less than 180 days) on Rs. 8,00,000	60,000	-
• @ 30% (50% of 60%, since put to use for less than 180 days) on Rs. 3,00,000	-	90,000
Additional Depreciation:		
• @ 20% on Rs. 20,00,000 (new plant and machinery put to use for more than 180 days)	40,000	-
• @10% (50% of 20%, since put to use for less than 180 days) on Rs. 8,00,000	80,000	-
Total depreciation	12,90,000	90,000

Working Notes:

(1) Computation of actual cost of Plant & Machinery as on 31.03.2016

Particulars	Plant & Machinery	Computer
Written down value as on 1.4.2015	30,00,000	-
Add: Plant & Machinery purchased on 08.6.2015	20,00,000	-
Add: Plant & Machinery acquired on 15.12.2015	8,00,000	-
Computer acquired and installed in the office premises	-	3,00,000
Actual cost of as on 31.03.2016	58,00,000	3,00,000

(2) Composition of plant and machinery included in the WDV as on 31.3.2016

Particulars	Plant & Machinery	Computer
Plant and machinery put to use for 180 days or more [Rs. 30,00,000 (Opening WDV) + Rs. 20,00,000 (purchased on 8.6.2015)]	50,00,000	-
Plant and machinery put to use for less than 180 days	8,00,000	-
Computers put to use for less than 180 days	-	3,00,000
	58,00,000	3,00,000

Notes:

1. As per the second proviso to section 32(1)(ii), where an asset acquired during the previous year is put to use for less than 180 days in that previous year, the amount of deduction allowable as normal depreciation and additional depreciation would be restricted to 50% of amount computed in accordance with the prescribed percentage.

Therefore, normal depreciation on plant and machinery acquired and put to use on 15.12.2015 and computer acquired and installed on 02.01.2016, is restricted to 50% of 15% and 60%, respectively. The additional depreciation on the said plant and machinery is restricted to Rs.80,000, being 10% (i.e., 50% of 20%) of Rs.8 lakh

2. As per third proviso to section 32(1)(ii), the balance additional depreciation of Rs.80,000 being 50% of Rs.1,60,000 (20% of Rs.8,00,000) would allowed as deduction in the A.Y.2017-18.
3. As per section 32(1)(iia), additional depreciation is allowable in the case of any new machinery or plant acquired and installed after 31.3.2005 by an assessee engaged, *inter alia*, in the business of manufacture or production of any article or thing, @ 20% of the actual cost of such machinery or plant.

However, additional depreciation shall not be allowed in respect of, *inter alia*, any machinery or plant installed in office premises, residential accommodation or in any guest house.

Accordingly, additional depreciation is not allowable on computer installed in the office premises.

2. Section 32AD:

Investment In New Plant And Machinery In Notified Backward Areas Of Specified States

- a) **Applicable Assessee:** Industrial undertaking (Manufacturers)
- b) **Investment:** Investment in new plant and machinery in notified backward areas in specified States of **Andhra Pradesh, Bihar, Telangana and West Bengal.**
- c) **Investment Period:** 1st April, 2015 to 31st March, 2020.
- d) **Deduction:** 15% of cost of new plant and machinery.
- e) **Double benefits available:** Where the assessee is a Company, deduction under section 32AD would be available over and above the existing deduction available under section 32AC, subject to the satisfaction of conditions thereunder.
- f) **Holding Period:** If any new asset acquired and installed by the assessee is sold or otherwise transferred except in connection with the amalgamation or demerger or reorganisation of business referred to in section 47(xiii), (xiii b) or (xiv), within a **period of 5 years** from the date of its installation, the consequence of the same shall be as under:
 - i) The amount of deduction allowed under section 32AD (1) in respect of such new asset shall be deemed to be income chargeable under the head profit and gains of business and profession of the year in which new asset is sold or otherwise transferred.
 - ii) In addition to the above, if any capital gain arises under section 50 on account of transfer of such new asset that too shall become taxable in that previous year.
- g) For the purpose of this section, **“New plant and machinery” does not include –**
 - i) Any ship or aircraft;

- ii) Any plant and machinery, which before its installation by the assessee, was used either within or outside India by any other person;
- iii) Any plant and machinery installed in any office premises or any residential accommodation, including accommodation in the nature of guest house
- iv) Any office appliances including computers or computer software;
- v) Any vehicle;
- vi) Any plant and machinery, the whole of the actual cost of which is allowed as deduction.(whether by way of depreciation or otherwise)

Note:

- i) It may be noted that deduction u/s. 32AC and/or 32AD in respect of new plant & machinery acquired and installed shall be allowed as a deduction in addition to the normal depreciation u/s. 32 and additional depreciation u/s. 32(1)(ia), irrespective of number of days for which the asset is put to use.
- ii) The Eligible plant & machinery discussed under sec 32AC, 32AD, 32(1) (ia) & 54GB are one and the same.

Illustration:

X Ltd set up a manufacturing unit in notified backward area in the state of Telangana on 01.06.2015. It invested Rs.30 crore in new plant and machinery on 1.6.2015. Further, it invested Rs.25 crore in the plant and machinery on 01.11.2015, out of which Rs.5 crore was second hand plant and machinery. Compute the depreciation under sec:32, is X Ltd entitled for any other benefit in respect of such investment? If so, what is the benefit available?

Would your answer change where such manufacturing unit set up by a firm?

Solution:

i) Computation of depreciation under section 32 for X Ltd. for A.Y. 2016-17

Particulars		Rs. in crores
Plant and machinery acquired on 01.06.2015		30.00
Plant and machinery acquired on 01.11.2015		<u>25.00</u>
WDV as on 31.03.2016		55.00
Less: Depreciation @ 15% on Rs. 30 crore	4.50	
Depreciation @ 7.5% (50% of 15%) on Rs. 25 crore	1.87	
Additional Depreciation @35% on Rs. 30 crore	10.50	
Additional Depreciation @17.5% (50% of 35%) on Rs. 20 crore	<u>3.50</u>	<u>20.37</u>
WDV as on 01.04.2016		34.63

Computation of deduction under section 32AC & 32AD for X Ltd. for A.Y. 2016-17

Particulars	Rs. in crores
Deduction under section 32AC(1A) @ 15% on Rs. 50 crore (since investment in new plant and machinery acquired and installed in the previous year 2015-16 by X Ltd., a manufacturing company, exceeds Rs. 25 crore)	7.50
Deduction under section 32AD @ 15% on Rs. 50 crore	<u>7.50</u>
Total benefit	15.00

- ii) Yes, the answer would be different, where the manufacturing unit is set up by a firm. The deduction under section 32AC is available only to corporate assessee, and therefore, the deduction of Rs. 7.50 crore under section 32AC would not be available if the manufacturing unit is set up by X & Co., a firm. However, it would be eligible for deduction of Rs. 7.50 crore under section 32AD.

Notes:

1. As per the second proviso to section 32(1)(ii), where an asset acquired during the previous year is put to use for less than 180 days in that previous year, the amount deduction allowable as normal depreciation and additional depreciation would be restricted to 50% of amount computed in accordance with the prescribed percentage.

Therefore, normal depreciation on plant and machinery acquired and put to use on 1.11.2015 is restricted to 7.5% (being 50% of 15%) and additional depreciation is restricted to 17.5% (being 50% of 35%).

2. As per third proviso to section 32(1) (ii), the balance additional depreciation of Rs. 3.5 crore, being 50% of Rs. 7 crore (35% of Rs. 20 crore) would be allowed as deduction in the A.Y.2017-18.
3. As per section 32(1)(iia), additional depreciation is allowable in the case of any new machinery or plant acquired and installed after 31.3.2005 by an assessee engaged, *inter alia*, in the business of manufacture or production of any article or thing. In this case, since new plant and machinery acquired was installed by a manufacturing unit set up in a notified backward area in the State of Telangana, the rate of additional depreciation is 35% of actual cost of new plant and machinery. Since plant and machinery of Rs. 20 crore was put to use for less than 180 days, additional depreciation @17.5% (50% of 35%) is allowable as deduction. However, additional depreciation shall not be allowed in respect of second hand plant and machinery of Rs. 5 crore.

Likewise, the benefit available under sections 32AC and 32AD would not be allowed in respect of second hand plant and machinery.

Accordingly, additional depreciation and investment allowance under sections 32AC and 32AD have not been provided on Rs. 5 crore, being the actual cost of second hand plant and machinery acquired and installed in the previous year.

3. Section 35(2AA):

Before Amendment	After Amendment
<ul style="list-style-type: none">• Section 35(2AA) provides for a weighted deduction 200% for Scientific research under a programme approved by the prescribed authority. (prescribed authority namely the secretary department of scientific and industrial research (DSIR))• The prescribed authority shall submit its report in the prescribed form to the principal DG or DG.	<ul style="list-style-type: none">• Section 35(2AA) provides for a weighted deduction 200% for Scientific research under a programme approved by the prescribed authority. (prescribed authority namely the secretary department of scientific and industrial research (DSIR))• The prescribed authority shall submit its report in the prescribed form to the principal DG or DG, principal chief commissioner or chief commissioner
<p>Reason: to provide better facility to the assessee, which were paid to National laboratory, university or Indian Institute of Technology or a specified person with a specified direction to get weighted deduction 200%.</p>	

4. Section – 35(2AB):

According to Section 35(2AB), to get weighed deduction 200% in respect of expenditure on in house research and development expenses inserting the following new conditions (w.e.f A.Y 2016-17)

- a) Assessee must enter into an agreement with the prescribed authority for co-operation in such research and development facility and fulfills prescribed conditions with regard to maintenance and audit of the accounts and also furnishes prescribed reports
- b) The prescribed authority shall submit its report in the prescribed form to the principal DG or DG, **principal chief commissioner or chief commissioner.**

5. **Amendments relating to sec 36(1)**

a) **Interest on borrowed capital - Sec 36(1)(iii):**

Before Amendment	After Amendment
<p><u>Proviso to section 36(1)(iii):</u> Interest paid in respect of capital borrowed for acquisition of an asset, for period up to the date on which the asset is first put to use to be capitalized, only if the acquisition of an asset is for an extension of existing business or profession.</p>	<p><u>Proviso to section 36(1)(iii):</u> Interest paid in respect of capital borrowed for acquisition of an asset, for period up to the date on which the asset is first put to use to be capitalized, even if the acquisition of an asset is not for an extension of existing business or profession.</p>
<p>Reason: In order to remove the inconsistency between the requirement under the income tax Act, 1961 and the requirement under ICDS IX. The proviso to section 36(1)(iii) has been amended to remove the condition that the acquisition should have been for extension of existing business or profession.</p>	

b) **Bad debts - sec 36(1)(vii):**

Before Amendment	After Amendment
<p>One of the essential conditions for claiming bad debts as deduction</p> <ul style="list-style-type: none"> It should be written off in the books of accounts <p>Note: Mere provision is not sufficient but actual write off of account is required.</p>	<p>One of the essential conditions for claiming bad debts as deduction</p> <ul style="list-style-type: none"> It should be written off in the books of accounts <p>However, actual written off in the books of accounts is not necessary, If whole or part of debt has been included in income of the pre- year in which, it becomes irrecoverable or earlier previous yrs. based on notified ICDS without recording the same in the accounts.</p>
<p>Reason : There are significant deviations between the notified ICDSs and accounting standards in case of recognition of income or gains or postponing the recognition of expenditure or losses under tax laws and consequently, impacting the computation of tax liability under income tax Act</p> <p>In order to overcome this difficulty arising out of the notified ICDS a second proviso has now been inserted in sec 36(1)(vii)</p> <p>If a debt, which has not been recognised in the books of accounts as per the requirement of the accounting standards but has been taken into account in the computation of income as per notified ICDS, has become irrecoverable, it can still be claimed as bad debts u/s 36(1)(vii) since it shall be deemed that the debt has been written off as irrecoverable in the books of accounts by virtue of the second proviso to sec 36(1)(vii)</p>	

c) **Co-operative societies – sec 36(1)(xvii):** The amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government. Thus, it may be noted that amount paid in excess of the price approved by the Government shall not be allowed as deduction for purchase of sugarcane.

6. CAPITAL GAINS

1. Notification of new cost inflation index (CII):

The CII applicable for AY 2016-17 is "1081" (Notification no. 60/2015 dated 24.6.2015)

2. Section 47 exception to transfer:

Sec	Nature of transaction not regarded as transfer	Conditions to be fulfilled for the transaction not to be regarded as transfer between transferor and transferee(sec.47)	Holding period in the hands of the transferee sec 2(42A)	Cost in hands of transferee [sec.49(1)]
47(viab) (w.e.f. AY2016-17)	Transfer in a scheme of amalgamation: Asset transferred: share of a foreign co. referred to in Explan.5 to sec.9(1)(i), which derives, directly or indirectly, its value substantially from the share(s) of an Indian co. From: amalgamating foreign co. To: amalgamated foreign co.	<ul style="list-style-type: none"> • At least 25% of the shareholders of amalgamating foreign co. remain shareholders of amalgamated foreign co. • Such transfer does not attract capital gain tax in country in which the amalgamating company is incorporated 	Previous owners holding period shall be included	Cost to previous owner
47(vicc) (w.e.f. AY2016-17)	Transfer in a scheme of Demerger: Asset transferred: share of a foreign co. referred to in Explan. 5 to sec.9 (1) (i), which derives, directly or indirectly its value substantially from the share(s) of an Indian co. From: demerged foreign co. To: resulting foreign co.	<ul style="list-style-type: none"> • Shareholders holding not less than 3/4th in value of shares of demerged foreign co. continue to remain shareholders of resulting co. • Such transfer does not attract capital gain tax in the country in which the demerged company is incorporated 	Previous owners holding period shall be included	Cost to previous owner
47(xviii)	Transfer by a unit holder, made in consideration of the allotment to him of a capital asset, being unit (s), in the consolidated scheme of a mutual fund Assets Transferred: unit(s) held by him in the consolidating scheme of the mutual fund	Consolidation is of two or more schemes of equity oriented or of two or more schemes of a fund other than equity oriented fund	Holding period in consolidating scheme of mutual fund shall be included.	Cost to consolidating scheme of mutual fund

Meaning of the following terms:

- a) **Consolidating scheme of mutual fund:** The scheme of mutual fund which merges under the process of consolidation of the schemes of mutual fund in accordance with the SEBI (Mutual Funds) Regulations 1996 made under SEBI act 1992
 - b) **Consolidated scheme of mutual fund:** The scheme with which the consolidating scheme merges or which is formed as a result of such merger.
3. **Insertion of new clause for determining cost of acquisition and period of holding by a non - resident assessee:**
- i) **Cost of acquisition of shares acquired on redemption of GDR's [sec 49(2ABB)]:** Sub section 2(ABB) has been inserted in sec 49, to provide that the cost of acquisition of the capital asset, being share or shares of a company acquired by a non – resident assessee, consequent to redemption of GDR's [referring to section 115AC(1)(b)] held by him would be the price of such share or shares **prevailing on any recognized stock exchange on the date in which a request for such redemption was made.**
 - ii) **Period of holding of shares acquired on redemption of GDR's [sec 2(42A)]:** Period of holding would be taken from the date on which a request for such redemption was made.

7. CHAPTER - VI A DEDUCTIONS

1. **Section 80C: deposit in sukanya samriddhi scheme” for welfare of girl child:** “Sukanya samriddhi scheme” for welfare of girl child has been notified as eligible deposit schemes of central Govt u/s 80C (2). Accordingly where an individual has paid any contribution to such deposit scheme, he will be allowed a deduction provided the contribution is made in the name of:
 - a) The individual himself or herself or
 - b) The girl child of individual or
 - c) Any girl child for whom such individual is legal guardian.Would be eligible for deduction u/s 80C
Note: Interest accruing on deposits and withdrawals from the sukanya samriddhi scheme would be exempt u/s 10(11A)
2. **Section 80CCC: increase in ceiling limit:** The present ceiling limit of 1,00,000/- has been increased to 1,50,000/- in respect of contribution to pension fund of LIC or any other insurer. However this deduction is subject to the overall limit of 1,50,000/- as mentioned u/s 80CCE.
3. **Section 80CCD:**
 - A. **Deduction in respect of Assessee’s contribution:**
 - a) **Sec 80CCD(1):** the assessee contribution shall be allowed as deduction subject to maximum of 10% of the salary or 10% of the GTI, as the case may be. (Now the limit of 1,00,000/- has been eliminated)
 - b) **Sec 80CCD (1B):** Further the above contribution the assessee can also make a separate contribution of 50,000/-. The deduction under this sub section is over and above the overall limit of sec.80CCE.
 - B. **Deduction in respect of employer or CG contribution (sec. 80CCD(2)):** Further the contribution by Employer or CG will be allowed as a deduction subject to maximum of 10% of the salary. The deduction under this sub sec is over and above the overall limit of sec.80CCE.

The following table summarizes ceiling limit under these sections

Section	Particulars	Before amendment (Ceiling limit in Rs.)	After amendment (Ceiling limit Rs.)
80C	Investment in specified instruments	1,50,000	1,50,000
80CCC	Contribution to certain pension funds	1,00,000	1,50,000
80CCD(1)	Contribution to new pension scheme of Government	1,00,000	10% of salary or 10% of GTI, as the case may be (Now the limit of 1, 00,000 has been eliminated.)
80CCE	Aggregate deduction under sections 80C, 80CCC & 80CCD(1)	1,50,000	1,50,000
80CCD(1B)	contribution to NPS notified by the CG (outside the limit of Rs. 1,50,000 u/s 80CCE)	Not Applicable	50,000

Note:

- a) Thus the maximum contribution allowed under this section.80CCD(1) shall be 10% of the salary or GTI and further the deduction will be allowed of Rs, 50,000/- foe assessee contribution u/s 80CCD(1B).

Deduction also available towards Employers contribution subject to maximum of 10% of the salary(sec.80CCD(2)).

- b) 'Salary' includes DA (forming part of retirement) but excludes all other allowances and perquisites.

Illustration:

The following are the particulars of investments and payments made by Mr. A, employed with ABC Ltd., during the previous year 2015-16:

- a) Deposited Rs.1,20,000 in public provident fund
- b) Paid life insurance premium of Rs.15,000 on the policy taken on 1.5.2012 to insure his life (Sum assured – Rs.1,20,000).
- c) Deposited Rs.30,000 in a five year term deposit with bank.
- d) Contributed Rs.1,80,000, being 15% of his salary, to the NPS of the Central Government. A matching contribution was made by ABC Ltd.
 - i) Compute the deduction available to Mr. A under Chapter VI-A for A.Y.2016-17.
 - ii) Would your answer be different, if Mr. A contributed Rs.1,20,000 (being, 10% of his salary) towards NPS of the Central Government?

Solution:

- i) Deduction available to Mr. A under Chapter VI-A for A.Y.2016-17

Section	Particulars	Rs.	Rs.
80C	Deposit in public provident fund	1,20,000	
	Life insurance premium paid Rs. 15,000 (deduction restricted to Rs. 12,000, being 10% of Rs. 1,20,000, being sum assured, since the policy was taken after 31.3.2012)	12,000	

	Five year term deposit with bank	30,000	
	Total	1,62,000	
	Restricted to		1,50,000
80CCD(1)	Contribution to NPS of the Central Government, Rs.1,30,000 [Rs.1,80,000 – Rs.50,000, being deduction under section 80CCD(1B)], restricted to 10% of salary [Rs.1,80,000 x 10/15] [See Note 1]		1,20,000
	Total		2,70,000
80CCE	Aggregate deduction under section 80C and 80CCD(1), Rs.2,70,000, but restricted to		1,50,000
80CCD(1B)	Rs.50,000 would be eligible for deduction in respect of contribution to NPS of the Central Government		50,000
80CCD(2)	Employer contribution to NPS, restricted to 10% of salary [See Note 2]		1,20,000
Deduction under Chapter VI-A			3,20,000

Notes:

- a) The deduction under section 80CCD(1B) would not be subject to overall limit of Rs.1.50 lakh under section 80CCE. Therefore, it is more beneficial for Mr. A to claim deduction under section 80CCD(1B) first in respect of contribution to NPS. Thereafter, the remaining amount of Rs.1,30,000 can be claimed as deduction under section 80CCD(1), subject to a maximum of 10% of salary.
- b) The entire employer's contribution to notified pension scheme has to be first included under the head "Salaries" while computing gross total income and thereafter, deduction under section 80CCD(2) would be allowed, subject to a maximum of 10% of salary.
- ii) If the contribution towards NPS is Rs.1,20,000, here again, it is beneficial for Mr. A to first claim deduction of Rs.50,000 under section 80CCD(1B) and the balance of Rs.70,000 can be claimed under section 80CCD(1), since the deduction available under section 80CCD(1B) is over and above the aggregate limit of Rs.1,50,000 under section 80CCE. In any case, the aggregate deduction of Rs.2,20,000 [i.e., Rs.1,50,000 under section 80C and Rs.70,000 under section 80CCD(1)] cannot exceed the overall limit of Rs.1,50,000 under section 80CCE. The total deduction under Chapter VIA would remain the same i.e., Rs.3,20,000.

4. Section – 80D:

a) Enhancement of the ceiling limit

Nature of payment:

- i) Up to **Rs. 25,000 (earlier Rs.15,000)** to an assessee, being an individual/HUF in respect of –
- Health insurance Premia paid by any mode other than cash, to effect or to keep in force insurance on the health **of the assessee or his family**.
 - Any contribution made to CGHS or any other notified scheme; and
 - Any payment made on account of preventive health checkup of the assessee or his family; and
- ii) An additional deduction of **Rs. 25,000 (earlier Rs.15,000)** is provided to an individual to effect or to keep in force insurance on the health **of his or her parent or parents**
- iii) If the sum specified in a & b above is paid to effect or keep in force an insurance of a person who is a senior citizen, being a resident individual of the age of 60 years or more at any time during the previous year, the limit specified would be Rs.30,000(**earlier Rs.20,000**) instead of Rs.25,000 (**earlier Rs.15,000**)

- b) Allowability of medical expenditure in respect of very senior citizen upto Rs.30,000:** Any payment made on account of medical expenditure in respect of a very senior citizen, if no payment has been made to keep in force insurance on health of such person.

The aggregate deduction available to any individual/ or his parents in respect of health insurance premium and the medical expenditure incurred would, however, be limited to Rs.30,000.

Note:

A “**very senior citizen**” is as an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.

The following table summarizes the deduction allowable u/s. 80D:

Description	Amount paid in respect of		Total deduction u/s 80D
	self, spouse & dependent children	parents, dependent or not	
a. in respect of medi claim premium and preventive health check up			
No one attained the age of 60 years	25,000 (earlier 15,000)	25,000 (earlier 15,000)	Rs. 50,000
assessee and his family less than 60 years of age and parent is a senior citizen or very senior citizen	25,000 (earlier 15,000)	30,000 (earlier 20,000)	55,000
assessee and the parents attained the age of 60 years or above	30,000 (earlier 20,000)	30,000 (earlier 20,000)	60,000
b. in respect of medical expenditure incurred for a very senior citizen			
Assessee and his family less than 80 years of age and parent is a very senior citizen.	Nil	30,000	30,000
Assessee and parent attained the age of 80 years or above	30,000	30,000	60,000
Maximum cumulative deduction under a and b	30,000	30,000	60,000

Illustration:

Mr. Arjun (52 years old) furnishes the following particulars in respect of the following payments:

S.No.	Particulars	Amount (Rs.)
1	Premium paid for insuring the health of – Self spouse dependant son mother	10,000 8,000 4,000 18,000

2	Paid for Preventive Health Check up of himself spouse mother	2,000 1,500 4,000
3	Incurred medical expenditure of Rs.25,000 and Rs.15,000 for his mother, aged 80 years and father, aged 85 years. Both mother and father are resident in India.	

Compute the deduction available to Mr. Arjun under section 80D for the A.Y. 2016-17.

Solution:

Computation of deduction under section 80D for the A.Y. 2016-17

S.No.	Particulars	Amount (Rs.)
1.	i) In respect of premium paid for insuring the health of –	
	➤ Self	10,000
	➤ spouse	8,000
	➤ dependant son	4,000
	Total	22,000
	ii) In respect of expenditure on preventive health check up of –	
➤ Self	2,000	
➤ Spouse	1,500	
Total	3,500	
	Restricted to [Rs.25,000 – Rs.22,000, since maximum deduction is Rs.25,000]	3,000
	Aggregate of deduction (I+II) under (1) restricted to	25,000
2.	i) In respect of payment towards health insurance premium for his mother	18,000
	ii) In respect of preventive health check up of his mother [Rs. 4,000, restricted to Rs. 2,000, (Rs. 5,000 – Rs. 3,000), since maximum deduction for preventive health check up under section 80D is Rs. 5,000]	2,000
	iii) Medical expenditure for father would only be eligible for deduction [See Note below]	15,000
	Amount of deduction under (2) restricted to	30,000
	Total deduction under section 80D [(1) + (2)]	55,000

Note: Irrespective of the fact that the mother of Arjun is a very senior citizen the deduction under section 80D would not available to him in respect of the medical expenditure incurred for his mother, since Mr. Arjun has taken a health insurance policy for his mother.

5. Section 80DD: Enhancement of the ceiling limit:

- a) Section 80DD, *inter alia*, provides for a deduction of **Rs. 75,000**, (earlier **Rs. 50,000**) to an individual or HUF, who is a resident in India, who has incurred —
- Expenditure for the medical treatment (including nursing), training and rehabilitation of a dependent, being a person with disability or
 - paid any amount to LIC or any other insurer in respect of a scheme for the maintenance of a disabled dependent.

If the dependent is suffering from severe disability, the deduction under section 80DD is **Rs. 1,25,000**, (earlier **Rs.1,00,000**)

The following table summarizes the deduction allowable u/s. 80DD:

Maintenance and medical treatment of:	Before amendment (Ceiling limit in Rs.)	After amendment (Ceiling limit in Rs.)
Persons with disability	50,000	75,000
Persons with severe disability	1,00,000	1,25,000

6. **Section 80U: Enhancement of the ceiling limit:** Section 80U, *inter alia*, provides for a deduction of Rs. 75,000(earlier Rs. 50,000), to an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability. If the person is suffering from severe disability, deduction under section 80U is Rs.1,25,000. (Earlier Rs. 1,00,000)

The following table summarizes the deduction allowable u/s. 80U:

Maintenance and medical treatment of:	Before amendment (Ceiling limit in Rs.)	After amendment (Ceiling limit in Rs.)
Persons with disability	50,000	75,000
Persons with severe disability	1,00,000	1,25,000

7. **Section 80DDB: Enhanced limit of deduction for expenditure incurred in respect of medical treatment of very senior citizen**

- a) Section 80DDB has been amended to provide for a higher limit of deduction of upto Rs. 80,000, for the expenditure incurred in respect of the medical treatment of himself or a dependent, being a “very senior citizen”.

S.NO	Dependent	Maximum limit (Rs.)
1.	A very senior citizen, being a resident individual	80,000
2.	A senior citizen, being a resident individual	60,000
3.	Dependent, other than mentioned in (1) & (2) above	40,000

- b) Further the condition to obtain a certificate from the specialist doctor working in government hospital has been **removed**. Means the assessee will be required to obtain a prescription for such medical treatment from a specialist doctor(need not worked in Govt hospital).

8. **Section 80G: New funds has been notified for donations(W.e.f. 01.04.2016):** The following three funds had been notified to get **100% deduction** in respect of **ALL ASESSEES** which comes under **category 1** of sec 80G

- a) **The National Fund for Control of Drug Abuse** constituted u/s 7A of the Narcotic Drugs & Psychotropic Substances Act, 1985.
- b) **Swachh Bharat Kosh** set up by the Central Government (See Note below)
- c) **Clean Ganga Fund**, set up by the Central Government, where such Assessee is a Resident (see Note below)

Note: Deduction is not available for sum spent by the Assessee in pursuance of **Corporate Social Responsibility u/s 135(5)** of the Companies Act, 2013.

9. **Section 80JJAA:**

Before amendment	After amendment
<p>i) Eligible Assessee: Indian company</p> <p>ii) “Additional wages” to mean the wages paid to the new regular workmen in excess of 100 workmen employed during the previous year.</p>	<p>i) Eligible Assessee: All Assesseees</p> <p>ii) “Additional wages” to mean the wages paid to the new regular workmen in excess of 50 workmen employed during the previous year.</p>
<p>Reason: For the purpose of encouraging generation of employment, section 80JJAA(1) has been amended to extend the benefit so far available only to corporate assessee’s to all assessee’s whose gross total income includes profits and gains derived from manufacture of goods in a factory.</p>	

Note –

- i) No deduction would be allowed if the factory is acquired by the assessee by way of transfer from any other person or as a result of any business reorganization.
- ii) “Regular workman” does not include a casual workman or a workman employed through contract labour or any other workman employed for a period of less than 300 days during the previous year.

Illustration:

Mr. A has commenced the operations of manufacture of goods in a factory on 1.4.2015. He employed 125 new workmen during the P.Y.2015-16, which included –

- i) 15 casual workmen;
- ii) 15 workmen employed through contract labour;
- iii) 25 regular workmen employed on 1.4.2015;
- iv) 55 regular workmen employed on 1.5.2015; and
- v) 15 regular workmen employed on 1.7.2015

Compute the deduction, if any, available to Mr. A for A.Y.2016-17, if wages @ Rs.5,000 per month is paid to each workman and the profits and gains derived from manufacture of goods in the factory for the A.Y.2016-17 is Rs.4.75 lakhs.

Solution:

Mr. A is eligible for deduction under section 80JJAA since his gross total income includes profits and gains derived from the manufacture of goods in a factory and he has employed more than 50 new regular workmen in his factory.

Additional wages = Rs.5,000 × 30 [See Working Note below] = Rs.1,50,000

Deduction under section 80JJAA = 30% of Rs.1,50,000 = Rs.45,000. (as per ICAI)

Working Note:**Number of new regular workmen**

Particulars	No. of workmen	
Total number of workmen employed during the year		125
Less: Casual workmen employed during the year	15	
Workmen employed through contract labour	15	
Workmen employed for a period of less than 300 days during the P.Y.2015-16 (workmen employed on 1.7.2015)	15	45
Total number of new regular workmen		80
Number of new regular workmen in excess of 50 = 80 – 50		30

Note – “Regular workman” does not include a casual workman or a workman employed through contract labour or any other workman employed for a period of less than 300 days during the previous year.

Alternative answer: (As per Act)

Number of new regular workmen in excess of 50 =(80 – 50=30)		
15 casual workmen	No deduction u/s .80JJAA	Nil
15 workmen employed through contract labour	No deduction u/s .80JJAA	Nil
20 regular workmen employed on 1-4-2015.	No deduction u/s .80JJAA	Nil
5 regular workmen employed on 1-4-2015.	Deduction available u/s .80JJAA	5x5000x12m=3,00,000
25 regular workmen employed on 1-5-2015.	Deduction available u/s .80JJAA	25x5000x11m=13,75,000

Therefore the deduction u/s 80JJAA is Rs.5,02,500. [(300000+1375000) x30%]

7. TAX DEDUCTED AT SOURCE

1. **Section – 192(2D):Obligation of person responsible for TDS on salaries:** The person responsible for making payment (employer), for the purpose of estimating income of assessee or computing the amount of tax deductible, shall obtain the evidence or proof or particulars of prescribed claims (including claim for set off of loss) from the assessee in the prescribed form and manner.

2. **Section – 192A:TDS @ 10% on premature withdrawal from employees provident fund**

a) **Person responsible to deduct TDS:** Trustees of employees provident fund scheme or any person authorised under the scheme

b) **Situation:** if the accumulated balance due to an employee participating in a recognized provident fund **is includable in his total income**(which is not exempt from tax u/s 10(12))

c) **Rate of TDS: 10%.**

However where the payee has not furnished PAN, then tax @ **maximum marginal rate (i.e, 34.608 %)**

d) **Time of deduction at the time of payment** of the accumulated balance due to the employee.

e) **No TDS:** where the payment or aggregate payment is **less than Rs.30,000** (TDS only if amount is Rs.30,000 or more).

3. **Section – 194A: Rationalization of the provisions of sec.194A (w.e.f 01.06.2015).**

a) Cooperative banks to deduct tax at source on interest on time deposits credited or paid to it members if interest exceeds Rs.10,000.

Note: exemption has been granted from the deduction of tax at source in respect of the following (no TDS is required):

i) Interest credited or paid by a cooperative society(other than a cooperative bank) to its members

ii) Interest credited or paid by a cooperative society to any other cooperative society;

iii) Interest credited or paid by a firm to a partner of the firm.

b) Interest on recurring deposits exceeds Rs.10,000 then subject to TDS

Note: Definition of ‘time deposits’ include “recurring deposits” with in its scope for the purpose of TDS u/s 194A

c) Threshold limit to be reckoned with reference to the aggregate interest credited or paid by all branches of a banking company/co-operative bank/public company which has adopted **core banking solutions(CBS)** [Section 194A(3)]

Payer	Payer has adopted core banking solutions(CBS)	Computation of interest for threshold
Banking company or cooperative society	yes	Rs.10,000 cumulative for all branches
Public company with main objective of providing long term finance for construction or purchase of residential houses in India	no	Rs.10,000 per branch
	yes	Rs. 5,000 cumulative for all branches
	no	Rs. 5,000 per branch

d) Interest on the compensation amount awarded by the Motor Accidents Claims Tribunal shall be made **only at the time of payment**, and that too only if the amount of interest payment or the aggregate amount of such interest payments during the financial year exceeds Rs. 50,000.

Note: No tax is deductible at source on such income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal.

Illustration:

Examine the TDS implications under section 194A in the cases mentioned hereunder –

- i) On 1.10.2015, Mr. Harish made a six-month fixed deposit of Rs. 10 lakh@9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2016.
- ii) On 1.6.2015, Mr. Ganesh made three nine month fixed deposits of Rs. 1 lakh each carrying interest@9% with Dwarka Branch, Janakpuri Branch and Rohini Branches of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2016.
- iii) On 1.4.2015, Mr. Rajesh started a 1 year recurring deposit of Rs. 20,000 per month@8% p.a. with PQR Bank. The recurring deposit matures on 31.3.2016.

Solution:

- i) ABC Co-operative Bank has to deduct tax at source@10% on the interest of Rs. 45,000 (9% × Rs. 10 lakh × ½) under section 194A. The tax deductible at source under section 194A from such interest is, therefore, Rs. 4,500.
- ii) XYZ Bank has to deduct tax at source@10% under section 194A, since the aggregate interest on fixed deposit with the three branches of the bank is Rs. 20,250 [1,00,000 × 3 × 9% × 9/12], which exceeds the threshold limit of Rs. 10,000. Since XYZ Bank has adopted CBS, the aggregate interest credited/paid by all branches has to be considered. Since the aggregate interest of Rs. 20,250 exceeds the threshold limit of Rs. 10,000, tax has to be deducted@10% under section 194A.
- iii) Tax has to be deducted under section 194A by PQR Bank on the interest of Rs. 10,400 falling due on recurring deposit on 31.3.2015 to Mr. Rajesh, since –
 - a) “recurring deposit” has been included in the definition of “time deposit”; and
 - b) Such interest exceeds the threshold limit of Rs. 10,000.

4. Section – 194C(6): Tax deduction in case of transport operators

Before amendment	After amendment
Exemption of TDS to the transport operators if the following conditions satisfied cumulatively. <ol style="list-style-type: none">1. Payee is engaged in the business of plying, hiring or leasing goods carriages.2. Payee furnishes PAN to the person responsible for TDS u/s.194C (6).	Exemption of TDS to the transport operators if the following conditions satisfied cumulatively. <ol style="list-style-type: none">1. Payee is engaged in the business of plying, hiring or leasing goods carriages.2. Payee does not own more than 10 goods carriages at any time during the previous year.3. Payee furnishes PAN to the person responsible for TDS u/s.194C(6)
<p>Reason: To reduce the compliance burden on the small transport operators, as defined in section 44AE by exempting them from TDS under section 194C on furnishing of PAN, the language of section 194C(6) did not convey the correct intention. Consequently, all transporters, irrespective of the number of goods carriages owned by them, were claiming exemption from TDS under section 194C(6) by furnishing their PAN.</p> <p>In order to convey the true intent of law, section 194C(6) has been amended to clarify that the relaxation provided only to who owns 10 or less goods carriages at any time during the previous year(i.e, small transport operators)</p>	

5. Section – 194LD:

Before amendment	After amendment
<p>1. Tax is required to be deducted at a concessional rate of 5% in case of interest payable to Foreign Institutional Investors (FIIs) and Qualified Foreign Investors (QFIs) on their investments in Government securities and rupee denominated bonds of an Indian company provided that the rate of interest does not exceed the rate notified by the Central Government in this regard.</p> <p>2. This concessional TDS rate applicable only on payment of interest payable between 1st June, 2013 to 31st may 2015.</p>	<p>1. Tax is required to be deducted at a concessional rate of 5% in case of interest payable to Foreign Institutional Investors (FIIs) and Qualified Foreign Investors (QFIs) on their investments in Government securities and rupee denominated bonds of an Indian company provided that the rate of interest does not exceed the rate notified by the Central Government in this regard.</p> <p>2. This concessional TDS rate applicable only on payment of interest payable between 1st June, 2013 to 30th June 2017.</p>
<p>Reason: The Finance (No.2) Act, 2014 has extended the limitation date for availing benefit of concessional rate of TDS@5% under section 194LC in respect of External Commercial Borrowings (ECB) from 30th June, 2015 to 30th June, 2017. In line with such extension, the benefit of concessional rate of TDS@5% under section 194LD has also been extended in respect of such interest payable to FIIs and QFIs up to 30th June, 2017.</p>	

6. Section – 194LBA:

Interest on certain income from units of a business trust

nature of distributed income	TDS if unit holder is resident	TDS if unit holder is non resident(not being a company or a foreign company)
Income of a business trust, by way of interest received or receivable from a special purpose vehicle.[sec 10 (23FC)	10%	5%
Income of a real estate investment trust (REIT), by way of renting or leasing or letting out any real estate asset owned directly by such REIT[sec 10(23FCA)	10%	at the rates in force

7. Section 194LBB

Income of unit holder from alternative investment fund

Type of income	income referred to in sec 115UB,accruing or arising to, or received by, a unit holder of an alternative investment fund , being other than that proportion of income which is of the same nature of income chargeable under the head PGBP.
Person responsible for TDS	person responsible for making the payment
Time to TDS	at the time of credit or payment, whichever is earlier
Rate of TDS	10%

8. Section 195(6):

- a) Section 195(6) requires **the person referred to in section 195(1)** to furnish **prescribed information.**

- b) Section 195(1) casts responsibility on every person responsible for **paying any interest** (other than interest referred to in sections 194LB or 194LC or 194LD) or any sum chargeable to tax (not being in the nature of salary) **to a non-corporate nonresident or to a foreign company**, to deduct tax at the rates in force.
- c) Now sec 195(6) has been substituted to provide that on the above payer to furnish information about all the above mentioned payments **whether or not chargeable to tax**. In the prescribed form and prescribed manner.

9. **Section 197A: Facilitating filing of Form 15G/15H for payments made under life insurance policy u/s 194DA:** According to Section 197A, tax shall not be deducted, if the recipient of certain payments on which tax is deductible furnishes to the payer, a self-declaration in prescribed Form No.15G/15H, declaring that the tax on his estimated total income of the relevant previous year would be nil.

Section 197A has been amended for making the recipients of payments referred to in section 194DA also eligible for filing self-declaration in Form No.15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

10. **Section 203A: notified deductors not required to obtain and quote TAN:** The quoting of TAN for reporting of tax deducted at source is a matter of procedure. The same purpose would be served by requiring mandatory quoting of PAN particularly for the transactions which are likely to be one time transaction.

For example, a one-time transaction of purchase of immovable property from non-resident by an individual or HUF on which tax is deductible under section 195.

Therefore, in order to alleviate the compliance burden of such deductors, section 203A has been amended to provide that the requirement of obtaining and quoting of TAN under section 203A shall not apply to such person(a one-time transaction done by an individual or HUF), as may be notified by the Central Government in this behalf.

8. RETURN OF INCOME

1. **Section 139(1):** Mandatory filing of return by resident person in certain cases even though otherwise not required.

Before amendment	After amendment
<p>The fourth proviso to section 139(1) requires a person, being a resident and ordinarily resident in India, having –</p> <p>(1) any asset (including financial interest in any entity) located outside India or</p> <p>(2) Signing authority in any account located outside India</p> <p>To file a return of income in the prescribed form compulsorily, whether or not he has income chargeable to tax. The return of income should be verified in the prescribed manner and provide such particulars as may be prescribed.</p>	<p>The fourth proviso to section 139(1) requires a person, being a resident and ordinarily resident in India within the meaning of sec 6(6), who is not required to furnish a return u/s 139(1) and who at any time during the previous year</p> <p>(a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has a signing authority in any account located outside India; or</p> <p>(b) Is a beneficiary of any asset (including any financial interest in any entity) located outside India?</p> <p>To file a return of income in the prescribed form compulsorily, whether or not he has income chargeable to tax. The return of income should be verified in the prescribed manner and provide such particulars as may be prescribed.</p>

	<p>However in case of an individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India, the return of income shall not be necessary in case where, income, if any, arising from such asset is includable in the income of the beneficiary owner,.</p>
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MEANINGS:

- a) **Beneficial owner:** An individual who has provided, directly or indirectly, consideration for the asset for the immediate or the future benefit ,direct or indirect ,of himself or any other person
 - b) **Beneficiary:** An individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.
2. **Section 139(6): Particulars required to be furnished with the return:** Amendments made in sec 139(1), with that effect section 139(6) has been amended: The assessee shall be required to furnish the particulars of the assets of the prescribed nature and value, held by him as a beneficial owner or otherwise or in which he is a beneficiary

THE END

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INDIRECT TAXES

AMENDMENTS AT A GLANCE – FINANCE ACT, 2015

(Significant Notifications issued during 01.05.2014 to 30.04.2015)

S.NO	Particulars	Effective Date	Relevant section/Rule/ Notification
Central Excise Duty			
1.	Standard ad valorem rate of excise duty increased from 12% to 12.50% and education cesses leviable on excisable goods fully exempted	01.03.2015	
2.	Central excise registration to be granted online within 2 working days	01.03.2015	
3.	Authentication of invoices by digital signatures	01.03.2015	
Customs Duty			
4.	Notifications exempting education cesses on CVD rescinded consequent to education cesses on excise duty being exempted	01.03.2015	
5.	Education Cess and Secondary & Higher Education Cess leviable on imported goods to continue		
Service Tax			
I	Chapter V of Finance Act, 1994		
6	(i) Service tax rate enhanced from 12% to 14% and (ii) Levy of education cesses on taxable services ceased to have effect	01.06.2015	Section 66B
7	Activities undertaken by (i) chit fund foremen in relation to chit and (ii) lottery distributors and selling agents in relation to lotteries are not transactions in money or actionable claim and are thus, liable to service tax - Explanation 2 substituted in the definition of "service"	14.05.2015	Explanation 2 to section 65B(44)
8	All services provided by the Government or local authority to a business entity removed from the Negative List	To be effective from a date to be notified	Section 66D(a)(iv)
9	Definition of Government incorporated in the Act	14.05.2015	Section 65B(26A)
10	Services by way of carrying out any process amounting to manufacture/ production of potable liquor made liable to service tax	01.06.2015	Section 66D(f)
11	Admission to entertainment events or access to amusement facilities made liable to service tax	01.06.2015	Section 66D(j)
12	Consideration for a service includes (i) reimbursements and (ii) amount retained by distributor/selling agent of lottery from gross sale amount of lottery ticket or discount received thereon	14.05.2015	Clause (a) of Explanation to section 67

II	Service Tax Rules, 1994		
13	Concept of aggregator introduced in service tax - Definition of aggregator and brand name inserted in rule 2	01.03.2015	Rule 2(1)
14	Aggregator to pay service tax under reverse charge	01.03.2015	Rule 2(1)(d)(i)(AAA)
15	Service tax to be payable by recipient of service in case of service provided by (a) mutual fund agent/ distributor to mutual fund/ asset management company, (b) selling/marketing agent of lottery tickets to lottery distributor/selling agent	01.04.2015	Rule 2(1)(d)(i)(EEA) & Rule 2(1)(d)(i)(EEB)
16	Service tax to be payable by the recipient of service in relation to ALL services provided by Government to business entities (except specified services)	To be effective from a date to be notified	Rule 2(1)(d)(i)(E)
17	CBEC to specify conditions, safeguards and procedure for registration in service tax	01.03.2015	New sub-rule (9) inserted and sub-rule (1A) omitted in rule 4
18	Provisions introduced for authentication of invoices by digital signatures	01.03.2015	New Rule 4C
19	Sub-rule (6A) of rule 6 omitted consequent to amendment made in section 73	14.05.2015	Rule 6(6A) omitted
20	Alternative rates for payment of service tax on air travel agent's service, life insurance services, money changing service and service provided by lottery distributor/selling agent increased pursuant to the upward revision in service tax rate	01.06.2015	Sub rules (7), (7A), (7B) and (7C) of rule 6
III	Others		
21	Ambulance services provided by all service providers (whether or not by clinical establishment or an authorised medical practitioner or paramedics) exempted	01.04.2015	Mega Exemption Notification No. 25/2012 ST dated 20.06.2012
22	General insurance provided under Pradhan Mantri Suraksha Bima Yojna exempted	30.04.2015	
23	Life insurance provided under following schemes exempted:		
	Varishtha Pension Bima Yojna	01.04.2015	
	Pradhan Mantri Jeevan Jyoti Bima Yojna and Pradhan Mantri Jan Dhan Yojna	30.04.2015	
24	Collection of contribution under Atal Pension Yojna (APY) exempted	30.04.2015	
25	Treatment of effluent by Common Effluent Treatment Plant operator exempted	01.04.2015	
26	Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables exempted	01.04.2015	
27	Admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo exempted	01.04.2015	
28	Exhibition of movie by exhibitor to distributor/ association of persons consisting of such exhibitor as one of its members exempted	01.04.2015	

29	Services by way of right to admission to certain events/programmes exempted	01.06.2015	
30	Service provided with respect to Kailash Mansarovar and Haj pilgrimage exempted	20.08.2014	
31	Service tax payable on a performance in folk or classical art forms of music/ dance/ theatre if the consideration therefor exceeds Rs. 1,00,000	01.04.2015	
32	Exemption to transportation of food stuff by rail or vessels or road limited to milk, salt and food grain including flours, pulses and rice	01.04.2015	
33	Exemption to services by (i) mutual fund agent/distributor to a mutual fund or asset management company and (ii) selling/marketing agent of lottery tickets to a distributor/selling agent, withdrawn	01.04.2015	
34	Exemption to carrying out an intermediate production process of alcoholic liquor for home consumption on job work basis withdrawn	01.06.2015	
35	Exemption withdrawn for services by way of making telephone calls from departmentally run public telephone etc.	01.04.2015	Abatement Notification No. 26/2012 ST dated 20.06.2012
36	Uniform abatement of 70% prescribed for (i) goods and passenger transport by rail and (ii) goods transport by road and vessel, subject to uniform condition of non-availment of CENVAT credit on inputs, capital goods and input services	01.04.2015	
37	Abatement in case of passenger transportation by air in non-economy class reduced from 60% to 40%	01.04.2015	
38	No abatement for services provided in relation to chit	01.04.2015	Notification No. 31/2012 ST dated 20.06.2012
39	GTA service provided for transport of export goods by road from place of removal/ CFS/ICD to land customs station exempted	01.04.2015	
40	Notification exempting service provided by a foreign commission agent to an Indian exporter rescinded	01.03.2015	Notification No. 42/2012 ST dated 29.6.2012 rescinded
41	100% service tax to be paid under reverse charge in case of service provided by		Reverse Charge Notification No. 30/2012 ST dated 20.06.2012
	(a) mutual fund agent/ distributor to mutual fund/ asset management company,	01.04.2015	
	(b) selling/marketing agent of lottery tickets to lottery distributor/selling agent and	01.04.2015	
(c) person involving an aggregator	01.03.2015		
42	Service tax to be paid under reverse charge in case of ALL taxable services provided by Government (except specified services)	To be effective from a date to be notified	

43	Scope of reverse charge widened	01.03.2015	
44	Entire service tax to be paid under reverse charge in case of manpower supply and security services	01.04.2015	
IV	CENVAT Credit Rules, 2004		
45	Manufacturers allowed to utilize credit of education cess (EC) and secondary and higher education cess (SHEC) for payment of excise duty	30.04.2015	Third, fourth and fifth provisos inserted in rule 3(7)(b)
46	CENVAT credit allowed on inputs and capital goods received directly in the premises of the job worker	01.03.2015	Rules 4(1) and 4(2)(a)
47	Time limit for availing credit on inputs and input services increased from 6 months to 1 year of the date of invoice	01.03.2015	Rules 4(1) and 4(7)
48	Time limit for return of capital goods from a job worker to manufacturer/output service provider increased from 6 months to 2 years	01.03.2015	Rule 4(5)
49	Provisions relating to availment of CENVAT credit under partial and full reverse charge brought at par	01.04.2015	Rule 4(7)
50	Explanations (I) and (II) to sub-rule (7) of rule 4 to apply to entire rule 4	01.03.2015	Explanations (I) and (II) to sub-rule (7) of rule 4
51	Export goods defined for the purpose of refund of CENVAT credit under rule 5	01.03.2015	Clause (1A) of Explanation 1 to rule 5
52	Inputs and input services used in the manufacture of non-excisable goods to attract reversal provisions under rule 6	01.03.2015	Explanations (1) and (2) to rule 6(1)
53	Provisions applicable to first/second stage dealer regarding maintenance of records to be able to pass on the credit, to apply to an importer issuing CENVATable invoice	01.03.2015	Rule 9(4)
V	2% Swachh Bharat Cess to be levied on value of all or any of taxable services	To be effective from a date to be notified	Section 119 of Finance Act, 2015

1. CENTRAL EXCISE DUTY

1. Standard ad valorem rate of excise duty:

Before amendment(till 28 .02.2015)	After amendment (w.e.f 01.03.2015)
Effective rate of excise duty was 12.36%(including EC and SHEC)	Effective Rate of excise duty is 12.5% (EC and SHEC exempted)

Illustration: Calculate the assessable value and the excise duty payable from the following particulars:

List price of the product (inclusive of taxes)	Rs. 5,960
Trade discount	10%
VAT	12.5%
Excise duty	12.5%

An exemption notification grants exemption of 50% of the duty payable on this product.

Solution:

Particulars	Amount in (Rs.)
List price of the product	5,960
Less: Trade discount	596
Price net of discounts but including taxes (a)	5,364
Less: VAT [(Rs. 5,364 x 12.5)/112.5]	596
Price-cum-duty	4,768
Less: Excise duty @ 6.25% (on account of 50% exemption) [(Rs. 4,768 x 6.25)/106.25] (rounded off to nearest rupee) (b)	280
Assessable value (a) - (b)	4488

1. Central excise registration to be granted online within 2 working days (w.e.f 1.03.2015):

With effect from 01.03.2015, only an online application can be made for obtaining central excise registration and the same will be granted **within two working days of the receipt** of a duly completed application form. Verification of documents and premises, as the case may be, can be carried out after the grant of the Registration.

2. **Authentication of invoices by digital signatures (w.e.f 01.03.2015):** An invoice issued under central excise law by a manufacturer may now be authenticated by means of a digital signature. However, where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for transporter and self attested by the manufacturer would be used for transport of goods.

2. CUSTOMS DUTY

1. Exempting education cesses on CVD:

Before amendment(till 28 .02.2015)	After amendment(w.e.f 01.03.2015)
Effective rate of CVD was 12%(with EC and SHEC exempted)	Effective rate of CVD is 12.5% (with EC and SHEC not being leviable at all)

Note: however EC and SHEC leviable on imported goods to be continue

Illustration:

An importer has imported a machinery to be used for providing the service of construction of commercial buildings. The assessable value of imported machinery as approved by customs is Rs. 1,00,000. Customs duty payable is 10%. If the machinery is manufactured in India, excise duty @ 12.5% is leviable on such machinery. Education cess and secondary and higher education cess are as applicable. Special CVD is payable on said machinery. You are required to:

- a) Calculate the total customs duty payable.
 b) Examine whether the importer can avail any CENVAT credit? If yes, how much?

Solution:

Particulars	Duty %	Amount (Rs.)	Amount of Duty (Rs.)
Assessable value		1,00,000.00	
Basic customs duty	10	10,000.00	10,000.00
Sub-Total for calculating CVD		1,10,000.00	
CVD x excise duty rate	12.5	13,750.00	13,750.00
Sub-total for education cess on customs (Rs. 10,000 + Rs. 13,750)		23,750.00	
Education cess of customs	2	475.00	475.00
Secondary and Higher Education cess of customs	1	237.50	237.50
Sub-total for Special CVD (Rs. 1,00,000 + Rs. 10,000 Rs. 13,750 + Rs. 475 + Rs. 237.50)		1,24,462.50	
Special CVD u/s 3(5)	4	4,978.50	4,978.50
Total customs duty			29,441
Customs duty payable (rounded off)			29,441

Since importer is a service provider, he can avail CENVAT credit of only CVD i.e. only of Rs. 13,750 and not of special CVD.

3. SERVICE TAX

1. BASIC CONCEPTS OF SERVICE TAX

1. Service tax rate:

Before amendment (till 31.05.2015)	After amendment (w.e.f 01.06.2015)
Effective rate of service tax was 12.36%(including EC and SHEC)	Effective rate of service tax was 14%(no Education cess is added)

Note: Swachh Bharat cess to be levied on value of all or any of taxable services @ 0.5% w.e.f 15.11.2015 (it is not applicable for May 2016 Exams.)

Illustration: Ajay Ltd. has agreed to render services to Mr.Guru. The following are the chronological events:

Particulars	Rs.
Contract for services entered into on 31.8.2015	
Advance received in September, 2014 towards all services	60,000
Total value of services, billed in February, 2016	2,10,000
Above includes non-taxable services of	70,000
Balance amount is received in March, 2016	

Solution: As per Rule 3 of point of taxation Rules, 2011,

The point of taxation shall be -

- a) The time when the invoice for the service provided/ agreed to be provided is issued. However, in case the invoice is not issued within 30 days of the completion of the provision of the service, the point of taxation shall be date of such completion.
- b) In a case, where the person providing the service, receives a payment before the time specified in clause (a), the time, when he receives such payment, to the extent of such payment.

For the purpose of this rule, wherever any advance by whatever name known, is received by the service provider towards the provision of taxable service, the point of taxation shall be the date of receipt of each such advance.

Advance portion:

In this case, the due date for payment of service tax will be 5th March, 2015.

Advance portion:

Particulars	Rs.
Advance received towards all services in September, 2015	= 60,000
Amount billed for taxable services	= 2,10,000 – 70,000
	= 1,40,000
Advance received towards taxable services	= $\left[60,000 \times \frac{1,40,000}{2,10,000} \right]$
	= 40,000
Service tax @ 14% (since, service tax is charged separately)	= 40,000 x 14%
	=5,600
	=5,600

In this case, the due date for payment of service tax will be 6th October, 2015.

(w.e.f.1-6-2015, (Education Cess and Secondary and Higher Education Cess leviable on taxable services shall cease to have effect).)

Balance portion:

Particulars	Rs.
Amount billed for taxable services	1,40,000
Advance received towards taxable services	40,000
Amount billed but not received towards taxable services	(1,40,000 – 40,000)
	= 1,00,000
Service tax @ 14%	= 1,00,000,x 14%
	= 14,000
Total service tax liability	= 14,000

In this case, the due date for payment of service tax will be 6th March, 2016. (w.e.f.1-6-2015) (Education Cess and Secondary and Higher Education Cess leviable on taxable services shall cease to have effect).

2. Explanation 2 substituted in the definition of service:

The new Explanation 2 reads as under:

For the purposes of this clause, the expression “**transaction in money or actionable claim**” shall not include—

- a) any activity relating to use of money or 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;
- b) Any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out—
 - i) by a lottery distributor or selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any other manner;
 - ii) by a foreman of chit fund for conducting or organizing a chit in any manner.

Note: “**Lottery distributor or selling agent**” means a person appointed or authorized by a State for the purposes of promoting, marketing, selling or facilitating in organizing lottery of any kind, in any manner, organized by such State in accordance with the provisions of the Lotteries (Regulation) Act, 1998.

2. NEGATIVE LIST OF SERVICES

- 1) **Section 66D(a)(iv): All services provided by the government or local authority to a business entity is taxable (The word “support services” removed from the negative list)**

Before amendment	After amendment
Support services provided by the government or local authority to the business entity are taxable	Any services provided by the government or local authority to the business entity are taxable

Note: This amendment is not effective because no such date has been notified as yet.

- 2) **Section 65B(26A): Definition of Government incorporated in the Act:**

Government means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made there under.

- 3) **Services by way of carrying out any process amounting to manufacture/production of potable liquor made liable to service tax [Section 66D(f)]:**

Before amendment	After amendment
Services by way of carrying out any process amounting to manufacture or production of goods.	Services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption.

Note: with the effect of amendment made in sec 66D (f), the definition u/s 65B (40) has been amended

- i) The words “**alcoholic liquors for human consumption**” have been omitted from the definition of the term “process amounting to manufacture or production of goods” as provided in clause (40) of section 65B.

The amended definition reads as under:

"Processes amounting to manufacture or production of goods" means a process on which duties of excise are leviable under Sec. 3 of the Central Excise Act, 1944 or the Medicinal and Toilet Preparation (Excise Duties) Act, 1955 or any process amounting to manufacture of ~~alcoholic liquors for human consumption~~, opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act - Sec. 65B(40).

- ii) Mega Exemption Notification No. 25/2012 ST dated 20.06.2012 has been amended to withdraw exemption pertaining to intermediate production of alcoholic liquor for human consumption.

- 4) **Section 66D(j): Admission to entertainment events or access to amusement facilities made liable to service tax:**

“Admission to entertainment events or access to amusement facilities” **has been omitted** vide the Finance Act, 2015. Consequently, the definitions of “amusement facility” and “entertainment event” as contained in section 65B(9) and section 65B(24) have also been omitted.

However the following exemptions have been provided in respect of admission to entertainment events or access to amusement facilities [**vide exemption notification no.25/2012 – ST, dated 20-06-2012**].

- a) The services provided by way of admission to a museum, zoo, national park, wildlife sanctuary and a tiger reserve have been exempted.

(Entry 45 to mega exemption notification)

- b) The services provided by way of right to admission to
- i) Exhibition of cinematographic film, circus, dance, or, theoretical performance including drama or ballet.
 - ii) Recognized sporting event.

- iii) Award function, concert, pageant, musical performance or any sporting event other than a recognized sporting event, where the consideration for admission is not more than Rs. 500 per person.

(Entry.47 of mega exemption notification)

5) **Clarification regarding levy of service tax on joint venture:[circular no: 179/5/2014 ST dated 24.09.2014.]:**

- a) Services provided by the members of the Joint Venture (JV) to the JV and *vice versa* or between the members of the JV are treated as distinct persons therefore, taxable services provided for consideration are taxable.
- b) If cash calls (capital contributions) made by the members to the JV are merely a transaction in money and hence not in the nature of consideration for taxable service, but which may vary from case to case. Detailed and close scrutiny of the terms of JV agreement may be required in each case, to determine the service tax treatment of cash calls.

3. VALUATION OF TAXABLE SERVICES

1) **Section 67:Consideration [Amended w.e.f.14-05-2015] includes–**

- a) Any amount that is payable for the taxable services provided or to be provided;
- b) Any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed;
- c) Any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket.

4. EXEMPTIONS AND ABATEMENTS

A. **MEGA EXEMPTION NOTIFICATION:**

1) **Health care services(Entry no 2):**

Before amendment	After amendment
Ambulance services provided by way of transportation of a patient, to and from a clinical establishment, was exempt from service tax only when the said service was provided by a clinical establishment or an authorized medical practitioner or paramedics.	Ambulance services provided by all service providers (whether or not by clinical establishment or an authorized medical practitioner or paramedics) is exempted.

2) **Output services by artist in folk or classical form: (Entry no 16)**

Before amendment	After amendment
services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador was exempt from service tax (there is no monetary limit)	services provided by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, will be limited only to such cases where amount charged is upto Rs. 1,00,000 for a performance. Is exempt from service tax However service provided by an artist as brand ambassador will continue to remain taxable.

3) **General exemption of transportation of specified goods by rail or vessel or goods transport agency[Entry no 20]**

Before amendment	After amendment
Transportation of foodstuff - including flours, tea, coffee, Jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages - by rail/ vessel and by goods carriage was exempt from service.	Transportation of foodstuff only milk, salt and food grain including flours, pulses and rice by rail/ vessel and by goods carriage is exempt from service tax.

4)

a) **Services of general insurance business: (Entry no 26)**

A **new** clause (p) has been **inserted** vide **Notification No. 12/2015 ST dated 30.04.2015** in the said entry to **exempt** services of **general insurance business** provided under

- Pradhan Mantri Suraksha Bima Yojna.(w.e.f 30.04.2015)

b) **Services of Life insurance business:((Entry no 26A)**

New Clauses (d), (e) and (f) have been inserted vide **Notification No. 12/2015 ST dated 30.04.2015** in the said entry to **exempt** services of **life insurance business** provided in respect of the following additional schemes:

- Varishtha Pension Bima Yojna - [w.e.f 01.04.2015]
- Pradhan Mantri Jeevan Jyoti Bima Yojna – [w.e.f 30.04.2015]
- Pradhan Mantri Jan Dhan Yojna - [w.e.f 30.04.2015]

c) **Collection of contribution under Atal Pension Yojana (APY):[Entry no 26B]:** A new entry 26B has been inserted in the notification vide Notification No. 12/2015 ST dated 30.04.2015 to exempt the services by way of

- Collection of contribution under **Atal Pension Yojna.**

5) **Agency Services[Entry no 29]** : services by the following persons in respective capabilities-

- Sub broker or an authorized person to a stock broker;
- Authorized person to a member of a commodity exchange;
- ~~mutual fund agent to a mutual fund or asset management company[deleted w.e.f 1.04.2015]~~
- ~~distributor to a mutual fund or asset management company[deleted w.e.f 1.04.2015]~~
- ~~selling or marketing agent of lottery tickets to a distributor or a selling agent. [deleted w.e.f 1.04.2015]~~
- Selling agent or a distributor of SIM cards or recharge coupon vouchers;

Note: Thus, the service tax will be payable on these deleted services (**clause c, d, e**)

6) **Job work [Entry no 30]:**

Before amendment	After amendment
Carrying out an intermediate production process as job work in relation to any goods on which appropriate duty is payable by the principal manufacturer was exempt from service tax.	Carrying out an intermediate production process as job work in relation to any goods excluding alcoholic liquor for human consumption on which appropriate duty is payable by the principal manufacturer was exempt from service tax. Thus, carrying out an intermediate production process alcoholic liquor for human consumption on job work is liable to service tax. (w.e.f. 01.06.2015)

7) ~~Telephone services [Entry no 32]: (deleted w.e.f 1.04.2015)~~

~~services by way of making telephone calls from-~~

- ~~a) departmentally run public telephone;~~
- ~~b) guaranteed public telephone operating only for local calls; or~~
- ~~c) free telephone at airport and hospital where no bills has been issued.~~

Note: Thus, the service tax will be payable on these deleted services.

8) **Other New Exemptions:**

- a) **Entry no 43:** Services by operator of Common Effluent Treatment Plant by way of treatment of effluent are exempt from service tax.
- b) **Entry no 44:** Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables, which do not change or alter the essential characteristics of the said fruits or vegetables, are exempt from service tax.
- c) **Entry no 45:** Services by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve are exempt from service tax.

Here,

- i) National park has the meaning assigned to it in the clause (21) of the section 2 of The Wild Life (Protection) Act, 1972.
- ii) Wildlife sanctuary means sanctuary as defined in the clause (26) of the section 2 of The Wild Life (Protection) Act, 1972.
- iii) Zoo has the meaning assigned to it in the clause (39) of the section 2 of the Wild Life (Protection) Act, 1972.

Section 2(39) of the Wild Life (Protection) Act, 1972 provides that "Zoo" means an establishment, whether stationary or mobile, where captive animals are kept for exhibition to the public but does not include a circus and an establishment of a licenced dealer in captive animals.

- iv) Tiger reserve has the meaning assigned to it in clause (e) of section 38K of the Wild Life (Protection) Act, 1972.
- d) **Entry no 46:** Service provided by way of exhibition of movie by an exhibitor to the distributor or an association of persons consisting of the exhibitor as one of its members are exempt from service tax.
- e) **Entry no 47:** Services by way of right to admission to-
 - i) exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet;
 - ii) recognized sporting event;
 - iii) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event, where the consideration for admission is not more than Rs. 500 per person are exempt from service tax.

Therefore, service tax would be levied on service by way of admission to entertainment event of concerts, pageants, musical performance, award functions and sporting events other than the **recognized sporting event**, if the amount charged is more than Rs. 500 for right to admission to such an event.

Note: Recognised sporting event means any sporting event-

- Organised by a recognised sports body where the participating team or individual represent any district, state, zone or country;
- Covered under entry 11.

Entry 11 of the notification covers services by way of sponsorship of sporting events organised-

- a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state, zone or country;
 - b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
 - c) by Central Civil Services Cultural and Sports Board;
 - d) as part of national games, by Indian Olympic Association; or
 - e) under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme.
- f) **Pilgrimage services:** Services provided by a specified organisation in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Government of India, under bilateral arrangement, are exempt from service tax. **(notification no.17/2014 dated 20.08.2014)**

Note: Specified organisation means:

- Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking;
(or)
- Haj Committee of India and State Haj Committees constituted under the Haj Committee Act, 2002, for making arrangements for the pilgrimage of Muslims of India for Haj.

B. ABATEMENT NOTIFICATION:

1) **Notification No. 8/2015 ST dated 01.03.2015** as under:

S. No.	Description of taxable service	Percentage of abatement		Conditions
		Before	After	
1.	Transport of goods by rail	70	70	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of CENVAT Credit Rules, 2004.
2.	Transport of passengers, with or without accompanied belongings by rail	70	70	Same as above
3.	Transport of goods in a vessel	60	70	Same as above
4.	Services of goods transport agency (GTA) in relation to transportation of goods.	75	70	Same as above
5.	Transport of passengers by air, with or without accompanied belongings in			CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004
	i) economy class	60	60	
	ii) non-economy class	60	40	

Note: A uniform abatement of 70% has now been prescribed for (i) transport of goods and passengers by rail and (ii) transport of goods by road by a GTA and vessel along with a uniform condition of non-availment of CENVAT credit on inputs, capital goods and input services, used for providing the taxable service. In case of goods transport by road by a GTA, the condition for non-availment of CENVAT is for service provider.

- 2) **Abatement (earlier 70%) for services provided in relation to CHIT Fund was omitted:** Thus, Service tax would be paid by the CHIT fund foremen on the **full consideration received** by way of fee, commission or any such amount. They would be entitled to take CENVAT credit.
- 3) **GTA service provided for transport of export goods by road from place of removal/ CFS/ICD to land customs station exempted.**

Before amendment	After amendment
<p>The following services by goods transport agency are exempt:</p> <p>a) Transport of goods by road from any container freight station (CFS) or inland container depot (ICD) to port / airport as the case may be, from where the goods are exported; or</p> <p>b) Transport of goods by road from the place of removal (i.e. factory) to CFS, ICD, Port / airport, as the case may be, from where the goods are exported</p>	<p>The following services by goods transport agency are exempt:</p> <p>a) Transport of goods by road from any container freight station (CFS) or inland container depot (ICD) to port / airport / land customs station as the case may be, from where the goods are exported; or</p> <p>b) Transport of goods by road from the place of removal (i.e. factory) to CFS, ICD, Port / airport / land customs station, as the case may be, from where the goods are exported</p>

3. SERVICE TAX PROCEDURES

1. **Full reverse charge (100% service tax to be paid by the person liable for paying service tax other than service provider):**

S. No.	In relation to service provided or agreed to be provided by-	Service provided to – (i.e. Service Receiver)	% Of service tax payable by any Person liable for paying service tax other than the service provider (100%)
1	Supply of manpower for any purpose or security services	To any business entity located in the taxable territory.	The recipient of such service.
2	Mutual fund agent/distributor services	Mutual fund or asset management company	Recipient of service
3	Lottery selling or marketing agent services	Lottery distributor or selling agent	Recipient of service
4	Services involving an aggregator (refer note point)	To the recipient of the Services	Aggregator(other than service recipient)

Note: - **Services involving an aggregator:** Concept of aggregator introduced in service tax. Therefore, companies which act as aggregator for service providers like **travel portals, food portals or cab services** will now be **liable to pay service tax**.

Definition of aggregator and brand name inserted in rule 2 [Rule 2(1)]: “Aggregator means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator” [Rule 2(1)(aa)]

Accordingly, “brand name or trade name” has also been defined by inserting clause (bca) in rule 2(1) as under:

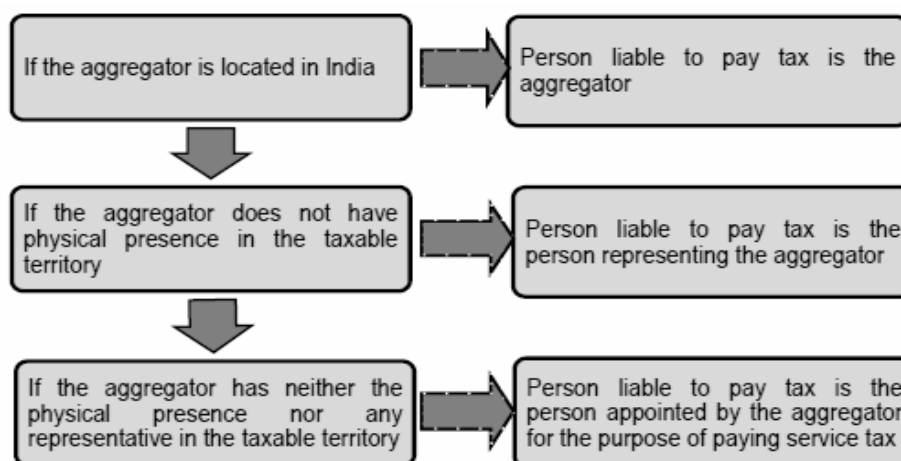
“Brand name or trade means a brand name or a trade name whether registered or not, that is to say, a name or a mark, such as an –

- Invented word or writing,
- Or a symbol,
- Monogram,
- Logo,
- Label,
- Signature

which is used for the purpose of indicating, or so as to indicate a connection, in the course of trade, between a service and some person using the name or mark with or without any indication of the identity of that person” **[Rule 2(1)(bca)]. [Effective from 01.03.2015]**

Aggregator to pay service tax under reverse charge [Rule 2(1)(d)(i)(AAA)]: Rule 2(1)(d)(i)(AAA) in relation to service provided or agreed to be provided by a person involving an aggregator in any manner, the aggregator of the service would be the person liable for paying service tax.

The liability of aggregator has been represented in the diagram given below:



2. CBEC to specify conditions, safe guards and procedure for registration in service tax (inserted Rule 4(9)):

a) **Online Registration:** with effect from 01.03.2015, registration for **single premises will be granted online within two days of filing the application.** The documentation, time limits and procedure for online registration is outlined below:

b) General procedure

i) Applicants seeking registration for single premises shall file an online application for registration on ACES website in Form ST-1.

ii) Following **details are to be mandatorily furnished** in the application form:

- Permanent Account Number (PAN) of the proprietor or the legal entity being registered (except Government Departments)
- E-mail and mobile number

iii) Registration would **be granted online within 2 days** of filing the complete application form. On grant of registration, the applicant would be enabled to electronically pay service tax.

iv) Registration Certificate downloaded from the ACES website would be accepted as proof of registration and there would be no need for a signed copy.

c) **Documentation required:** A self attested copy of the following documents will have to be submitted by registered post/ speed post to the concerned Division, within 7 days of filing the Form ST-1 online, for the purposes of verification:

- i) Copy of the PAN Card of the proprietor or the legal entity registered
- ii) Photograph and proof of identity of the person filling the application
- iii) Document to establish possession of the premises to be registered such as proof of ownership, lease or rent agreement, allotment letter from Government, No Objection Certificate from the legal owner
- iv) Details of the main Bank Account
- v) Memorandum/Articles of Association/List of Directors
- vi) Authorisation by the Board of Directors/Partners/Proprietor for the person filing the application
- vii) Business transaction numbers obtained from other Government departments or agencies such as Customs Registration No. (BIN No), Import Export Code (IEC) number, State Sales Tax Number (VAT), Central Sales Tax Number, Company Index Number (CIN) which have been issued prior to the filing of the service tax registration application
Verification of premises, if there arises any need for the same, will have to be authorised by an officer not below the rank of Additional/Joint Commissioner

d) Revocation of registration certificate: The registration certificate may be revoked by the Deputy/Assistant Commissioner in any of the following situations, after giving the assessee an opportunity to represent against the proposed revocation and taking into consideration the reply received, if any:

- i) The premises are found to be non-existent or not in possession of the assessee.
- ii) No documents are received within 15 days of the date of filing the registration application.
- iii) The documents are found to be incomplete or incorrect in any respect.

3. Authentication by Digital Signature [Rule 4C]: Any invoice, bill or challan issued under rule 4A or consignment note issued under rule 4B may be authenticated by means of a digital signature. The Board may specify the conditions, safeguards and procedure to be followed by any person issuing digitally signed invoices, by way of a notification. [w.e.f from 1-03-2015]

4. Composition scheme: Person liable for paying the service tax in relation to the services provided, shall have the option to pay following amounts instead of paying service tax at the rate of 14%

a) Air travel agent:

In the case of	Before amendment	After amendment
Domestic bookings	0.6% of basic fare	0.7% of basic fare
International bookings	1.2% of basic fare	1.4% of basic fare

b) Life insurance business: Where amount of the gross premium allocated for investment or savings on behalf of policy holder is **not intimated** to the policy holder at the time of providing of service:-

In respect of the amount of the premium charged	Before amendment	After amendment
For the First year	on 3% of the gross amount of premium charged	on 3.5% of the gross amount of premium charged
For the Subsequent year	on 1.5% of the gross amount of premium charged	on 1.75% of the gross amount of premium charged

c) Money changing services:

Gross amount of currency exchanged	Before amendment	After amendment
Up to Rs.1,00,000	0.12% of the gross amount of currency exchanged or Rs.30; which ever is higher	0.14 % of the gross amount of currency exchanged or Rs.35 ; which ever is higher.
Exceeding Rs.1,00,000 - up to Rs. 10,00,000	Rs.120 + 0.06% of the gross amount of currency exchanged exceeding Rs. 1,00,000 up to Rs.10,00,000	Rs. 140 + 0.07% of the gross amount of the currency exchanged exceeding Rs.1,00,000 upto Rs.10,00,000.
Exceeding Rs.10,00,000	Rs,660 +0.012% of the gross amount of the currency exchanged exceeding Rs.10,00,000 or Rs.6,000; whichever is lower	Rs.770 + 0.014% of the gross amount of the currency exchanged exceeding Rs.10,00,000 or Rs.7,000 ; which ever is lower

d) Distributor or selling agent of lottery services

Conditions	Before amendment	After amendment
If the lottery scheme is one where the guaranteed price payout is more than 80%	Rs. 7,000 on every Rs. 10,00,000 (or part of 10,00,000)of aggregate face value of lottery tickets printed by organizing states	Rs. 8,200 on every Rs. 10,00,000 (or part of 10,00,000)of aggregate face value of lottery tickets printed by organizing states
If the lottery scheme is one where the guaranteed price pay out is less than 80%	Rs. 11,000 on every Rs. 10,00,000 (or part of 10,00,000)of aggregate face value of lottery tickets printed by organizing states	Rs. 12,800 on every Rs. 10,00,000 (or part of 10,00,000)of aggregate face value of lottery tickets printed by organizing states

4. CENVAT CREDIT

1. **EC and SHEC can be used for payment of excise duty(w.e.f 30.04.2015)**: Notification No. 12/2015 CE (NT) dated 30.04.2015 has inserted third, fourth and fifth provisos in rule 3(7)(b) to give effect to this amendment.

Before amendment	After amendment
EC can be utilized for payment of EC	Manufactures allowed to utilize credit of EC and SHEC for payment of excise duty(conditional)
SHEC can be utilized for payment of SHEC	

However, pursuant to the exemption granted to EC and SHEC leviable on all excisable goods (with effect from 01.03.2015), a manufacturer has been allowed to utilise the following credits of EC and SHEC for the payment of basic excise duty:

Conditions:

- a) Credit of EC and SHEC paid on inputs or capital goods received in the factory of manufacture of final product on/after the 1st day of March, 2015.
- b) Credit of balance 50% EC and SHEC paid on capital goods received in the factory of manufacture of final product in the financial year 2014-15.
- c) Credit of EC and SHEC paid on input services received by the manufacturer of final product on or after the 1st day of March, 2015.

2. CENVAT credit allowed on inputs and capital goods received directly in the premises of the job worker [Rules 4(1) and 4(2)(a)]:

Before amendment	After amendment
According to Rule 4(1) and rule 4(2A) when goods were directly sent to job-worker's premises without bringing them in the manufacturer/output service provider's premises, CENVAT credit could be taken only when such goods were received back from the job-worker's premises in the premises of manufacturer/output service provider.	Rule 4(1) and rule 4(2)(a) have been amended to allow CENVAT credit in respect of inputs and capital goods immediately on receipt of the same in the premises of job worker where the same are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be.

3. Time limit for availing credit on inputs and input services(rule 4(1) and 4(7)):

Before amendment	After amendment
The manufacturer and the provider of output service shall not take CENVAT credit after 6 months of the date of issue of any of the documents specified in rule 9(1)	The manufacturer and the provider of output service shall not take CENVAT credit after 1 year of the date of issue of any of the documents specified in rule 9(1)

4. Time limit for return of capital goods from a job worker:

Particulars	Inputs	Capital goods
Time limit to receive back by manufacturer or service provider in case if goods sent directly to job worker	180 days from the date of receipt of goods by job worker	2 years(earlier 180 days) from the date of receipt of goods by job worker
If not received within the time limit mentioned above by manufacturer or service provider	Reverse the credit on inputs or capital goods, as the case may be.	Reverse the credit on inputs or capital goods, as the case may be.
Up on subsequent receipt	Credit can be taken	Credit can be taken
Movement from one job worker to another and so on for processing etc.	Yes. Can be sent from one to another for further processing etc	Not applicable

5. Credit allowed on payment of service tax, if service tax is paid under reverse charge (both full and partial reverse charge): In respect of input service where the whole or part of the service tax is liable to be paid by the recipient of the service, credit of service tax payable by the service recipient shall be allowed after the service tax is paid [First proviso to sub-rule (7)].

Effect of amendment: In case of partial reverse charge (w.e.f. 01-04-2015): in respect of input service where part of the service tax is liable to be paid by the recipient of service, credit of service tax shall be allowed as under-

For service receiver's portion: only after payment of service tax to the treasury of the government by the receiver of service

For service provider's portion: CENVAT credit shall be allowed, on or after the day on which the invoice, bill or, as case may be, challan referred to in rule 9, is received.

6. Export goods defined for the purpose of refund of CENVAT credit under rule 5: The definition of 'export goods' has now been inserted in the rule to mean any goods which are to be taken out of India to a place outside India.

7. **Inputs and input services used in the manufacture of non-excisable goods to attract reversal provisions under rule 6 [Explanations (1) and (2) to rule 6(1)]:** For the purpose of rule 6, 'exempted goods' and 'final product' shall include 'non -excisable goods'

The implication of the said amendment is that inputs and input services used in the manufacture of non-excisable goods will also attract the reversal provisions under rule 6.

8. Provisions applicable to first/second stage dealer regarding maintenance of records to be able to pass on the credit, to apply to an importer issuing CENVATable invoice [Rule 9(4)]: Credit on goods purchased from first stage / second stage dealer: Sub-rule (4) lays down that the CENVAT credit in respect of inputs or capital goods purchased from a first stage dealer or second stage dealer shall be allowed only if-

a) Such first stage dealer/second stage dealer has maintained records indicating the fact that the input or capital goods was supplied from the stock on which duty was paid by the producer of such input or capital goods; **and**

b) Only an amount of such duty on **pro rata basis** has been indicated in the invoice issued by him.

Note: The provisions of this sub-rule will **apply to an importer who issues an invoice** on which CENVAT credit can be taken. **[Effective from 01.03.2015]**

9. **Clarification regarding determination of place of removal in the case of exports for purposes of CENVAT credit of input services [Circular No. 999/6/2015 CX dated 28.02.2015]:** While determining the eligibility of the input services to CENVAT credit, determination of place of removal is required. The following has been clarified in this regard:

a) Place of removal in case of direct export of goods by the manufacturer exporter to his foreign buyer will be the port/ICD/CFS where the shipping bill is filed by the manufacturer exporter.

b) Place of removal in case of clearance of goods from the factory for export by a merchant exporter will be the factory gate. However, in isolated cases, it may extend further also depending on the facts of the case, but in no case, this place can be beyond the Port/ICD/CFS where shipping bill is filed by the merchant exporter.

THE END

Believe in yourself! Have faith in your abilities! Without a humble but reasonable confidence in your own powers you cannot be successful or happy.
Norman Vincent Peale