

PROFESSIONAL PROGRAMME

SUPPLEMENT

FOR

ADVANCE TAX LAWS AND PRACTICE

(DIRECT TAX PART - A)

(Relevant for Students appearing in June, 2018 Examination)

MODULE 3- PAPER 7

Disclaimer-

This document has been prepared purely for academic purposes only and it does not necessarily reflect the views of ICSI. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.

Students appearing in June, 2018 Examination shall note the following:

1. *For Direct taxes, Finance Act, 2017 is applicable.*
2. *Applicable Assessment year is 2018-19 (Previous Year 2017-18).*
3. *Since, Wealth Tax Act, 1957 has been abolished w.e.f. 1st April, 2016. The questions from the same are not being asked in examination from December 2015 session onwards.*
4. *For Indirect Taxes:*
 - i) *Goods and Services Tax 'GST' is applicable for Executive Programme*
 - ii) *Goods and Services Tax 'GST' & Customs Law is applicable for Professional Programme*
5. *All the rules relating to GST notified upto 1st December, 2017 shall also be applicable.*
6. *Students are also required to update themselves on all the relevant Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBEC & Central Government, on or before six months prior to the date of the examination.*

The supplement is to facilitate the students to acquaint themselves with the amendments in tax laws upto December, 2017, applicable for June, 2018 Examination. The supplements cover the major Notifications and Circulars issued by CBDT from 1st July, 2017 to 31st December, 2017. The students are advised to read their Study Material (2017 Edition) along with these supplement. The Study Material (2017 Edition) of Advance Tax Laws and Practice are available at the Institute website at the following weblink:

https://www.icsi.edu/WebModules/FULLBOOK_PP_ATLP2017_OCT2017.pdf

In the event of any doubt, students may write to the Institute for clarifications at academics@icsi.edu

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PART A – DIRECT TAXATION

INCOME TAX ACT, 1961 & RULES 1962

NOTIFICATIONS

NOTIFICATION NO. 57/2017 DATED 3RD JULY, 2017

Section 269ST of the Income Tax Act “The Act” specifies that no person shall receive an amount of two lakh rupees or more:

- a) in aggregate from a person in a day; or
- b) in respect of a single transaction; or
- c) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account.

The Central Government hereby specifies that the provision of section 269ST shall not apply to the following, namely:

- a) receipt by a business correspondent on behalf of a banking company or co-operative bank, in accordance with the guidelines issued by the Reserve Bank of India;
- b) receipt by a white label automated teller machine operator from retail outlet sources on behalf of a banking company or co-operative bank, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007 (51 of 2007);
- c) receipt from an agent by an issuer of pre-paid payment instruments, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007 (51 of 2007);
- d) receipt by a company or institution issuing credit cards against bills raised in respect of one or more credit cards;
- e) receipt which is not includible in the total income under clause (17A) of section 10 of the Income-tax Act, 1961.

The notification shall be deemed to have come into force with effect from the 1st day of April, 2017.

NOTIFICATION NO. 58/2017 DATED 3RD JULY, 2017

Section 44AB of the Act contains the provision related to Audit of accounts of certain persons carrying on business or profession. Such person as specified in section 44AB of the Act get his accounts of such previous year audited by an accountant before the specified date and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed. The format of the audit report is specified in the Income Tax Rules.

The Central Board of Direct Taxes hereby makes the Income-tax (18th Amendment) Rules, 2017. They shall come into force from the 19th day of July 2017. The Income-tax (18th Amendment) Rules, 2017 makes certain changes in Audit report i.e. Form 3CD.

For see the changes in Form 3CD details: please refer weblink:

https://www.incometaxindia.gov.in/communications/notification/notification58_2017.pdf

NOTIFICATION NO. 59/2017 DATED 4TH JULY, 2017

As per Rule 29B of the Income Tax Rules, 1962, Any person entitled to receive any interest, or other sum, on which income-tax has to be deducted under sub-section (1) of section 195 may, if he fulfils the conditions specified in sub-rule (2), make an application for the grant of a certificate under sub-section (3) of section 195 authorising him to receive without deduction of tax under sub-section (1) of that section any such income as is specified.

The Central Board of Direct Taxes, hereby, makes the Income-tax (19th Amendment) Rules, 2017. They shall come into force from the date of their publication in the Official Gazette.

In the Income-tax Rules, 1962 (hereafter referred to as the Principal rules), in rule 29B, in sub-rule (1), clause (i), for the words "interest on securities" the words and brackets and figures "interest on securities (other than interest payable on securities referred to in proviso to section 193)" shall be substituted.

In the principal rules, in Form No. 15C, for the words "interest on securities" the words, brackets and figures "interest on securities (other than interest payable on securities referred to in the proviso to section 193)" shall be substituted.

NOTIFICATION NO. 61/2017 DATED 12TH JULY, 2017

As per section 50CA of the Act, where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, the value so determined shall, for the purposes of section 48, be deemed to be the full value of consideration received or accruing as a result of such transfer.

The Central Board of Direct Taxes hereby makes the Income-tax (20th Amendment), Rules, 2017. They shall come into force from the 1st day of April, 2018 and shall apply in relation to assessment year 2018-19 and subsequent years.

In the Income-tax Rules, 1962,

(A) in rule 11UA, sub-rule (1), in clause (c), for sub-clause(b), the following sub-clause shall be substituted, namely:-

"(b) the fair market value of unquoted equity shares shall be the value, on the valuation date, of such unquoted equity shares as determined in the following manner, namely:— the fair market value of unquoted equity shares $= (A+B+C+D - L) \times (PV)/(PE)$, where,

A= book value of all the assets (other than jewellery, artistic work, shares, securities and immovable property) in the balance-sheet as reduced by,-

- (i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any; and
- (ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;

B = the price which the jewellery and artistic work would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer;

C = fair market value of shares and securities as determined in the manner provided in this rule;

D = the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property;

L= book value of liabilities shown in the balance sheet, but not including the following amounts, namely:—

- (i) the paid-up capital in respect of equity shares;
 - (ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;
 - (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;
 - (iv) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
 - (v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;
 - (vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;
- PV= the paid up value of such equity shares;
PE = total amount of paid up equity share capital as shown in the balance-sheet;"

B) after rule 11UA, the following rule shall be inserted, namely:-

“ Determination of Fair Market Value for share other than quoted share.

11UAA. For the purposes of section 50CA, the fair market value of the share of a company other than a quoted share, shall be determined in the manner provided in sub-clause (b) or sub-clause(c), as the case may be, of clause (c) of sub-rule (1) of rule 11UA and for this purpose the reference to valuation date in the rule 11U and rule 11UA shall mean the date on which the capital asset, being share of a company other than a quoted share, referred to in section 50CA, is transferred.”

NOTIFICATION NO. 65/2017 DATED 20TH JULY, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

- (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;
- (b) is not engaged in any commercial activity; and
- (c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, the State Pollution Control Board, Odisha, a board established by the Government of Odisha, in respect of the following specified income arising to that board, namely:—

- (a) statutory Consent fees;
- (b) share of Water Cess from MOEF &CC, of Government of India;
- (c) penalties & Levies collected under governing statutes;
- (d) grant-in-aid received from Central & State Governments;
- (e) grant in Aid received on behalf of Central & State Governments in the capacity of nodal agency;
- (f) income by way of interest; (g) share of contributions received for carrying out environmental studies & research.

This notification shall be effective subject to the conditions that State Pollution Control Board, Odisha,—

- (a) shall not engage in any commercial activity;

(b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
(c) shall file return of income in accordance with the provision of clause (g) of subsection (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2015-2016, 2016-2017* and shall apply with respect to the Financial Years 2017-2018, 2018-2019 and 2019-2020.

NOTIFICATION NO. 66/2017 DATED 20TH JULY, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

- (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;
- (b) is not engaged in any commercial activity; and
- (c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, 'Haryana Electricity Regulatory Commission', a commission constituted under the Haryana Electricity Reform Act, 1997 (Haryana Act No. 10 of 1998), in respect of the following specified income arising to that body, namely:-

- (a) grants and loans made by the Government of Haryana;
- (b) fees received under the Electricity Act, 2003 (36 of 2003); and
- (c) interest earned on government grants and loans and fees received under the Electricity Act, 2003 (36 of 2003).

This notification shall be effective subject to the conditions that Haryana Electricity Regulatory Commission:-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the said Act.

This notification shall apply with respect to the financial years 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021-22.

NOTIFICATION NO. 67/2017 DATED 20TH JULY, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

- (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;
- (b) is not engaged in any commercial activity; and
- (c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, 'National Council of Science Museums', Kolkata, an autonomous body established under the Ministry of Culture, Government of India, in respect of the following specified income arising to the Council, namely:—

- a) Amount received in the form of grants-in-aid and subsidies from Government of India;
- b) Fees or subscription by sale of tickets;
- c) Charges for maintenance recovered for use of auditorium and other public facilities for scientific and educational purposes; and
- d) Income arising or derived by way of interest received from investment.

This notification shall be effective subject to the conditions that National Council of Science Museums, Kolkata,—

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall apply with respect to the financial years 2017-2018, 2018-2019, 2019-2020 and 2020- 2021.

NOTIFICATION NO. 68/2017 DATED 20TH JULY, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

- (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;
- (b) is not engaged in any commercial activity; and
- (c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, 'National Biodiversity Authority', Chennai, an authority established under the Biological Diversity Act, 2002 (18 of 2003), in respect of the following specified income arising to that Authority, namely:—

- (a) amount received in the form of Grant-in-aid from Government of India;
- (b) benefit sharing fee and royalty received;
- (c) amount received in form of Application fee;
- (d) amount received in form of Interest; and
- (e) amount received in form of Penalty.

This notification shall be effective subject to the conditions that National Biodiversity Authority, Chennai, —

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial year 2016-2017 and shall apply with respect to the financial years 2017-2018, 2018-2019, 2019-2020 and 2020-2021

NOTIFICATION NO. 69/2017 DATED 20TH JULY, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

(a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;

(b) is not engaged in any commercial activity; and

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, the Assam State Biodiversity Board, a board established by the Government of Assam, in respect of the following specified income arising to that board, namely:—

(a) Grants received by the Board from Assam State Government and from National Biodiversity Authority;

(b) fee received by the Board for granting access to biological resources by applicants;

(c) fee/ Consultancy charges received from organizations for carrying out field studies/research works;

(d) interest earned on the Grants in aid provided to the Board by National Biodiversity Authority and Government of Assam; and

(e) interest earned from Term deposits with bank.

This notification shall be effective subject to the conditions that Assam State Biodiversity Board, —

(a) shall not engage in any commercial activity;

(b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and

(c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2015-16, 2016-17 and shall apply with respect to financial years 2017-18, 2018-19 and 2019-20.

NOTIFICATION NO. 70/2017 DATED 20TH JULY, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

(a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;

(b) is not engaged in any commercial activity; and

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, 'Noida Special Economic Zone Authority, Noida', an authority constituted under the Special Economic Zone Act, 2005 of the Government of India, in respect of the following specified income arising to that authority, namely:-

a) lease rent (charged as per Government prescribed rate);

b) interest from banks on FDRs;

c) receipts from I-Card and Permit fees;

d) allotment Fee in respect of Standard Design Factories(SDF);

e) auction/Bid amount in respect of Plots/Buildings which fall vacant;

f) transfer charges in respect of Plot/Building;

g) fee for issue of Form-I for exemption of Building Plans;

h) processing fee for approval of Building Plans;

i) site usage charges from Service providers; and

j) license fee for allotment of Staff Quarters to the staff.

This notification shall be effective subject to the conditions that Noida Special Economic Zone Authority, Noida

- (a) shall not engage in any commercial activity;
- (b) its activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) it files return of income in accordance with the provision of clause (g) of sub-section (4C) section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the Financial Year 2013-2014, 2014-2015, 2015-2016, 2016-2017 and shall apply with respect to the Financial Year 2017-2018.

NOTIFICATION NO. 76/2017 DATED 28TH JULY, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

- (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;
- (b) is not engaged in any commercial activity; and
- (c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, the Himachal Pradesh Electricity Regulatory Commission, a commission established by the Government of Himachal Pradesh, in respect of the following specified income arising to that Commission, namely:

- (a) amount received in the form of Government grants;
- (b) amount received as license fee from licensees in electricity;
- (c) amount received as Court fee or petition fee; and
- (d) interest earned on Government grants and fee received.

This notification shall be effective subject to the conditions that Himachal Pradesh Electricity Regulatory Commission,—

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the said Act.

This notification shall apply with respect to the financial years 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021-2022.

NOTIFICATION NO. 77/2017 DATED 3RD AUGUST, 2017

Section 9A of the Act specifies the certain activities not to constitute business connection in India. As per section 9A, In the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.

The eligible investment fund referred to in sub-section (1), means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions, namely:

- (a) the fund is not a person resident in India;
- (b) the fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into
- (c) the aggregate participation or investment in the fund, directly or indirectly, by persons resident in India does not exceed five per cent of the corpus of the fund;
- (d) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident;
- (e) the fund has a minimum of twenty-five members who are, directly or indirectly, not connected persons;
- (f) any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding ten per cent;
- (g) the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty per cent;
- (h) the fund shall not invest more than twenty per cent of its corpus in any entity;
- (i) the fund shall not make any investment in its associate entity;
- (j) the monthly average of the corpus of the fund shall not be less than one hundred crore rupees:
- (k) the fund shall not carry on or control and manage, directly or indirectly, any business in India
- (l) the fund is neither engaged in any activity which constitutes a business connection in India nor has any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf;
- (m) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the arm's length price of the said activity.

The Central Government hereby notifies that the conditions specified in clauses (e), (f) and (g) as specified above of sub-section 3 of Section 9A shall not apply in case of an investment fund set up by a Category-I or Category-II foreign portfolio investor registered under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

This notification shall come into force from the date of its publication in the Official Gazette.

NOTIFICATION NO. 79/2017 DATED 8TH AUGUST, 2017

As per section 54EC of the Act, where the capital gain arises from the transfer of a long-term capital asset and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain shall be dealt with as follow:

- (a) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;
- (b) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45

"long-term specified asset" for making any investment under this section on or after the 1st day of April, 2007 means any bond, redeemable after three years and issued on or after the 1st day of April, 2007 by the National Highways Authority of India or by the Rural Electrification Corporation Limited, or any other bond notified by the Central Government in this behalf.

The Central Government hereby notifies that any bond redeemable after three years and issued by the Indian Railway Finance Corporation Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956), on or after the date of publication of this notification in the Official Gazette, as 'long-term specified asset' for the purposes of the said section.

NOTIFICATION NO. 80/2017 DATED 18TH AUGUST, 2017

As per the provision of section 115JB of the Act, where in the case of an assessee, being a company, the income-tax, payable on the total income as computed under this Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2012, is less than eighteen and one-half per cent of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee on such total income shall be the amount of income-tax at the rate of eighteen and one-half per cent.

As per sub-section 4 of section 115JB of the act, Every company to which this section applies, shall furnish a report in the prescribed form from an accountant as defined in the Explanation below sub-section (2) of section 288, certifying that the book profit has been computed in accordance with the provisions of this section along with the return of income filed under sub-section (1) of section 139 or along with the return of income furnished in response to a notice under clause (i) of sub-section (1) of section 142.

The Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely;

These rules may be called the Income-tax (22nd Amendment), Rules, 2017. They shall come into force from the date of their publication in the official Gazette.

(A) in rule 12, in sub-rule (2), in the proviso, after the words, figures and letters "section 115JB", the words, figures and letters "section 115JC" shall be inserted;

(B) in Appendix II, for the 'Form No. 29B', the following Form shall be substituted.

For details 'Form No. 29B': please refer weblink:

https://www.incometaxindia.gov.in/communications/notification/notification80_2017.pdf

NOTIFICATION NO. 81/2017 DATED 28TH AUGUST, 2017

It is hereby notified for general information that the organization M/s Institute for Stem Cell Biology and Regenerative Medicine, Bangalore (PAN: AAAT17342D) has been approved by the Central Government for the purpose of clause (ii) of sub section (1) of section 35 of the Income-tax Act read with rules 5C and 5D of the Income tax rules for AY 2016-17 and onwards in the category of 'Scientific Research Association' subject to the following conditions namely;

- i. The sole objective of the approved organization shall be to undertake scientific research.
- ii. The approved organization shall carry out scientific research by itself;
- iii. The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub section (3) of section 288 of the Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income tax or the Director of Income Tax having jurisdiction over the case, by the due date of furnishing the return of Income under section 139(1) of the Act.
- iv. The approved organization shall maintain a separate statement of donations received and amount applied for scientific research and a copy of such statement duly certified shall accompany the report of audit referred to above.

The Central Government shall withdraw the approval if the approved organization:

- a) Fails to maintain separate books of accounts
- b) Fails to furnish the audit report
- c) Fails to furnish the statement of donations received and sum applied for scientific research
- d) Ceases to carry out research activities or the research activities are not found to be genuine
- e) Ceases to comply with the provision of section 35(1)(ii) of the Act read with rules 5C and 5D of the said rules.

NOTIFICATION NO. 83/2017 DATED 30TH AUGUST, 2017

As per the provision of section 10(18) of the Act, any income by way of —

- i. pension received by an individual who has been in the service of the Central Government or State Government and has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" **or such other gallantry award** as the Central Government may, by notification in the Official Gazette, specify in this behalf;
- ii. family pension received by any member of the family of an individual referred to in sub-clause (i).

is exempt from tax.

The Central Government hereby specifies the gallantry awards for the purpose of the said section, mentioned in column (2) of the Table below, awarded in the circumstances mentioned in corresponding column (3) thereof.

TABLE

Sl. No.	Name of gallantry award	Circumstances for eligibility
(1)	(2)	(3)
1	Asadharan Suraksha Seva Praman Patra	When awarded for acts of exceptional courage or conspicuous Gallantry displayed by personnel of Research and Analysis Wing and Director General (Security) and certified to this effect by the Head Asadharan Suraksha Seva Praman Patra of the Department concerned.

NOTIFICATION NO. 84/2017 DATED 30TH AUGUST, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

- (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;
- (b) is not engaged in any commercial activity; and
- (c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, 'Gujarat Electricity Regulatory Commission', a Commission constituted under the Electricity Regulatory Commissions Act, 1998, in respect of the following specified income arising to that Commission, namely:

- (a) amounts received in form of grants and aid from Government;
- (b) amount received in the form of petition fees or processing fee for determination of tariff;
- (c) amount received in the form of License fees; Application fees or in nature of fines;
- (d) interest earned on investment or deposit or Saving/Current Bank Accounts;

- (e) fees for documents;
- (f) penalty or interest for delayed payment of Annual License fees; and
- (g) fees for RTI.

This notification shall be effective subject to the conditions that Gujarat Electricity Regulatory Commission:—

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the said Act.

This notification shall be deemed to have been applied for the financial year 2016-2017 and shall apply with respect to financial years 2017-2018, 2018-2019, 2019-2020 and 2020-2021.

NOTIFICATION NO. 85/2017 DATED 26TH SEPTEMBER, 2017

As per the provision of section 10(39) of the Act, Any specified income, arising from any international sporting event held in India, to the person or persons notified by the Central Government in the Official Gazette, if such international sporting event—

- a) is approved by the international body regulating the international sport relating to such event;
- b) has participation by more than two countries;
- c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies the following as the international sporting event, persons and specified income for the purpose of the said clause namely:

- (a) Federation international of Football Association under-17 Football World Cup as the international sporting event;
- (b) the Federation international of Football Association, as the person;
- (c) the following income as specified income arising to Federation international de Football Association, from organising the Federation international of Football Association under-17 Football World Cup, 2017, India:
 - (i) income arising from the receipt from National supporters namely Hero Motocorp Ltd., Bank of Baroda and Coal India Ltd. – rupees twenty-nine crore eighty-nine lakhs fifty-two thousand and two hundred and fifty-two (Rs. 29,89,52,250) only; and
 - (ii) income arising from the receipt of ticket sales –rupees six crore eighty-one lakhs fifteen thousand one hundred and forty-eight (Rs. 6,81,15,148) only.

NOTIFICATION NO. 87/2017 DATED 27TH OCTOBER, 2017

Section 80G of the Act specifies the deduction in respect of donations to certain funds, charitable institutions, etc. The Central Government hereby notifies "Arulmigu Kapaleeswarar Thirukoil, Mylapore, Chennai," to be place of historic importance and a place of public worship of renown throughout the state of Tamil Nadu for the purposes of the said section.

NOTIFICATION NO. 88/2017 DATED 27TH OCTOBER, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

- (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;
- (b) is not engaged in any commercial activity; and
- (c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, 'Swasthya Sathi Samiti', Kolkata, a body established by the Government of West Bengal, in respect of the following specified income arising to that body, namely:—

- a) Grant received from the Government of West Bengal; and
- b) Interest income on grants.

This notification shall be effective subject to the conditions that Swasthya Sathi Samiti, Kolkata, -

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2016-2017 and shall apply with respect to the Financial Years 2017-2018, 2018-2019, 2019-2020 and 2020-2021.

NOTIFICATION NO. 89/2017 DATED 27TH OCTOBER, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

- (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;
- (b) is not engaged in any commercial activity; and
- (c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, Madhya Pradesh Pollution Control Board, a Board constituted by Government of Madhya Pradesh, in respect of the following specified income arising to that Board, namely:-

- (a) consent fee or no objection certificate fees under the Water and Air Act;
- (b) renewal of consent issued fees;
- (c) analysis fees on air quality and water quality or noise level survey fees;
- (d) authorization fees;
- (e) cess re-imbursement and cess appeal fees;
- (f) reimbursement of the expenses received from the Central Pollution Control Board towards National Air Monitoring Program, the monitoring of Indian National Aquatic resources and like schemes;
- (g) sale of books relating to environmental law, regulations, important judicial orders and environmental issues where no profit element is involved and the activity is not commercial nature;
- (h) interest on deposits;
- (i) public hearing fees;

- (j) vehicle emission monitoring test fees;
- (k) fees received for processing by State Environmental Impact Assessment Authority;
- (l) fees collected for training conducted by the Environmental Training Institute of the Board where no profit element is involved and the activity is not commercial in nature;
- (m) fees received under the Right to Information Act, 2005 (22 of 2005) and appeal fees;
- (n) pollution cost or forfeiture or bank guarantee due to non-compliance; and
- (o) income from sale of old or scrap items, tender fees.

This notification shall be effective subject to the conditions that Madhya Pradesh Pollution Control Board, -

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the Financial Year 2016-2017 and shall apply with respect to the Financial Years 2017-2018, 2018-2019, 2019-2020 and 2020-2021.

NOTIFICATION NO. 91/2017 DATED 30TH OCTOBER, 2017

The Central Government hereby notifies Indian Commodity Exchange Limited as a recognized association for the purpose of clause (iii) in the explanation of clause (a) of the proviso to sub section (2) of section 43 of the Act with effect from the date of publication of this notification in the Official Gazette.

The Central Government shall withdraw the recognition granted to Indian Commodity Exchange Limited if it;

- i. ceases to have the approval of the Forward Markets Commission established under the Forward Contracts (Regulation) Act, 1952 in respect of trading in derivatives and shall function in accordance with the guidelines or condition laid down by it;
- ii. Fails to ensure that the particulars of the client are duly recorded and stored in its database; or
- iii. Fails to maintain complete audit trail of all transaction for a period of seven years on its system
- iv. Fails to ensure that the transactions once recognized in the system are not erased;
- v. Fails to ensure that the transactions once registered in the system are modified only in case of genuine error and maintain data regarding all transactions registered in the system which have been modified and submit a monthly statement in Form No. 3BC to the Director General of Income tax within 15 days from the last date of each month to which such statement relates.

This notification shall remain in force:

- a) Until the approval granted by SEBI is withdrawn or expires or
- b) If any of the condition stipulated above are violated or
- c) Under exercise of power vested in Central Government under rule 6DD of sub rule 5 of Income Tax Rules 1962, this notification shall stand rescinded on 31.10.2018 with liberty to the applicant to file a fresh application for approval.

Whichever is earlier.

NOTIFICATION NO. 92 /2017 DATED 31ST OCTOBER, 2017

Section 92D of the Act specifies the provision for Maintenance and keeping of information and document by persons entering into an international transaction or specified domestic transaction.

In exercise of the powers conferred by proviso to sub-section (1) of section 92D and subsection (8) of section 286 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

Short title and commencement: These rules may be called the Income-tax (Twenty-fourth Amendment) Rules, 2017. They shall come into force from the date of its publication in the Official Gazette.

In the Income-tax Rules, 1962 (hereafter referred to as the Principal Rules), in Part II, after rule 10D, the following rules shall be inserted, namely:- **“Information and documents to be kept and maintained under proviso to sub-section (1) of section 92D and to be furnished in terms of sub-section (4) of section 92D.**

For details: please refer weblink:

https://www.incometaxindia.gov.in/communications/notification/notification92_2017.pdf

NOTIFICATION NO. 94/2017 DATED 9TH NOVEMBER, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

- (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;
- (b) is not engaged in any commercial activity; and
- (c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, the Haryana State Legal Services Authority, constituted by the Government of Haryana under the Legal Services Authorities Act, 1987, in respect of the following specified income arising to that Authority, namely:

- (a) grants received from Central Authority i.e. National Legal Services Authority (NALSA) for the purposes of The Legal Service Authorities Act, 1987;
- (b) grants or donations received from the State Government of Haryana;
- (c) amount received under the orders of Courts;
- (d) fee received as recruitment application fees; and
- (e) interest income earned on deposits.

This notification shall be effective subject to the conditions that Haryana State Legal Services Authority—

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2015-2016 & 2016-2017 and shall apply with respect to the financial years 2017-2018, 2018-2019 and 2019-2020.

NOTIFICATION NO. 95/2017 DATED 9TH NOVEMBER, 2017

As per Section 10(46) of the Act, any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which:

(a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;

(b) is not engaged in any commercial activity; and

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

is exempt from tax.

The Central Government hereby notifies for the purposes of the said clause, 'Telangana Building and Other Construction Workers Welfare Board', a board established by the Government of Telangana, in respect of the following specified income arising to that board, namely:

a) Cess received;

b) Registration and renewal fee collection from the Building and other construction workers; and

c) Interest received on deposits.

This notification shall be effective subject to the conditions that Telangana Building and Other Construction Workers Welfare Board,—

a) shall not engage in any commercial activity;

b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and

c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be applicable for the financial years 2017-2018, 2018-2019, 2019-2020, 2020- 2021 and 2021-2022.

NOTIFICATION NO. 96/2017 DATED 14TH NOVEMBER, 2017

It is hereby notified for general information that the organization M/s International Crop Research Institute for Semi Arid Tropics has been approved by the Central Government for the purpose of clause (ii) of sub section (1) of section 35 of the Income-tax Act read with rules 5C and 5D of the Income tax rules for AY 2017-18 and onwards in the category of 'Scientific Research Association' subject to the following conditions namely;

- i. The sole objective of the approved organization shall be to undertake scientific research.
- ii. The approved organization shall carry out scientific research by itself;
- iii. The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub section (3) of section 288 of the Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income tax or the Director of Income Tax having jurisdiction over the case, by the due date of furnishing the return of Income under section 139(1) of the Act.
- iv. The approved organization shall maintain a separate statement of donations received and amount applied for scientific research and a copy of such statement duly certified shall accompany the report of audit referred to above.

The Central Government shall withdraw the approval if the approved organization:

a) Fails to maintain separate books of accounts

b) Fails to furnish the audit report

c) Fails to furnish the statement of donations received and sum applied for scientific research

d) Ceases to carry out research activities or the research activities are not found to be genuine

e) Ceases to comply with the provision of section 35(1)(ii) of the Act read with rules 5C and 5D of the said rules.

CIRCULARS

CIRCULAR NO. 22/2017 DATED 3RD JULY, 2017

Clarifications in respect of section 269ST of the Income-tax Act, 1961

With a view to promote digital economy and create a disincentive against cash economy, a new section 269ST has been inserted in the Income-tax Act, 1961 (the Act) vide Finance Act, 2017. The said section inter-alia prohibits receipt of an amount of two lakh rupees or more by a person, in the circumstances specified therein, through modes other than by way of an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account. Penal provisions have also been introduced by way of a new section 271DA, which provides that if a person receives any amount in contravention to the provisions of section 269ST, it shall be liable to pay penalty of a sum equal to the amount of such receipt.

It is further clarified that in respect of receipt in the nature of repayment of loan by NBFCs or HFCs, the receipt of one instalment of loan repayment in respect of a loan shall constitute a '*single transaction*' as specified in clause (b) of section 269ST of the Act and all the instalments paid for a loan shall not be aggregated for the purposes of determining applicability of the provisions section 269ST.

CIRCULAR NO. 23/2017 DATED 19TH JULY, 2017

Modification of Circular No.1 of 2014 in view of substitution of Service Tax by Goods and Services Tax (GST)

The Central Board of Direct Taxes (the Board) had earlier issued Circular No. 11/2014 dated 13.01.2014 clarifying that wherever in terms of the agreement or contract between the payer and the payee, the Service Tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Income tax Act, 1961 (the Act) on the amount paid or payable without including such Service Tax component.

It is noted that the Government has brought in force a new Goods and Services Tax regime with effect from 01.07.2017 replacing, amongst others, the Service Tax which was being charged prior to this date as per the provisions of Finance Act, 1994. Therefore, there is a need to harmonize the provisions of Circular No. 11/2014 of the Board with the new system for taxation of services under the GST regime.

In the light of the fact that even under the new GST regime, the rationale of excluding the tax component from the purview of TDS remains valid, the Board hereby clarifies that wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid or payable without including such 'GST on services' component. GST for these purposes shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax.

CIRCULAR NO. 24/2017 DATED 25TH JULY, 2017

Clarifications on computation of book profit for the purposes of levy of Minimum Alternate Tax (MAT) under section 115JB of the Income-tax Act, 1961 for Indian Accounting Standards (Ind AS) compliant companies

Central Government notified the Indian Accounting Standards (Ind AS) which are converged with International Financial Reporting Standards (IFRS) vide Companies (Indian Accounting Standards) Rules,

2015. Consequently, the Finance Act, 2017, has amended the provisions of section 115JB of the Income-tax Act, 1961 ('the Act') for Ind AS compliant companies w.e.f. 1st day of April, 2017 (A.Y. 2017-18)

The Central Board of Direct Taxes ('the Board ') has received representations from various stakeholders seeking clarifications on certain issues arising therefrom. The matter was referred to an expert committee. The Committee after duly considering the representations from stakeholders has recommended issuance of clarifications by way of FAQs for these issues. The matter has been considered by the Board and the following clarifications are issued:

Sr. No.	Question	Answer
1.	The profit for the period may include Marked to market (MTM) gains/ losses on account of fair value adjustments on various financial instruments recognised through profit or loss (FVTPL). A situation may arise where the losses on account of fair value adjustments could be added back in view of clause (i) of Explanation 1 to section 115JB (2) of the Act. Whether the losses on such instruments require any adjustment for computing book profits for the purposes of MAT?	<p>Since MTM gains recognised through profit or loss on FVTPL classified financial instruments are included in book profits for MAT computation, it is clarified that MTM losses on such instruments recognised through profit or loss shall not require any adjustments as provided under clause (i) of Explanation 1 to section 115JB(2) of the Act. However, in case of provision for diminution/ impairment in value of assets other than FVTPL financial instruments, the existing adjustment of clause (i) of Explanation 1 to section 115JB (2) of the Act shall apply.</p> <p>It is further clarified that for financial instruments where gains and losses are recognised through Other Comprehensive income (OCI), the amended provisions of MAT shall continue to apply.</p>
2.	For the purposes of section 115JB of the Act, what shall be the starting point for computing Book profits for Ind AS compliant companies? Whether Profit before other comprehensive income [Item number XIII in Part 2 (Statement of Profit and Loss) of Division II of Schedule III to the Companies Act 2013] or Total Comprehensive Income(including other comprehensive income)[Item number XV in Part 2 (Statement of Profit and Loss) of Division II of Schedule III to the Companies Act 2013] shall be the starting point?	Starting point for computing Book profits for Ind AS compliant companies shall be Profit before other comprehensive income [Item number XIII in Part 2 (Statement of Profit and Loss) of Division II of Schedule III to the Companies Act 2013].
3.	As per Explanation to Section 115 JB (2C) of the Act, the convergence date is defined as the first day of the first Indian Accounting standards reporting period as defined in Ind AS 101. The Memorandum explaining the provisions of the Finance Bill 2017 mentions that the adjustment as on the last day of the comparative period is to be considered. It may be clarified as to what would be the appropriate manner for computation of transition amount on convergence date, 1st April i.e. at the start of the day or at the end of the day?	<p>In the first year of adoption of Ind AS, the companies would prepare Ind AS financial statement for reporting year with a comparative financial statement for immediately preceding year.</p> <p>As per Ind AS 101, a company would make all Ind AS adjustments on the opening date of the comparative financial year. The entity is also required to present an equity reconciliation between previous Indian GAAP and Ind AS amounts, both on the</p>

		opening date of preceding year as well as on the closing date of the preceding year. The amounts as on start of the opening date of the first year of adoption should be considered for the purposes of computation of transition amount.
4.	As per Indian GAAP, proposed dividend was required to be recognized in the financial statements for the year for which it pertained to even though these were declared in the subsequent year. Section 115JB of the Act already provides for adjustments for dividend for computation of book profit. As per Ind AS, the amount of proposed dividend (including dividend distribution taxes) is required to be recognized in the year in which it has been declared rather than the year for which it pertains to. Accordingly, on transition to Ind AS, the amount of proposed dividend for FY 2015-16 which was recognized in profit and loss account in FY 2015-16 is required to be reversed and credited to Retained Earnings. For the computation of MAT, whether these balances would form part of the transition amount and thus be adjusted over a period of 5 years?	Adjustment of proposed dividend (including dividend distribution taxes) shall not form part of the transition amount.
5.	Under Ind AS, adjustments on the transition date may have a corresponding impact on deferred taxes. Should the deferred taxes on such amounts be considered for the purpose of transition amount?	Any deferred taxes adjustments recorded on the transition date shall be ignored for the purpose of computing Transition Amount
6.	As mentioned in Question No.1, clause (i) of Explanation 1 to Section 115JB(2) of the Act provides for adjustments for computation of book profit for the amount or amounts set aside as provision for diminution in the value of any asset. Convergence date adjustments may include adjustment for Provision for Bad and Doubtful Debts (Expected Credit Loss adjustment) at the time of transition. Whether these adjustments would form part of the transition amount referred to in section 115JB(2C) of the Act?	Adjustments relating to provision for diminution in the value of any assets other than the ones mentioned in Question Number 1 above, shall not be considered for the purpose of computation of the Transition Amount. Therefore, adjustments relating to provision for doubtful debts shall not be considered for the purpose of computation of the transition amount.
7.	Under Section 115 JB of the Act, transition amount has been defined as the amount or the aggregate of the amounts adjusted in the 'Other Equity' (excluding capital reserve and securities premium reserve) on the convergence date. Whether changes in share application money on reclassification to 'Other Equity' would form part of the Transition Amount?	Share application money pending allotment which is reclassified to Other Equity on transition date shall not be considered for the purpose of computing Transition Amount.
8.	Under Ind AS, Investments in preference share is considered to be a liability and the corresponding dividend expense is debited to Profit and loss account as interest cost. Should such interest expenses on preference shares be deducted for the purpose of MAT computation?	For the purpose of computation of MAT, profit/Transition Amount shall be increased by dividend/interest on preference share (including dividend distribution taxes) whether presented as dividend or interest.

9.	How do we account for items such as equity component, if any, of financial instruments like Non-Convertible debentures (NCDs), Interest free loan etc. included in other equity as per Ind AS for the computation of transition amount under MAT?	Items such as equity component of financial instruments like NCD's, Interest free loan etc. would be included in the Transition Amount.
10.	Where revaluation/ fair value adjustments have been made to items of Property, Plant & Equipment (PPE) under Ind AS, as per section 115JB of the Act, the book profit of the previous year in which the items of PPE are retired, disposed or realised shall be increased or decreased, as the case may be, by the revaluation amount relatable to such items of PPE. Whether the revaluation amount to be considered for adjustment should be the gross amount of the revaluation or the amount after adjustment of the depreciation on the revaluation amount?	The book profit of the previous year in which the items of PPE are retired, disposed, realised or otherwise transferred shall be increased or decreased, as the case may be, by the revaluation amount after adjustment of the depreciation on the revaluation amount relatable to such asset.
11.	How should adjustments for service concession arrangements be treated for the purpose of computation of book profit under MAT?	Adjustments on account of Service Concession arrangements would be included in the Transition Amount and also on an ongoing basis.
12.	Existing clause (iii) of explanation to section 115JB(2) of the Act provides for deduction of lower of the amount of loss brought forward or unabsorbed depreciation as per books of account for computation of book profits. In case where, on adjustment of transition amount, the losses as per books of account gets wiped off, whether deduction for the said amount would be available for assessment year 2017-2018 onwards?	For assessment year 2017-2018, the deduction of lower of depreciation or losses shall be allowed based on the position as on 31 March 2016. For the subsequent periods, the position as per books of account drawn as per Ind AS shall be considered for computing lower of loss brought forward or unabsorbed depreciation.
13.	How Capital Reserves or Securities Premium existing as per old Indian GAAP reclassified to Retained Earnings/ Other Reserves on Convergence date be treated for MAT purpose.	The Capital Reserves or Securities Premium existing as on the convergence date as per the erstwhile Indian GAAP which are reclassified to Retained Earnings/ Other Reserves under Ind AS and vice versa, shall not be considered for the purposes of Transition Amount. It is further clarified, that even after such reclassifications, the amount of revaluation reserve shall continue to be considered as revaluation reserve for the purposes of computation of book profit and shall also include transfer to any other reserves by whatever name called or capitalised.
14.	Companies which follow accounting year other than March, 2017 ending for Companies Act purposes and are required to transition to Ind AS will have to prepare financial statements for MAT purposes for FY 2016-17 partly under Indian GAAP and partly under Ind AS. How should such companies compute MAT on transition to Ind AS?	<p>In view of second proviso to section 115JB (2) of the Act, companies will be required to Follow Indian GAAP for the pre-convergence period and Ind AS for the balance period.</p> <p>For example, a Company following December ending will be required to prepare, accounts for MAT purposes under Indian GAAP for 9 months upto December</p>

	2016 and under Ind AS for 3 months thereafter. The transition amount will be calculated with reference to 1st January, 2017.
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CIRCULAR NO. 25/2017 DATED 23RD OCTOBER, 2017

Clarification related to guidelines for establishing 'Place of Effective Management' (PoEM) in India-reg.

The concept of 'Place of Effective Management' (POEM) for deciding residency status of a company other than an Indian company was introduced in the Income tax Act 1961 (the Act) which has become effective from, 1 April, 2017, i.e . Assessment Year 2017-18 onwards.

Guiding Principles for determination of PoEM of a company were issued on 24th January, 2017 vide Circular No 06 of 2017. Further, vide Circular No 08 of 2017 dated 23rd February, 2017, it has been clarified that the PoEM provisions shall not apply to a company having turnover or gross receipts of Rs 50 crore or less in a financial year.

Representations have been received from the stakeholders wherein concerns have been raised that as per the extant guidelines, PoEM may be triggered in cases of certain multinational companies with regional headquarter structure merely on the ground that certain employees having multi-country responsibility or oversight over the operations in other countries of the region are working from India and consequently their income from operations outside India may be taxed in India.

In this regard, it may be mentioned that Para 7 of the guidelines provides that the place of effective management in case of a company engaged in active business outside India (ABOI) shall be presumed to be outside India if the majority meetings of the board of directors (BoD) of the company are held outside India.

However, Para 7.1 of the guidelines provides that if on the basis of facts and circumstances it is established that the Board of directors of the company are standing aside and not exercising their powers of management and such powers are being exercised by either the holding company or any other person (s) resident in India, then the POEM shall be considered to be in India.

It has also been provided that for this purpose merely because the BoD follows general and objective principles of global policy of the group laid down by the parent entity which may be in the field of Pay roll functions, Accounting, Human resource (HR) functions, IT infrastructure and network platforms, Supply chain functions, Routine banking operational procedure, and not being specific to any entity or group of entities per se; would not constitute a case of BoD of companies standing aside.

In view of the above, it is clarified that so long as the Regional Headquarter operates for subsidiaries/ group companies in a region within the general and objective principles of global policy of the group laid down by the parent entity in the F No 142/11 /2015-TPL (Pt. I) field of Pay roll functions, Accounting, HR functions, IT infrastructure and network platforms, Supply chain functions, Routine banking

operational procedures, and not being specific to any entity or group of entities per se; it would, in itself, not constitute a case of BoD of companies standing aside and such activities of Regional Headquarter in India alone will not be a basis for establishment of PoEM for such subsidiaries/ group companies.

It may be mentioned that the provisions of General Anti-Avoidance Rule contained in Chapter X-A of the Income-tax Act, 1961 may get triggered in such cases where the above clarification is found to be used for abusive/ aggressive tax planning.

CIRCULAR NO. 27/2017 DATED 3RD NOVEMBER, 2017

Clarification on Cash sale of agricultural produce by cultivators / agriculturist

Representations have been received from the stakeholders regarding applicability of income-tax provision to cash sale of agricultural produce by cultivators/agriculturists to traders.

In this context, it is stated that the provisions of section 40A (3) of the Income-tax Act, 1961 ('the Act') provides for the disallowances of expenditure exceeding Rs. 10000 made otherwise than by an account payee cheque/draft or use of electronic clearing system through a bank account. However, rule 6DD of the Income-tax Rules, 1962 ('IT Rules') carves out certain exceptions from application of the provisions of section 40A (3) in some specific cases and circumstances, which inter alia include payments made for purchase of agricultural produce to the cultivators of such produce. Therefore, no disallowance under section 40A (3) of the Act can be made if the trader makes cash purchases of agricultural produce from the cultivator.

Further, section 269ST, subject to certain exceptions, prohibits receipt of Rs. 2 lakh or more otherwise than by an account payee cheque/draft or by use of electronic clearing system through a bank account from a person in a day or in respect of a single transaction or in respect of transactions relating to an event or occasion from a person. Therefore, any cash sale of an amount of Rs. 2 lakh or more by a cultivator of agricultural produce is prohibited under section 269ST of the Act.

Further also the provisions relating to quoting of PAN or furnishing of Form No.60 under rule 114B of the IT Rules do not apply to the sale transaction of Rs. 2 Lakh or less.

In view of the above, it is clarified that cash sale of the agricultural produce by its cultivator to the trader for an amount less than Rs 2 Lakh will not:- a) result in any disallowance of expenditure under section 40A (3) of the Act in the case of trader b) attract prohibition under section 269ST of the Act in the case of the cultivator; and Page 1 of 2 c) require the cultivator to quote his PAN/ or furnish Form No.60.

CIRCULAR NO. 28/2017 DATED 7TH NOVEMBER, 2017

Clarification on Indirect Transfer provisions in case of redemption of share or interest outside India under the Income-tax Act, 1961

Under the provisions contained in section 9(1)(i) of the Income-tax Act, 1961 'Act', all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India or through the transfer of a capital asset situate in India, shall be deemed to accrue or arise in India. Explanations 5, 6 and 7 of section 9(1)(i) further define the scope of said provision.

Concerns have been expressed by investment funds, including private equity funds and venture capital funds that on account of the extant indirect transfer provisions in the Act, non-resident investment funds investing in India, which are set up as multi-tier investment structures, suffer multiple taxation of the same income at the time of subsequent redemption or buyback. Such taxability arises firstly at the level of the fund in India on its short term capital gain / business income and then at every upper level of investment in the fund chain on subsequent redemption or buyback. The Board has received representations to exclude investors above the level of the direct investor who is already chargeable to tax in India on such income, from the ambit of indirect transfer provisions of the Act.

Addressing such concerns in his Budget speech on 1st February, 2017, the Finance Minister had stated that Category I and Category II Foreign Portfolio Investors (FPI) will be exempted from indirect transfer provisions. It was also stated that a clarification will be issued that indirect transfer provisions shall not apply in case of redemption of shares or interests outside India as a result of or arising out of redemption or sale of investment in India which is chargeable to tax in India.

Vide Finance Act, 2017, Category I and Category II FPIs have already been exempted from indirect transfer provisions of the Act through insertion of proviso to Explanation 5 to section 9(1)(i) of the Act, with effect from 01.04.2015.

There could be situations in multi-tiered investment structures, where interest or share held indirectly by a non-resident in an Investment Fund or a Venture Capital Company or a Venture Capital Fund (hereinafter referred to as 'specified funds'), is redeemed in an upstream entity outside India in consequence of transfer of shares or securities held in India by the specified funds, the income of which have been subject to tax in India. In such cases, application of indirect transfer provisions on redemption of share or interest in the upstream entity may lead to multiple taxation of the same income. In respect of Category I and Category II FPIs though, such multiple taxation will not take place on account of the insertion of proviso to Explanation 5 to section 9(1)(i) of the Act, vide Finance Act, 2017.

The matter has been examined by the Board and it has been decided that the provisions of section 9(1)(i) of the Act read with Explanation 5 thereof shall not apply in respect of income accruing or arising to a non-resident on account of redemption or buyback of its share or interest held indirectly (i.e. through upstream entities registered or incorporated outside India) in the specified funds if such income accrues or arises from or in consequence of transfer of shares or securities held in India by the specified funds and such income is chargeable to tax in India. However, the above benefit shall be applicable only in those cases where the proceeds of redemption or buyback arising to the nonresident do not exceed the pro-rata share of the non-resident in the total consideration realized by the specified funds from the said transfer of shares or securities in India. It is further clarified that a non-resident investing directly in the specified funds shall continue to be taxed as per the extant provisions of the Act.
