PAPER 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION

SECTION – A: STATUTORY UPDATE

The direct tax laws, as amended by the Finance Act, 2019, the Finance (No.2) Act, 2019 and Taxation Laws (Amendment) Act, 2019, including significant notifications and circulars issued upto 30th April, 2020 are applicable for November, 2020 examination. The relevant assessment year for November, 2020 examination is A.Y.2020-21. The amendments made by the Taxation Laws (Amendment) Act, 2019 and significant notifications/circulars issued upto 30th April, 2020, relevant for November, 2020 examination but not covered in the October, 2019 edition of the Study Material, are given hereunder:

PART – I : DIRECT TAX LAWS

Chapter 7: Capital Gains

Central Government notifies "specified securities" for the purposes of section 47(viiab)(d) [Notification No. 16/2020, dated 05-03-2020]

Section 47(viiab)(a)/(b)/(c) provides that any transfer of a capital asset, being bond or Global Depository Receipt referred to in section 115AC(1) or rupee denominated bond of an Indian company or a derivative, made by a non-resident on a recognised stock exchange located in any International Financial Services Centre (IFSC) would not be considered as transfer for attracting capital gains tax, where the consideration for such transfer is paid or payable in foreign currency.

Further, section 47(viiab)(d) provides that any transfer of a capital asset, being such other securities as may be notified by the Central Government in this behalf, made by a non-resident on a recognised stock exchange located in any IFSC would not be considered as transfer for attracting capital gains tax, where the consideration for such transfer is paid or payable in foreign currency.

Accordingly, the Central Government has, vide this notification, specified the following securities:

(i) foreign currency denominated bond;

(ii) unit of a Mutual Fund;

(iii) unit of a business trust;

(iv) foreign currency denominated equity share of a company;

(v) unit of Alternative Investment Fund,

which are listed on a recognised stock exchange located in any International Financial Services Centre in accordance with the regulations made by the SEBI under the Securities and Exchange Board of India Act 1992 or the International Financial Services Centres Authority under the International Financial Services Centres Authority Act 2019, as the case may be.

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Chapter 8: Income from Other Sources

Notification of class of persons, receipt of immovable property from whom would not attract the provisions of section 56(2)(x) [Notification No. 96/2019 dated 11.11.2019]

Section 56(2)(x) brings to tax under the head "Income from other sources", any sum of money received without consideration, if the aggregate value exceeds ₹ 50,000 or value of immovable property being land or building or both, received without consideration, if the stamp duty value exceeds ₹ 50,000. It also brings to tax, in a case where immovable property is received for inadequate consideration, the difference between the stamp duty value and actual sale consideration, if the stamp duty value exceeds such consideration and such excess amount is more than higher of ₹ 50,000 and 5% of sale consideration.

The proviso to section 56(2)(x), however, lists out the circumstances under which any sum of money or value of property would not be chargeable to tax under the head "Income from other sources". The Finance (No.2) Act, 2019 has inserted clause (XI) to the proviso to provide that any sum of money or value of property would not be chargeable to tax in the hands of the recipient if it is received from such class of persons and subject to such conditions, as may be prescribed.

Accordingly, the Central Government has, vide this notification, inserted Rule 11UAC to provide that the provisions of section 56(2)(x) shall **not** apply to any immovable property, being land or building or both, received by a resident of an unauthorised colony in the National Capital Territory of Delhi, where the Central Government by notification in the Official Gazette, regularised the transactions of such immovable property based on the latest Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration for conferring or recognising right of ownership or transfer or mortgage in regard to such immovable property in favour of such resident.

Meaning of the terms "Resident" and "Unauthorised colony":

Term	Meaning
Resident	A person having physical possession of property on the basis of a registered sale deed or latest set of Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration in respect of a property in unauthorised colonies and includes their legal heirs but does not include tenant, licensee or permissive user;
Unauthorised colony	A colony or development comprising of a contiguous area, where no permission has been obtained for approval of layout plan or building plans and has been identified for regularisation of such colony in pursuance to the notification number S.O. 683(E), dated the 24th March, 2008, of the Delhi Development Authority.

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Chapter 12: Assessment of Various Entities

The October, 2019 edition of the Study Material incorporates the amendments made by the Taxation Laws (Amendment) Ordinance, 2019, promulgated by the President of India on 20.9.2019. The same has been subsequently approved by the Cabinet, consequent to which, the Taxation Laws (Amendment) Bill, 2019, with certain further changes, was introduced in the Parliament. The same has been passed by both Houses of the Parliament and has received the assent of the President of India on 11.12.2019. This Act shall be deemed to have come into force on 20.9.2019.

On account of the subsequent amendments brought in through the Taxation Laws (Amendment) Bill, 2019 introduced in the Parliament, **students are advised to ignore Annexures 1, 2 and 3 of Chapter 12 in the printed copy of Module 2 of the October 2019 edition and instead, read the Annexures given hereunder:**

Annexure 1

Insertion of new sections 115BAB and 115BAA providing for concessional rate of tax in respect of certain domestic companies

New sections 115BAB and 115BAA have been inserted by the Taxation Laws (Amendment) Act, 2019, providing for concessional rates of tax and exemption from minimum alternate tax (MAT) in respect of certain domestic companies with effect from A.Y.2020-21. The provisions of these two new sections are tabulated hereunder -

(1)	(2)	(3)	(4)
	Particulars	**Section 115BAB**	**Section 115BAA**
(1)	Applicability	Domestic manufacturing company	Any domestic company
(2)	Rate of tax	15%	22%
(3)	Rate of surcharge	10%	10%
(4)	Effective rate of tax (including surcharge & HEC)	**17.16%** [Tax@15% (+) Surcharge@10% (+) HEC@4%]	**25.168%** [Tax@22% (+) Surcharge@10% (+) HEC@4%]
(5)	Applicability of MAT	Not applicable	Not applicable
(6)	**Manner of computation of tax liability**		
	Particulars	**Section 115BAB**	**Section 115BAA**
	Income on which concessional rate of tax is applicable	The rate of tax (i.e., **17.16%**) is applicable in respect of income derived from or incidental to manufacturing or	The rate of tax (i.e., **25.168%)** is notwithstanding anything

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		production of an article or thing. [**Read with point no.11 below, wherein the rate of 34.32% (i.e., Tax@30% + surcharge@10% + HEC@4%) would be applicable in specified circumstance]**	contained in the Income-tax Act, 1961, but subject to the provisions of Chapter XII, other than section 115BA and 115BAB.
	Rate of tax on income covered under Chapter XII [for example, long-term capital gains chargeable to tax u/s 112 and 112A, short-term capital gains chargeable to tax u/s 111A]	Such income would be subject to tax at the rates mentioned in the said sections in Chapter XII. Surcharge@10% would be levied on tax computed on such income. HEC@4% would be levied on the income-tax *plus* surcharge.	Such income would be subject to tax at the rates mentioned in the said sections in Chapter XII. Surcharge@10% is leviable on tax computed on such income. HEC@4% would be levied on the income-tax *plus* surcharge.
	Rate of tax on other income in respect of which no specific rate of tax is provided in Chapter XII	The applicable tax rate is **25.168% (i.e., tax@22%, *plus* surcharge @10% *plus* HEC@4%),** if such income has neither been derived from nor is incidental to manufacturing or production of an article or thing (For example, income from house property and income from other sources). In respect of such income, **no deduction or allowance in respect of any expenditure or allowance** shall be allowed in computing such income.	The applicable tax rate is **25.168% (i.e., tax@22% *plus* surcharge@10% *plus* HEC@4%).** There is, however, **no restriction regarding claim of any deduction or allowance** permissible under the relevant provisions of the Act.
	Rate of tax on STCG derived from transfer of a capital asset	The applicable rate of tax is **25.168% (i.e., tax@22%,**	The applicable rate of tax is **25.168% i.e., tax**

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	on which no depreciation is allowable under the Act		***plus* surcharge@10% *plus* HEC@4%).** There is, however, no restriction regarding claiming of deduction or allowance in this regard.	**@22%, *plus* surcharge @10% *plus* cess@4%.** There is no restriction regarding claiming of deduction or allowance in this regard.
(7)	**Conditions to be fulfilled for availing concessional rate of tax and exemption from MAT**			
	Particulars		**Section 115BAB**	**Section 115BAA**
	Conditions to be fulfilled for availing concessional rate of tax and exemption from MAT	(i)	The company should be **set-up and registered on or after 1.10.2019.**	No time limit specified. Both existing companies and new companies can avail benefit.
		(ii)	It should **commence manufacturing or production of an article or thing on or before 31.3.2023.**	Need not be a manufacturing or a production company
		(iii)	It should **not be formed by splitting up or the reconstruction of a business already in existence** (except in case of a company, business of which is formed as a result of the re-establishment, reconstruction or revival by the person of the business of any undertaking referred to in section 33B in the circumstances and within the period specified therein)	No similar condition has been prescribed

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		(iv)	It does **not** use any machinery or plant previously used for any purpose **[Refer Note at the end]**	No similar condition has been prescribed
		(v)	It does **not** use any building previously used as a hotel or a convention centre [meanings assigned in section 80-ID(6)] in respect of which deduction u/s 80-ID has been claimed and allowed.	No similar condition has been prescribed
		(vi)	It should **not** be engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it. ***Note** – Business of manufacture or production of any article or thing does **not** include business of –* *(1) Development of computer software in any form or in any media* *(2) Mining* *(3) Conversion of marble blocks or similar items into slabs* *(4) Bottling of gas into cylinder* *(5) Printing of books or production of cinematograph films* *(6) Any other business as may be notified by the Central Govt. in this behalf.*	No similar condition has been prescribed
		***Note** - If difficulty arises regarding fulfilment of conditions listed in (iv) to (vi) above, the CBDT may, with the approval of the Central Government, issue guidelines for the purpose of removing difficulty and to promote manufacturing or production of article or thing using new plant and machinery.*		

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		Every guideline issued by the CBDT has to be laid before each House of Parliament, and shall be binding on the person, and the income-tax authorities subordinate to it.
(8)	Common conditions for both sections for availing the concessional rate of tax and exemption from MAT	In case of a company opting for either section 115BAA or 115BAB, the total income should be computed - (i) without providing for deduction under any of the following sections:

Section	Provision
10AA	Exemption of profits and gains derived from export of articles or things or from services by an assessee, being an entrepreneur from his Unit in SEZ.
32(1)(iia)	Additional depreciation @20% or 35%, as the case may be, of actual cost of new plant and machinery acquired and installed by manufacturing undertakings.
32AD	Deduction@15% of actual cost of new plant and machinery acquired and installed by an assessee in a manufacturing undertaking located in the notified backward areas of Andhra Pradesh, Telengana, Bihar and West Bengal.
33AB	Deduction@40% of profits and gains of business of growing and manufacturing tea, coffee or rubber in India, to the extent deposited with NABARD in accordance with scheme approved by the Tea/Coffee/ Rubber Board.
33ABA	Deduction@20% of the profits of a business of prospecting for, or extraction or production of, petroleum or natural gas or both in India, to the extent deposited with SBI in an approved scheme or deposited in Site Restoration Account.
35(1)(ii)/ (iia)/(iii)	Deduction/weighted deduction for payment to any research association, company, university etc. for undertaking scientific research or social science or statistical research.
35(2AA)	Weighted deduction@150% of payment to a National Laboratory or University or IIT or approved specified person for scientific research

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			Section	Deduction
			35(2AB)	Weighted deduction@150% of in-house scientific research expenditure incurred by a company engaged in the business of bio-technology or in the business of manufacture or production of an article or thing.
			35AD	Investment-linked tax deduction for specified businesses.
			35CCC	Weighted deduction@150% of expenditure incurred on notified agricultural extension project
			35CCD	Weighted deduction@150% of expenditure incurred by a company on notified skill development project.
			80-IA to 80RRB	Deductions from gross total income under Chapter VI-A under the heading "C- Deductions in respect of certain incomes" **other than the provisions of section 80JJAA.**

(ii) without set-off of any loss or allowance for unabsorbed depreciation deemed so u/s 72A, where such loss or depreciation is attributable to any of the deductions listed in (i) above [Such loss and depreciation would be deemed to have been already given effect to and no further deduction for such loss shall be allowed for any subsequent year]

(iii) by claiming depreciation u/s 32 determined in the prescribed manner. However, additional depreciation u/s 32(1)(iia) cannot be claimed.

***Note* – *Additional points relevant in the context of section 115BAA*:**

(1) In case of a company opting for section 115BAA, total income should be computed without set-off of any loss carried forward or depreciation from any earlier assessment year, where such loss or depreciation is attributable to any of the deductions listed in (i) above [Such loss and depreciation would be deemed to have been already given effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year]

(2) In the case of a person having a Unit in the IFSC, referred to in section 80LA(1A), which has exercised option for section 115BAA, deduction u/s 80LA would be allowed subject to fulfilment of the conditions specified in that section.

(3) Where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to A.Y.2020-21,

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		corresponding adjustment shall be made to the WDV of such block of assets as on 1.4.2019 in the prescribed manner, if option for section 115BAA is exercised for P.Y.2019-20 relevant to A.Y.2020-21.[For example, in case of an asset acquired and put to use for less than 180 days in P.Y. 2018-19, the effect of balance additional depreciation to be allowed in P.Y. 2019-20 will be made in the WDV of the block as on 1.4.2019, if option for section 115BAA is exercised for P.Y.2019-20 relevant to A.Y.2020-21] *(4) Since there is no time line within which option under section 115BAA can be exercised, a domestic company having brought forward losses and depreciation on account of deductions listed in (i) above may, if it so desires, postpone exercise the option under section 115BAA to a later assessment year, after set off of the losses and depreciation so accumulated.*	
	Particulars	**Section 115BAB**	**Section 115BAA**
(9)	Failure to satisfy conditions	On failure to satisfy the conditions mentioned in point no. (7) and (8) above in any P.Y., the option exercised would be **invalid** in respect of the assessment year relevant to that previous year and subsequent assessment years; Consequently, the other provisions of the Act would apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years. ***Note*** *– Where option exercised under section 115BAB is rendered invalid due to violation of conditions stipulated in point no.7 [(iv) to (vi)] above, such person may exercise option under section 115BAA.*	On failure to satisfy the conditions mentioned in point no.(8) above in any P.Y., the option exercised would be **invalid** in respect of the assessment year relevant to that previous year and subsequent assessment years; Consequently, the other provisions of the Act would apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.
	Particulars	**Section 115BAB**	**Section 115BAA**
(10)	Availability of set-off of MAT credit	Since it is a new company, there would be no brought forward MAT credit	Brought forward MAT credit cannot be set-off against income u/s

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	brought forward from earlier years		115BAA. ***Note*** *- If a company has b/f MAT credit, it can first exhaust the MAT credit, and thereafter opt for section 115BAA in a subsequent previous year.*
	Particulars	**Section 115BAB**	**Section 115BAA**
(11)	Adjustments for transactions with persons having close connection	If the Assessing Officer opines that the course of business between the company and any other person having close connection therewith is so arranged that the business transacted between them produces more than the ordinary profits to the company, he is empowered to take into account the amount of profits as may be reasonably deemed to have been derived therefrom, while computing profits and gains of such company. In case the arrangement referred above involves a specified domestic transaction referred to in section 92BA, then, the amount of profits from such transaction would be determined by considering the arm's length price (ALP). **The amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the person.** **The income-tax on the income so deemed shall be subject to tax@34.32%(i.e., tax@30% + surcharge @10% +HEC@4%).** ***Note*** *– The scope of "specified domestic transaction" referred to in section 92BA has been expanded to include within its ambit, any business transacted between such persons with close connection, where one such person is a company claiming benefit under section 115BAB.*	No such requirement to make any adjustment

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	Particulars	Section 115BAB	Section 115BAA
(12)	Exercise of option by the company within the prescribed time	The beneficial provisions of this section would apply only if option is exercised in the prescribed manner on or before the due date u/s 139(1) for furnishing **the first of the returns of income for any previous year** relevant to A.Y.2020-21 or any subsequent assessment year. Such option, once exercised, would apply to subsequent assessment years. Further, once the option has been exercised for any previous year, it **cannot be subsequently withdrawn** for the same or any other previous year. ***Notes*** – *(1) The option has to be exercised at the time of furnishing the **first of the returns of income** for any previous year. If a person fails to so exercise such option, it cannot be exercised thereafter for any subsequent previous year.* *(2) In case of amalgamation, the option exercised u/s 115BAB shall remain valid in the case of the amalgamated company only and if the conditions mentioned in point no.(7) and (8) are continued to be satisfied by such company.*	The beneficial provisions of this section would apply if option is exercised in the prescribed manner on or before the due date u/s 139(1) for furnishing the return of income for any previous year relevant to A.Y.2020-21 or any subsequent A.Y.. Such option, once exercised, would apply to subsequent assessment years. Further, once the option has been exercised for any previous year, it **cannot be subsequently withdrawn** for the same or any other previous year. ***Note*** – *The option can be exercised even in a later year, but once exercised, cannot be withdrawn subsequently.* *Further, where the person exercises option under section 115BAA, the option under section 115BA may be withdrawn.*

Note - *For the purpose of point no.7(iv) in column (3) of the above table in relation to a company exercising option under section 115BAB, any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled, namely:—*

(a) such machinery or plant was not, at any time previous to the date of the installation, used in India;

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(b) such machinery or plant is imported into India from any country outside India;

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Income-tax Act, 1961 in computing the total income of any person for any period prior to the date of installation of the machinery or plant by the person.

Further, where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of the machinery or plant or part so transferred does not exceed 20% of the total value of the machinery or plant used by the company, then, the condition specified that the company does not use any machinery or plant previously used for any purpose would be deemed to have been complied with.

Note** - Students are advised to **ignore the last paragraph in page no.1.38 and the first paragraph in page no. 1.39** given in italics in Chapter 1: Basic Concepts of the printed copy of Module 1 of the October, 2019 Edition of the Study Material, which incorporates the provision relating to surcharge as inserted by the Taxation Laws (Amendment) Ordinance, 2019 promulgated on 20.9.2019. Consequent to the amendment effected by the Taxation Laws (Amendment) Act, 2019 as assented by the President of India on 11.12.2019, **surcharge of 10% would be leviable on the income-tax computed on the total income of a company opting for the provisions of section 115BAA or 115BAB.

Annexure 2

Rates of Surcharge applicable to Individuals/HUF/AOPs/BOIs/Artificial Juridical Persons for A.Y.2020-21

	Particulars	Rate of surcharge on income-tax	Example	
			Components of total income	Applicable rate of surcharge
(i)	Where the total income (including income u/s 111A and 112A) > ₹ 50 lakhs but ≤ ₹ 1 crore	10%	• STCG u/s 111A ₹ 30 lakhs; • LTCG u/s 112A ₹ 25 lakhs; **and** • Other income ₹ 40 lakhs	Surcharge would be levied@10% on income-tax computed on total income of ₹ 95 lakhs.
(ii)	Where total income (including income u/s 111A and 112A) exceeds ₹ 1 crore but does not exceed ₹ 2 crore	15%	• STCG u/s 111A ₹ 60 lakhs; • LTCG u/s 112A ₹ 65 lakhs; and • Other income ₹ 50 lakhs	Surcharge would be levied@15% on income-tax computed on total income of ₹ 1.75 crores.

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(iii)	Where total income (excluding income u/s 111A and 112A) exceeds ₹ 2 crore but does not exceed ₹ 5 crore The rate of surcharge on the income-tax payable on the portion of income chargeable to tax u/s 111A and 112A	25% Not exceeding 15%	• STCG u/s 111A ₹ 54 lakh; • LTCG u/s 112A ₹ 55 lakh; **and** • Other income ₹ 3 crores	Surcharge would be levied @15% on income-tax on: • STCG of ₹ 54 lakhs chargeable to tax u/s 111A; **and** • LTCG of ₹ 55 lakhs chargeable to tax u/s 112A. Surcharge@25% would be leviable on income-tax computed on other income of ₹ 3 crores included in total income
(iv)	Where total income (excluding income u/s 111A and 112A) exceeds ₹ 5 crore Rate of surcharge on the income-tax payable on the portion of income chargeable to tax u/s 111A and 112A	37% Not exceeding 15%	• STCG u/s 111A ₹ 50 lakhs; • LTCG u/s 112A ₹ 65 lakhs; **and** • Other income ₹ 6 crore	Surcharge@15% is leviable on income-tax on: • STCG of ₹ 50 lakhs chargeable to tax u/s 111A; **and** • LTCG of ₹ 65 lakhs chargeable to tax u/s 112A. Surcharge@37% is leviable on the income-tax computed on other income of ₹ 6 crores included in total income.
(v)	Where total income (including income u/s	15%	• STCG u/s 111A ₹ 60 lakhs;	Surcharge would be levied@15% on

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	111A and 112A) exceeds ₹ 2 crore in cases not covered under (iii) & (iv) above		• LTCG u/s 112A ₹ 55 lakhs; **and** • Other income ₹ 1.10 crore	income-tax computed on total income of ₹ 2.25 crore.

***Note –** Students are advised to **ignore** the table containing rates of surcharge for individuals/HUF/AOP/BOI and Artificial Juridical Persons given in **pages 1.35-1.36 of Chapter 1 in Module 1** of the printed copy of the October, 2019 Edition of the Study Material and instead, read the contents of the above table.*

Annexure 3

Rates of Surcharge applicable on tax on total income of Individuals/AOPs/BOIs/Artificial Juridical Persons (having any income under section 115AD) for payment of advance tax for A.Y.2020-21

	Particulars	Rate of surcharge on income-tax	Example	
			Components of total income	**Applicable rate of surcharge**
(i)	Where the total income > ₹ 50 lakhs but ≤ ₹ 1 crore	10%	• Capital gains on securities referred to in section 115AD(1)(b) ₹ 60 lakhs; **and** • Other income ₹ 35 lakhs;	Surcharge would be levied@10% on income-tax computed on total income of ₹ 95 lakhs.
(ii)	Where total income > ₹ 1 crore but ≤ ₹ 2 crore	15%	• Capital gains on securities referred to in section 115AD(1)(b) ₹ 1.20 crore; **and** • Other income ₹ 60 lakhs;	Surcharge would be levied@15% on income-tax computed on total income of ₹ 1.80 crore.
(iii)	Where total income [excluding STCG/ LTCG on securities referred to in section115AD(1)(b)] > ₹ 2 crore but ≤ ₹ 5 crore	25%	• Capital gains on securities referred to in section 115AD(1)(b) ₹ 1.20 crore; **and**	Surcharge would be levied: @15% on income-tax leviable on capital gains of ₹ 1.20 crore referred

	Rate of surcharge on the income-tax payable on the portion of income chargeable to tax u/s 115AD(1)(b)	Not exceeding 15%	• Other income ₹ 3 crores;	to in section 115AD; **and** @25% on income-tax computed on other income of ₹ 3 crores included in total income
(iv)	Where total income [excluding STCG/ LTCG on securities referred to in section 115AD(1)(b)] > ₹ 5 crore	37%	• Capital gains on securities referred to in section 115AD(1)(b) ₹ 1.70 crore; and • Other income ₹ 6 crore	Surcharge would be levied - @15% on income-tax leviable on capital gains of ₹ 1.70 crore referred to in section 115AD; **and** @37% on income-tax computed on other income of ₹ 6 crore included in total income
	Rate of surcharge on the income-tax payable on the portion of income chargeable to tax u/s 115AD(1)(b)	Not exceeding 15%		
(v)	Where total income [including STCG/ LTCG on securities referred to in 115AD(1)(b)] > ₹ 2 crore in cases not covered under (iii) and (iv) above	15%	• Capital gains on securities referred to in section 115AD(1)(b) ₹ 1.10 crore; **and** • Other income ₹ 1.60 crore;	Surcharge would be levied@15% on tax on total income of ₹ 2.70 crore.

Chapter 13: Assessment of Charitable or Religious Trusts or Institutions, Political Parties and Electoral Trusts

Amendment in Rule 17C to include investment made by National Payments Corporation of India in its subsidiary companies as a permissible form of investment by a charitable trust [Notification No. 15/2020, dated 05-03-2020]

Section 11 permits accumulation of 15% of income indefinitely by a charitable trust or institution. However, the remaining 85% of income can be accumulated for a period not exceeding 5 years subject to the condition that the money so accumulated or set apart is invested in forms and modes specified under section 11(5). Clauses (i) to (xi) of section 11(5) enlists the permissible investments and deposits. Clause (xii) is the residual clause permitting any other form or mode of investment or deposit as may be prescribed. Accordingly, Rule 17C prescribes the other

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permissible forms or modes of investment or deposits by a charitable or religious trust or institution.

The CBDT has, vide this notification, inserted clause (va) in Rule 17C to include, within its scope, investment made by a person, authorised under section 4 of the Payment and Settlement Systems Act, 2007, in the equity share capital or bonds or debentures of a company —

(A) which is engaged in operations of retail payments system or digital payments settlement or similar activities in India and abroad and is approved by the Reserve Bank of India for this purpose; and

(B) in which at least 51% of equity shares are held by National Payments Corporation of India.

Chapter 15: Deduction, Collection and Recovery of Tax

Clarification as to the applicability of section 194N and manner of computing the threshold limit of ₹ 1 crore thereunder, where cash withdrawals have taken place prior to 1.9.2019 [Press Release dated 30.8.2019]

The Finance (No. 2) Act, 2019 has inserted section 194N, w.e.f. 1.9.2019 to require every person, being a banking company, a co-operative society engaged in carrying on the business of banking or a post office who is responsible for paying, in cash, any sum or aggregate of sums exceeding ₹ 1 crore during the previous year to any person from one or more accounts maintained by such recipient-person with it, to deduct tax at source@2% of sum exceeding ₹ 1 crore. The deduction is to be made at the time of payment of such sum.

The CBDT has, vide Press Release dated 30.8.2019, clarified that section 194N is to come into effect from 1st September,2019. Hence, any cash withdrawal prior to 1st September, 2019 will not be subjected to the TDS under section 194N. However, since the threshold of ₹ 1 crore is with respect to the previous year 2019-20, calculation of amount of cash withdrawal for triggering deduction under section 194N shall be counted from 1st April, 2019. Hence, if a person has already withdrawn ₹ 1 crore or more in cash upto 31st August, 2019 from one or more accounts maintained with a banking company or a cooperative bank or a post office, TDS@2% shall apply on all subsequent cash withdrawals.

No tax is required to be deducted at source under section 194N on cash withdrawals by persons or class of persons as notified by the Central Government [Notification No. 80/2019, dated 15.10.2019]

The proviso to section 194N provides that no tax is, however, required to be deducted at source on payments made to *inter alia* such other person or class of persons as notified by the Central Government.

Accordingly, the Central Government has, vide this notification, after consultation with the Reserve Bank of India (RBI), specified -

(a) the authorised dealer and its franchise agent and sub-agent; and

(b) Full-Fledged Money Changer (FFMC) licensed by the RBI and its franchise agent;

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Such persons should maintain a separate bank account from which withdrawal is made only for the purposes of -

(i) purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in cash as per the directions or guidelines issued by RBI; or

(ii) disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS) of the RBI;

The exemption from the requirement to deduct tax u/s 194N would be available only if a certificate is furnished by the authorised dealers and their franchise agent and sub-agent, and the Full-Fledged Money Changers (FFMC) and their franchise agent to the bank that withdrawal is only for the purposes specified above and the directions or guidelines issued by the RBI have been adhered to.

"Authorised dealer" means any person who is authorised by the RBI as an authorised dealer to deal in foreign exchange [Section 10(1) of the Foreign Exchange Management Act, 1999].

Information to be furnished where tax is not deductible or deductible at lower rate under section 194N [Notification No. 98/2019, dated 18.11.2019]

The proviso to section 194N provides that no tax is, however, required to be deducted at source on any payment made to -

(i) the Government

(ii) any banking company or co-operative society engaged in carrying on the business of banking or a post-office

(iii) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the RBI guidelines.

(iv) any white label ATM operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the RBI under the Payment and Settlement Systems Act, 2007.

(v) such other person or class of persons notified by the Central Government in consultation with the RBI.

Accordingly, the CBDT has, vide this notification, inserted clause (ix) in Rule 31A(4) to provide that the deductor, at the time of preparing statement of tax deducted at source, shall furnish the particulars of amount paid or credited on which tax was not deducted in view of the exemption provided in point no. (iii) or (iv) above or in view of the Notification No. 80/2019, dated 15.10.2019 issued under point (v) above.

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Time limit, form and manner of depositing tax deducted at source under section 194M prescribed [Notification No. 98/2019, dated 18.11.2019]

Section 194M, inserted with effect from 1.9.2019, provides for deduction of tax at source @5% by an individual or a HUF responsible for paying any sum during the financial year to any resident –

(i) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or

(ii) by way of commission (not being insurance commission referred to in section 194D) or brokerage; or

(iii) by way of fees for professional services.

Only individuals and HUFs (other than those who are required to deduct income-tax as per the provisions of section 194C or 194H or 194J) are required to deduct tax in respect of the above sums payable during the financial year to a resident, if the aggregate of such sums, credited or paid, exceed ₹ 50 lakhs.

Consequent to insertion of section 194M, the CBDT has, vide this notification, amended Rule 30, 31 and 31A in the following manner to specify the time limit for depositing the tax deducted at source, challan-cum- statement, certificate for deduction of tax at source:

Rule No.	Provision
Rule 30(2C)	**Time limit and prescribed form for remittance of TDS** Any sum deducted under section 194M shall be paid to the credit of the Central Government **within a period of thirty days** from the end of the month in which the deduction is made and shall be accompanied by a challan-cum statement in Form No. 26QD.
Rule 30(6C)	**Manner of remittance of TDS** Where tax deducted is to be deposited accompanied by a challan-cum-statement in Form No.26QD, the amount of tax so deducted shall be deposited to the credit of the Central Government by **remitting it electronically within thirty days** from the end of the month in which the deduction is made into the Reserve Bank of India or the State Bank of India or any authorised bank.
Rule 31(3C)	**Certificate for deduction of tax at source and time limit for furnishing such certificate to the payee** Every person responsible for deduction of tax under section 194M shall furnish the certificate of deduction of tax at source **in Form No.16D** to the payee **within fifteen days** from the due date for furnishing the challan-cum-statement in Form No.26QD under rule 31A after generating and downloading the same from the web portal specified by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or the person authorised by him.

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Rule 31A(4C)	**Time limit and manner of submission of Challan-cum Statement** Every person responsible for deduction of tax at source under section 194M shall furnish to the Principal Director General of Income-tax (Systems) or Director General of Income-tax (System) or the person authorised by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) a challan-cum statement in Form No.26QD electronically in accordance with the procedures, formats and standards specified under Rule 31A(5) **within thirty days** from the end of the month in which the deduction is made.

Chapter 17: Assessment Procedure

Date for intimation of Aadhaar number to the prescribed authority extended [Notification No. 107/2019, dated 30.12.2019]

As per section 139AA(2), every person who has been allotted Permanent Account Number (PAN) as on 1st July, 2017, and who is eligible to obtain Aadhaar Number, shall intimate his Aadhaar Number to prescribed authority on or before a date as may be notified by the Central Government.

Accordingly, the Central Government has, vide Notification No.31/2019, dated 31.03.2019, notified that every person who has been allotted PAN as on 1st July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to the Principal DGIT (Systems) or Principal Director of Income-tax (Systems) on or before 30th September, 2019.

The Central Government has, vide Notification No. 75/2019, dated 28.9.2019 further extended the date from 30th September 2019 to 31st December 2019. This date has further been extended by the Central Government, vide this notification, from 31st December 2019 to 31st March 2020.

Note *– Subsequently, this date has been further extended to **31st March, 2021***.

Notwithstanding the last date of intimating/linking of Aadhaar Number with PAN being 31.03.2021, it is clarified that w.e.f. 01.04.2019, it is mandatory to quote and link Aadhaar number while filing the return of income, either manually or electronically, unless specifically exempted.

Chapter 23: Miscellaneous Provisions

Permissible electronic modes of payment for the purpose of section 269SU prescribed [Notification No. 105/2019, dated 30.12.2019]

Every person, carrying on business, if his total sales, turnover or gross receipts, as the case may be, in business exceeds fifty crore rupees during the immediately preceding previous year shall provide facility for accepting payment through prescribed electronic modes, in addition to the facility for other electronic modes of payment, if any, being provided by such person.

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Accordingly, the CBDT has, vide this notification, inserted Rule 119AA to prescribe the following electronic modes payment, namely -

(i) Debit Card powered by RuPay;

(ii) Unified Payments Interface (UPI) (BHIM-UPI); and

(iii) Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code).

Permissible "Other electronic modes" prescribed for the purpose of certain sections [Notification No. 8/2020, dated 29.01.2020]

The following sections have been amended by the Finance (No.2) Act, 2019 to permit payment/receipt referred to therein by other electronic modes to be prescribed, in addition to account payee cheque/bank draft and Electronic Clearing System (ECS) through bank account.

Section	Description of payment/receipt	Study Material Page no.
Chapter 6: Profits and Gains of business or profession		
35AD(8)	Mode of payment of an amount exceeding ₹ 10,000 in a day for capital expenditure in respect of specified business	6.76
40A(3)/ (3A)	Mode of payment or aggregate of payments exceeding ₹ 10,000 in a day towards any expenditure (exceeding ₹ 35,000 in a day, in case of payment to transport operator)	6.130/6.131
43(1)	Mode of payment or aggregate of payments exceeding ₹ 10,000 in a day to a person for acquisition of asset (for inclusion in actual cost for computing depreciation)	6.40
44AD(1)	Receipts, included in "turnover/gross receipts", qualifying for computation of presumptive income @ concessional rate of 6%	6.155
43CA	Mode of payment of part or whole of consideration for transfer of stock-in trade, being land or building or both, on or before the date of agreement for considering stamp duty value on the date of agreement for the purpose of determining full value of consideration for computing profits and gains from business or profession	6.144
Chapter 7: Capital Gains		
50C	Mode of payment of part or whole of consideration for transfer of capital asset, being land or building or both, on or before the date of agreement for considering stamp duty value on the date of agreement for the purpose of determining full value of consideration for computing capital gains	7.70
56(2)(x)	Mode of receipt of part or whole of consideration for transfer of immovable property, being land or building or both, on or	8.15

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	before the date of agreement for considering stamp duty value on the date of agreement for the purpose of computing income under the head "Income from other sources".	
Chapter 11: Deductions from Gross Total Income		
80JJAA	Mode of payment of emoluments to additional employees employed during the previous year to qualify for deduction	11.74
Chapter 13: Assessment of Charitable and Religious Trusts and Institutions, Political Parties and Electoral Trusts		
13A	Mode of receipt of donation exceeding ₹ 2,000 by a registered political party	13.53
Chapter 23: Miscellaneous Provisions		
269SS	Mode of receipt of loan/deposit/specified sum of an amount or aggregate of amount of ₹ 20,000 or more	23.2
269ST	Mode of receipt of ₹ 2,00,000 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	23.3
269T	Mode of repayment of loan or deposit or specified advance of an amount of ₹ 20,000 or more (including interest payable thereon) or if the aggregate amount of loans or deposits held or specified advance received on the date of repayment (together with interest, if any, payable thereon) is ₹ 20,000 or more	23.6

Accordingly, the CBDT has, vide this notification, inserted Rule 6ABBA to prescribe the following electronic modes through which payment can be made or money can be received, for the purposes of above sections cited in the above table -

(a) Credit Card;

(b) Debit Card;

(c) Net Banking;

(d) IMPS (Immediate Payment Service);

(e) UPI (Unified Payment Interface);

(f) RTGS (Real Time Gross Settlement);

(g) NEFT (National Electronic Funds Transfer), and

(h) BHIM (Bharat Interface for Money) Aadhar Pay.

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Note – *Consequent to insertion of Rule 6ABBA, Rule 6DD which specifies the cases and circumstances where disallowance under section 40A(3) would not be attracted, has been amended w.e.f. 29.1.2020 to omit clause (j) thereof providing for exclusion of payment required to be made on a day on which the banks were closed either on account of holiday or strike from the purview of section 40A(3). Accordingly, w.e.f. 29.1.2020, payment in excess of the prescribed limit made otherwise than by prescribed modes on a day on which the banks are closed on account of holiday or strike would attract disallowance under section 40A(3).*

PART - II: INTERNATIONAL TAXATION

Chapter 1: Transfer Pricing & Other Anti-avoidance Measures

Time limit for repatriation of excess money or part thereof and manner of computation of interest on excess money not repatriated prescribed [Notification No. 76/2019, dated 30.9.2019]

Section 92CE(2) requires repatriation, within the prescribed time, of the excess money or part thereof, as the case may be, which is available with the associated enterprise, in a case where, as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee. If the excess money or part thereof is not repatriated to India within the prescribed time, it shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed in the prescribed manner.

The CBDT has, *vide this notification*, amended Rule 10CB(1) which prescribes the time limit for repatriation of excess money or part thereof i.e., on or before 90 days from the specified date. The 90 days period is to be reckoned from the date specified in column (2) in the cases mentioned in column (1) of the table below. Further, the date from which interest is chargeable on the excess money or part thereof which is not repatriated in the cases mentioned in column (1) is given in column (3) in the table below:

Case	Time limit for repatriation of excess money or part thereof: Within 90 days from	Date from which interest is chargeable on the non-repatriated excess money or part thereof within the specified time limit
(1)	**(2)**	**(3)**
(i) Where primary adjustments to transfer price have been made *suo-motu* by the assessee in his return of income	the due date of filing of return u/s 139(1)	*the due date of filing of return u/s 139(1)*
(ii) If primary adjustments to transfer price as determined in	the date of the said order	*the date of the said order*

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the order of the Assessing Officer or the appellate authority has been accepted by the assessee		
(iii) Where primary adjustment to transfer price is determined by an advance pricing agreement (APA) entered into by the assessee u/s 92CC in respect of a previous year -		
• *If the APA has been entered into on or before the due date of filing of return for the relevant P.Y.*	*the date of filing of return u/s 139(1)*	*the **due date** of filing of return u/s 139(1)*
• *If the APA has been entered into on or after the due date of filing of return for the relevant P.Y.*	*the end of the month in which the APA has been entered into*	*the end of the month in which the APA has been entered into*
(iv) Where option has been exercised by the assessee as per the safe harbour rules u/s 92CB	the due date of filing of return u/s 139(1)	*the due date of filing of return u/s 139(1)*
(v) Where the primary adjustment to the transfer price is determined by a resolution arrived at under Mutual Agreement Procedure under a DTAA has been entered into u/s 90 or 90A	*the date of giving effect by the A.O. under Rule 44H to such resolution*	*the date of giving effect by the A.O. under Rule 44H to such resolution*

Rule 10CB(2) prescribes the rate at which the per annum interest income shall be computed in case of failure to repatriate the excess money or part thereof within the above time limit. The interest would be computed *inter alia* at six month London Interbank Offered Rate (LIBOR) as on 30th September of the relevant previous year + 3.00%, where the international transaction is denominated in foreign currency.

Rate of exchange for the calculation of the value in rupees of the international transaction denominated in foreign currency shall be the telegraphic transfer buying rate of such currency on the last day of the previous year in which such international transaction was undertaken.

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Amendment in Rule 10DA consequent to substitution of section 92D [Notification No. 3/2020, dated 6.1.2020]

The Finance (No.2) Act, 2019 substituted section 92D to provide, *inter alia*, that every person, being a constituent entity of an international group, has to keep and maintain the prescribed information and document in respect of the international group. Thus, the constituent entity has to keep and maintain such prescribed information and document irrespective of the fact whether or not any international transaction is undertaken by such constituent entity. The constituent entity has to furnish the prescribed information and document to the authority prescribed under section 286(1), in the prescribed manner, on or before the prescribed date.

Consequent to this amendment, the CBDT has, vide this notification, amended Rule 10DA, which now provides for "Maintenance and furnishing of information and documents by certain persons" under section 92D.

The provisions of Rule 10DA are as follows:

Rule	Provision
10DA(1)	**Specification of threshold limits for the constituent entity of an international group to keep and maintain the information and documents of the international group:** Every person, being a constituent entity of an international group shall – (i) if the consolidated group revenue of the international group, of which such person is a constituent entity, as reflected in the consolidated financial statement of the international group for the accounting year, exceeds ₹ 500 crore; and (ii) the aggregate value of international transactions – (A) during the accounting year, as per the books of accounts, exceeds ₹ 50 crore, or (B) in respect of purchase, sale, transfer, lease or use of intangible property during the accounting year, as per the books of accounts, exceeds ₹ 10 crore keep and maintain information and documents of the international group. ***Note –** The rate of exchange for the calculation of the value in rupees of the consolidated group revenue in foreign currency shall be the telegraphic transfer buying rate (TTBR) of such currency on the last day of the accounting year. [Rule 10DA(7)].* *Part A of Form No. 3CEAA (Master File), however, shall be furnished by every person, being a constituent entity of an international group, whether or not the above conditions are satisfied [Rule 10DA(3)].*

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	Information and documents of the international group required to be kept and maintained by the Constituent Entity: The constituent entity shall keep and maintain the following information and documents of the international group, namely:- (a) a list of all entities of the international group along with their addresses; (b) a chart depicting the legal status of the constituent entity and ownership structure of the entire international group; (c) a description of the business of international group during the accounting year including,- (I) the nature of the business or businesses; (II) the important drivers of profits of such business or businesses; (III) a description of the supply chain for the five largest products or services of the international group in terms of revenue and any other products including services amounting to more than five per cent. of consolidated group revenue; (IV) a list and brief description of important service arrangements made among members of the international group, other than those for research and development services; (V) a description of the capabilities of the main service providers within the international group; (VI) details about the transfer pricing policies for allocating service costs and determining prices to be paid for intra-group services; (VII) a list and description of the major geographical markets for the products and services offered by the international group; (VIII) a description of the functions performed, assets employed and risks assumed by the constituent entities of the international group that contribute at least ten per cent. of the revenues or assets or profits of such group; and (IX) a description of the important business restructuring transactions, acquisitions and divestments; (d) a description of the overall strategy of the international group for the development, ownership and exploitation of intangible property, including location of principal research and development facilities and their management; (e) a list of all entities of the international group engaged in development and management of intangible property along with their addresses; (f) a list of all the important intangible property or groups of intangible property owned by the international group along with the names and addresses of the group entities that legally own such intangible property;

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	(g) a list and brief description of important agreements among members of the international group related to intangible property, including cost contribution arrangements, principal research service agreements and license agreements; (h) a detailed description of the transfer pricing policies of the international group related to research and development and intangible property; (i) a description of important transfers of interest in intangible property, if any, among entities of the international group, including the name and address of the selling and buying entities and the compensation paid for such transfers; (j) a detailed description of the financing arrangements of the international group, including the names and addresses of the top ten unrelated lenders; (k) a list of group entities that provide central financing functions, including their place of operation and of effective management; (l) a detailed description of the transfer pricing policies of the international group related to financing arrangements among group entities; (m) a copy of the annual consolidated financial statement of the international group; and (n) a list and brief description of the existing unilateral advance pricing agreements and other tax rulings in respect of the international group for allocation of income among countries.
10DA(2)	**Due date for furnishing report:** The information and document shall be furnished in Form No. 3CEAA to the Joint Commissioner as may be designated by the Director General of Income-tax (Risk Assessment) and it shall be furnished on or before the due date for furnishing the return of income specified under section 139(1).
10DA(4)/(5)	**Furnishing of report in case of more than one constituent entity:** Where there are more than one constituent entities resident in India of an international group, then, the Form No 3CEAA may be furnished by any one constituent entity, if, - (a) the international group has designated such entity for this purpose and (b) the information has been conveyed to the Joint Commissioner in Form No. 3CEAB, in this behalf at least 30 days before the due date of furnishing the Form No. 3CEAA.

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10DA(6)	**Period for which such information and document to be kept or maintained:** The information and documents shall be kept and maintained for a period of eight years from the end of the relevant assessment year.

Amendment in Rule 10DB

Section 286 contains the provisions for furnishing of report in respect of international group to the prescribed authority, in the prescribed form and manner, on or before the date as may be prescribed. Rule 10DB, for this purpose, prescribes the income-tax authority, Form No. and the due date for furnishing of report of the international group.

The CBDT has, vide this notification, amended Rule 10DB, w.e.f. 6.1.2020. Rule 10DB(1) now provides that the prescribed income-tax authority for the purposes of section 286 shall be the Joint Commissioner as may be designated by the Director General of Income-tax (Risk Assessment).

Rule 10DB(2) provides that the notification under section 286(1) shall be made in Form No. 3CEAC two months prior to the due date for furnishing of report as specified under section 286(2) (i.e., two months prior to the period of 12 months from the end of the relevant reporting year).

The proviso to section 286(4) provides that where there are more than one such constituent entities of the group, resident in India, the report has to be furnished by the constituent entity so designated by the international group, if the information has been conveyed in writing on behalf of the group to the prescribed authority.

Accordingly, sub-rule (5) to Rule 10DB has been substituted to provide that the information required to be conveyed under proviso to section 286(4) regarding the designated constituent entity shall be furnished in Form No. 3CEAE.

Note* – (1)** *Extension of dates/due dates and other relaxations vide PIB Press Release dated 24.3.2020/Notification No. 35/2020 dated 24.6.2020 on account of COVID 19 pandemic are* ***not *applicable for November, 2020 examinations. Further, CBDT Circular No.11/2020 dated 8.5.2020 providing relaxation of residency conditions for P.Y.2019-20 for individuals stranded in India due to COVID-19 lockdown is* ***not*** *applicable.*

(2) *Direct Tax Vivad se Vishwas Act, 2020 and Rules, 2020 are* ***not*** *applicable for November, 2020 examination.*

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SECTION – B: QUESTIONS AND ANSWERS

OBJECTIVE TYPE QUESTIONS

From the options (a), (b), (c) and (d) given in each question, choose the most appropriate option.

1. The following are the details relating to four resident entities, AB & Co, LM & Co, PQ & Co and XY & Co. for P.Y.2019-20 –

	Particulars	AB & Co. (Firm)	LM & Co. (Firm)	PQ & Co. (LLP)	XY & Co. (Firm)
(1)	Nature of business/ profession	Retail trading	Business of plying, hiring or leasing goods carriages	Wholesale trading	Interior decoration
(2)	System of accounting	Mercantile	Cash	Mercantile	Cash
(3)	Turnover/Gross receipts	₹ 200 lakhs	₹ 101 lakhs	₹ 100 lakhs	₹ 50 lakhs
(4)	Amount received by way of RTGS/NEFT in the P.Y.2019-20 [included in (3) above]	₹ 150 lakhs	₹ 80 lakhs	₹ 70 lakhs	₹ 45 lakhs
(5)	Amount received by way of cash in the P.Y.2019-20 [included in (3) above]	₹ 30 lakhs	₹ 21 lakhs	₹ 10 lakhs	₹ 5 lakhs
(6)	Amount received by way of RTGS/NEFT between 1.4.2020 and 31.7.2020	₹ 20 lakhs	-	₹ 20 lakhs	-
(7)	Working partners' salary	₹ 5 lakhs	₹ 1.50 lakhs	₹ 3 lakhs	₹ 5 lakhs
(8)	Interest on capital@12% paid to partners	₹ 1 lakhs	₹ 0.50 lakhs	-	₹ 2 lakhs

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(9)	Profit as per books of account maintained as per section 44AA [after deducting working partners' salary and interest on capital]	₹ 5.60 lakhs	₹ 4.10 lakhs	₹ 4.50 lakhs	₹ 20 lakhs
(10)	No. of vehicles owned	-	10 (See Note 2 below for details)	-	-

Notes – (1) It may be assumed that partners' salary and interest are authorised by the partnership deed, relates to a period after the partnership deed and is within the permissible limits laid down under section 40(b).

(2) The details of vehicles owned by M/s. LM & Co. are as follows –

	Gross Vehicle Weight (in kgs)	Number	Date of purchase	Date when first put to use
(1)	8,000	3	28.5.2019	1.6.2019
(2)	9,000	2	31.7.2019	1.8.2019
(3)	10,000	1	17.8.2019	20.8.2019
(4)	11,000	1	30.9.2019	1.10.2019
(5)	12,000	1	11.11.2019	13.11.2019
(6)	13,000	2	31.12.2019	1.1.2020

From the details given above, choose the most appropriate option to the questions given below:

(i) Which of the four entities are eligible to declare income on presumptive basis under the Income-tax Act, 1961 for A.Y.2020-21?

(a) Only AB & Co and LM & Co

(b) Only AB & Co and XY & Co.

(c) AB & Co, PQ & Co and XY & Co.

(d) AB & Co, LM & Co and XY & Co.

(ii) What is the business income to be declared by AB & Co. and PQ & Co. for A.Y.2020-21, assuming that the entities wish to make maximum tax savings without getting their books of account audited?

(a) ₹ 12.60 lakhs and ₹ 4.50 lakhs, respectively

(b) ₹ 6.60 lakhs and ₹ 3.20 lakhs, respectively

(c) ₹ 5.60 lakhs and ₹ 4.50 lakhs, respectively

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(d) ₹ 13 lakhs and ₹ 6.60 lakhs, respectively

(iii) What is the business income to be declared by LM & Co. for A.Y.2020-21, assuming that the firm wishes to make maximum tax savings without getting its books of account audited?

(a) ₹ 4,48,000

(b) ₹ 3,65,500

(c) ₹ 4,36,500

(d) ₹ 4,10,000

(iv) What is the income to be declared by XY & Co. under the head "Profits and gains of business or profession" for A.Y.2020-21, assuming that the firm wishes to make maximum tax savings, without getting its books of accounts audited?

(a) ₹ 18 lakhs

(b) ₹ 20 lakhs

(c) ₹ 25 lakhs

(d) ₹ 22.50 lakhs

(v) Would your answer to sub-parts (iii) and (iv) change, if the firms decide to get their books of accounts audited?

(a) No, there would be no change in the answer to either sub-part (iii) or sub-part (iv)

(b) Yes, there would be change in answer to both sub-parts (iii) and (iv)

(c) There would be a change in the answer to sub-part (iii) but not in the answer to sub-part (iv)

(d) There would be a change in the answer to sub-part (iv) but not in the answer to sub-part (iii)

2. Mr. Hari, a property dealer, sold a building in the course of his business to his friend Mr. Rajesh, who is a dealer in automobile spare parts, for ₹ 100 lakh on 1.1.2020, when the stamp duty value was ₹ 120 lakh. The agreement was, however, entered into on 1.9.2019 when the stamp duty value was ₹ 105 lakh. Mr. Hari had received a down payment of ₹ 15 lakh by NEFT from Mr. Rajesh on the date of agreement. Mr. Hari has purchased the building for ₹ 50 lakh on 12.7.2018.

   Mr. Ravi, a retail trader sold a residential house to Mr. Vallish, a wholesale trader for ₹ 50 lakh on 1.2.2020, when the stamp duty value was ₹ 70 lakh. The agreement was, however, entered into on 1.8.2019 when the stamp duty value was ₹ 55 lakh. Mr. Ravi had received a down payment of ₹ 5 lakh by a crossed cheque from Mr. Vallish on the date of agreement. Mr. Ravi has purchased the building for ₹ 32 lakh on 17.8.2018.

   Based on the above facts, choose the most appropriate option to the questions given below–

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(i) What is the amount of income chargeable to tax in the hands of Mr. Hari in respect of the above transaction and under which head is it taxable?

(a) ₹ 70 lakh is taxable as his business income

(b) ₹ 55 lakh is taxable as his business income

(c) ₹ 50 lakh is taxable as his business income

(d) ₹ 50 lakh is taxable as short-term capital gains

(ii) Is any amount taxable in the hands of Mr. Rajesh in respect of the above transaction? If so, what is the amount and under which head is it taxable?

(a) No amount is taxable in the hands of Mr. Rajesh

(b) ₹ 20 lakh is taxable under the head "Income from Other Sources"

(c) ₹ 5 lakh is taxable ünder the head "Income from Other Sources"

(d) ₹ 5 lakh is taxable as his business income.

(iii) What is the amount of income chargeable to tax in the hands of Mr. Ravi in respect of the above transaction and under which head is it taxable?

(a) ₹ 18 lakh is taxable as short-term capital gains

(b) ₹ 23 lakh is taxable as short-term capital gains

(c) ₹ 38 lakh is taxable as short-term capital gains

(d) ₹ 38 lakh is taxable as his business income.

(iv) Is any amount taxable in the hands of Mr. Vallish in respect of the above transaction? If so, what is the amount and under which head is it taxable?

(a) No amount is taxable in the hands of Mr. Vallish

(b) ₹ 20 lakh is taxable under the head "Income from Other Sources"

(c) ₹ 5 lakh is taxable ünder the head "Income from Other Sources"

(d) ₹ 5 lakh is taxable as his business income.

(v) Is tax deductible by Mr. Rajesh and Mr. Vallish on making payment to the seller?

(a) Yes, tax is deductible at source by both Mr. Rajesh and Mr. Vallish

(b) No, tax is not deductible at source by either Mr. Rajesh or Mr. Vallish

(c) Tax is deductible at source by Mr. Rajesh but not by Mr. Vallish

(d) Tax is deductible at source by Mr. Vallish but not Mr. Rajesh

3. The following are the particulars relating to four Indian companies, namely, A Ltd., B Ltd., C Ltd. and D Ltd. –

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Particulars	A Ltd.	B Ltd.
Date of setting up/ registration	1.9.2019	1.11.2019
Main object	Manufacture of steel	Manufacture of apparel
Place	Madhya Pradesh	Warangal in Telengana
Value of new plant and machinery installed and put to use on the date of setting up of the company	₹ 10 crore	₹ 4 crore
Gross Total Income of P.Y.2019-20	₹ 4.90 crore	₹ 2.80 crore
Particulars of new employees employed during the P.Y.2019-20		
No. of new employees employed on the date of setting up of the company	1000	1000
Monthly emoluments to employees by account payee cheque:		
500 employees	₹ 24,000 per employee	₹ 24,000 per employee
500 employees	₹ 25,100 per employee	₹ 26,000 per employee
Particulars	**C Ltd.**	**D Ltd.**
Date of setting up/ registration	1.4.2000	1.1.2005
Main object	Trading of leather goods	Trading of food grains
Place	Tamil Nadu	Karnataka
Turnover of P.Y.2015-16	₹ 347 crore	₹ 201 crore
Turnover of P.Y.2016-17	₹ 395 crore	₹ 225 crore
Turnover of P.Y.2017-18	₹ 499 crore	₹ 251 crore
Turnover of P.Y.2018-19	₹ 350 crore	₹ 342 crore
Turnover of P.Y.2019-20	₹ 424 crore	₹ 380 crore
Details of income returned & assessed for A.Y.2020-21		
As per return of income filed	₹ 14 crores	₹ 17 crores
Income determined u/s 143(1)(a)	₹ 16 crores	₹ 20 crores
Income assessed u/s 143(3)	₹ 20 crores	₹ 22 crores

From the above details choose the most appropriate answer to the following questions –

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(i) What would be the tax liability of B Ltd. for A.Y.2020-21, if it avails the beneficial tax rates under the special provisions inserted by the Taxation Laws (Amendment) Act, 2019 in the Income-tax Act, 1961 by fulfilling the conditions specified thereunder? Assume that the gross total income reflects the computation under the special provisions.

(a) ₹ 70,47,040

(b) ₹ 22,88,000

(c) ₹ 25,16,800

(d) ₹ 17,16,000

(ii) What would be the tax liability of A Ltd. for A.Y.2020-21, if it avails the beneficial tax rates under the special provisions inserted by the Taxation Laws (Amendment) Act, 2019 in the Income-tax Act, 1961 by fulfilling the conditions specified thereunder? Assume that the gross total income reflects the computation under the special provisions.

(a) ₹ 1,23,32,320

(b) ₹ 40,84,040

(c) ₹ 59,89,984

(d) ₹ 84,08,000

(iii) What would be the tax liability of A Ltd. and B Ltd. for A.Y.2020-21, if they do not opt for the special provisions inserted by the Taxation Laws (Amendment) Act, 2019 in the Income-tax Act, 1961? Assume that the gross total income reflects the computation under the special provisions. Ignore MAT.

(a) ₹ 9,88,000; ₹ 7,80,000

(b) ₹ 11,85,600; ₹ 9,36,000

(c) ₹ 96,81,360; ₹ 9,36,000

(d) ₹ 96,81,360; Nil

(iv) What would be the quantum of penalty payable by C Ltd. under section 270A, assuming that the under-reporting of income is not due to mis-reporting and none of the additions made in the assessment qualifies under section 270A(6)? Assume that C Ltd. has not opted for the special provisions inserted by the Taxation Laws (Amendment) Act, 2019.

(a) ₹ 58,24,000

(b) ₹ 69,88,800

(c) ₹ 87,36,000

(d) ₹ 1,04,83,200

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(v) What would be the quantum of penalty payable by D Ltd. under section 270A, assuming that the under-reporting of income is due to mis-reporting? Assume that D Ltd. has not opted for the special provisions inserted by the Taxation Laws (Amendment) Act, 2019.

(a) ₹ 1,16,48,000

(b) ₹ 1,39,77,600

(c) ₹ 2,91,20,000

(d) ₹ 3,49,44,000

4. A Ltd., an Indian company, bought back its listed shares from its shareholders and B Ltd., an Indian company, bought back its unlisted shares from its shareholders in the month of March, 2020. What are the tax consequences of such buyback in the hands of A Ltd., B Ltd. and the shareholders?

(a) Additional income-tax @23.296% of the distributed income is leviable in the hands of A Ltd. and B Ltd.; income arising to shareholders is exempt.

(b) Income arising to shareholders from buyback is taxable in their individual hands; No distribution tax is leviable in the hands of A Ltd. and B Ltd.

(c) Additional income-tax @23.296% of the distributed income is leviable in the hands of A Ltd.; income arising to shareholders of B Ltd. is taxable in their individual hands

(d) Additional income-tax @23.296% of the distributed income is leviable in the hands of B Ltd.; income arising to shareholders of A Ltd. is taxable in their individual hands

5. Mr. Ganesh and Mr. Rajesh, resident Indians aged 60 years and 80 years, respectively, have not furnished their returns of income for the P.Y.2019-20. However, the total income assessed in respect of such year under section 144 is ₹ 8 lakhs and ₹ 5 lakhs, respectively. Is penalty leviable under section 270A, and if so, what is the quantum of penalty?

(a) No penalty is leviable under section 270A in the hands of either Mr. Ganesh or Mr. Rajesh

(b) Yes; ₹ 36,400 and ₹ 5,200, respectively

(c) Yes; ₹ 37,700 and ₹ 6,500, respectively

(d) Penalty of ₹ 36,400 leviable in the hands of Mr. Ganesh; No penalty leviable in the hands of Mr. Rajesh.

6. Ms. X & Co and Ms. Y & Co are non-resident firms in receipt of fees for technical services of ₹ 20 lakhs each in the P.Y.2019-20 from an Indian company, A Ltd. in pursuance of an agreement with A Ltd. approved by the Central Government. M/s. X & Co. does not have any fixed place of profession in India whereas M/s. Y & Co. has a fixed place of profession in India and the contract is effectively connected with such fixed place of profession. The revenue expenditure incurred by X & Co. to earn FTS is ₹ 2 lakhs. The following are the details pertaining to Y & Co.-

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Particulars	Amount (₹)
Revenue expenditure incurred to earn FTS	3.50 lakhs
Expenditure wholly and exclusively connected with fixed place of profession in India (Out of the above amount)	3 lakhs
Amount paid by fixed place of profession to Head Office otherwise than towards reimbursement of actual expenses (not included in above amounts)	1 lakh
Books of account maintained u/s 44AA	Yes
Books of account audited and audit report furnished with return of income	Yes

What is the tax liability in India of M/s. X & Co. and M/s. Y & Co. for P.Y.2019-20 in respect of fees for technical services?

(a) ₹ 5,61,600 and ₹ 4,99,200

(b) ₹ 1,87,200 and ₹ 5,30,400

(c) ₹ 2,08,000 and ₹ 5,30,400

(d) ₹ 1,87,200 and ₹ 1,76,800

7. A Ltd., an Indian company, borrowed money from B Inc. in Country B, C Ltd. in Country C, D Inc. in Country D and E Ltd. in Country E, the details of which are given hereunder-

Lender	Amount borrowed by A Ltd.	Interest paid in the P.Y.2019-20	Is it an Associated Enterprise of A Ltd.?
B Inc.	₹ 15 crores	₹ 1.50 crores	Yes
C Ltd.	₹ 25 crores	₹ 2.50 crores	No
D Inc.	₹ 25 crores	₹ 2.50 crores	Yes
E Ltd.	₹ 15 crores	₹ 1.50 crores	No

B Inc. has provided guarantee of loan taken by A Ltd. from C Ltd. D Inc. has deposited ₹ 15 crores with E Ltd. Earnings before Interest, Tax and Depreciation of A Ltd. for A.Y.2020-21 is ₹ 10 crores. What is the interest to be disallowed under section 94B for A.Y.2020-21?

(a) ₹ 1 crore

(b) ₹ 3 crores

(c) ₹ 4 crores

(d) ₹ 5 crores

8. M Ltd. and N Ltd. are Indian companies which have to pay interest of ₹ 2 lakhs and ₹ 1 lakh outside India to Mr. P, a non-resident, during the P.Y.2019-20 on rupee denominated

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bonds issued in January, 2019 and April, 2019, respectively. Which of the following statements are correct relating to liability of M Ltd. and N Ltd. to deduct tax at source on such interest payable to Mr. P?

(a) Both M Ltd. and N Ltd. do not have to deduct tax at source on such interest

(b) Both M Ltd. and N Ltd. have to deduct tax at source@5.2%

(c) M Ltd. does not have to deduct tax at source but N Ltd. has to deduct tax at source@5.2%

(d) N Ltd. does not have to deduct tax at source but M Ltd. has to deduct tax at source@5.2%

9. Under which of the following cases, will arm's length price be determined by considering the median of the dataset?

Case	Most Appropriate Method	No. of entries in the dataset	Does the price at which the transaction is undertaken fall within the arm's length range beginning from the 35th percentile of the dataset and ending on the 65th percentile of the dataset?
I	CUP	5	-
II	RPM	6	Yes
III	TNMM	7	Yes
IV	Cost Plus	8	No

(a) II and III

(b) I and IV

(c) Only IV

(d) Only I

10. Mr. Akash made the following cash withdrawals during the P.Y.2019-20 -

Date	Amount	From
1.6.2019	₹ 70 lakhs	Bank of India
1.7.2019	₹ 45 lakhs	Standard Chartered Bank (SCB)
1.8.2019	₹ 50 lakhs	Bank of India
1.9.2019	₹ 15 lakhs	SCB
1.10.2019	₹ 60 lakhs	Repco Bank (Co-operative Bank)
1.11.2019	₹ 10 lakhs	SBI

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1.12.2019	₹ 10 lakhs	Repco Bank
2.1.2020	₹ 15 lakhs	SCB
10.1.2020	₹ 15 lakhs	SCB
20.1.2020	₹ 20 lakhs	Repco Bank
1.2.2020	₹ 15 lakhs	Repco Bank
10.2.2020	₹ 75 lakhs	SBI
20.2.2020	₹ 15 lakhs	SCB
1.3.2020	₹ 15 lakhs	SBI

Which of the above payers are required to deduct tax at source on cash withdrawals made by Mr. Akash in the P.Y.2019-20?

(a) Bank of India & SCB

(b) SCB, SBI & Repco

(c) SCB, Repco & Bank of India

(d) SCB & Repco

11. Which of the following orders are **not** appealable before Commissioner (Appeals)?

(a) An order of penalty under section 271B for failure to get accounts audited.

(b) An order made under section 163 treating the assessee as an agent of a non-resident.

(c) An order of assessment passed by the Assessing Officer in pursuance of directions of Dispute Resolution Panel

(d) An order made under section 201 deeming a person to be an assessee-in-default for non-deduction of tax at source

12. Which of the following statements are correct in relation to the power of an income-tax authority to collect information which may be useful for the purposes of the Income-tax Act, 1961?

(i) The income-tax authority can enter the place of business of the assessee only after sunrise and before sunset

(ii) The income-tax authority may enter the place of business only during the hours at which such place is open for conduct of business

(iii) The income-tax authority may impound and retain in his custody for a period not exceeding 15 days books of account or other documents inspected by him. If he wishes to retain for a period exceeding 15 days, he has to take the prior approval of Principal Chief Commissioner or Chief Commissioner.

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(iv) The income-tax authority can on no account remove or cause to be removed from the building or place he has entered any books of account or other documents.

The correct answer is -

(a) (i) and (iii)

(b) (i) and (iv)

(c) (ii) and (iii)

(d) (ii) and (iv)

DESCRIPTIVE QUESTIONS

13. ABC Ltd. had started availing exemption under section 80-IC on setting up of a new industrial unit in Himachal Pradesh in April, 2011 to manufacture sports equipment. The company had availed deduction of 100% of profits for a period of 5 years from A.Y.2012-13 to A.Y.2016-17. For A.Y.2017-18 to A.Y.2021-22, in the normal course, deduction would be admissible at 30% of the profits and gains. However, in the P.Y.2016-17, ABC Ltd. carried out substantial expansion of its existing unit by increasing its investment in plant and machinery by 60% of the book value of plant and machinery as on 1.4.2016. From A.Y.2017-18, ABC Ltd. claimed deduction at 100% of profits, instead of 30%, on the basis of the Supreme Court ruling in *Pr. CIT v. Aarham Softronics (2019) 412 ITR 623,* that a fresh period of 5 years, qualifying for deduction@100% of profits and gains, would commence from the year of substantial expansion. Is the claim of ABC Ltd. valid? Discuss.

14. PQR Ltd, a company manufacturing footwear and leather products for the past ten years, had a net profit of ₹ 544 lakhs as per the statement of profit and loss for the year ended 31st March, 2020. The company was subject to tax audit under section 44AB. The net profit is arrived at after debiting or crediting the following amounts:

(i) Depreciation as per Companies Act, 2013 is ₹ 64 lakhs.

(ii) A sundry creditor whose dues of ₹ 64 lakhs were outstanding since long time, has been settled for ₹ 52 lakhs on 31st March, 2020 based on compromise settlement. The amount waived has been credited to the statement of profit and loss.

(iii) Employers' contribution of ₹ 6 lakhs to EPF for the month of March, 2020 was deposited on 30th June, 2020.

(iv) Interest payments debited ₹ 60 lakhs (Includes interest on term loan of ₹ 50 lakhs availed on 1-4-2019 at interest rate of 12% p.a. towards purchase of machinery during the year).

(v) Payment of ₹ 20 lakhs without deduction of tax to XYZ & Co., a sub-contractor, for processing raw leather supplied by PQR Ltd. is debited to statement of profit & loss.

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Additional Information:

(1) The company has not made provision for an amount of ₹ 24 lakhs being a fair estimate of the amount as payable to workers towards periodical wage revision once in 3 years in respect of existing employees. The provision is estimated on a reasonable certainty of the revision once in 3 years.

(2) The written down values of assets before allowing depreciation as per Income-tax Rules are as under:

Factory Buildings: ₹ 360 lakhs;

Plant & Machinery: ₹ 340 lakhs (inclusive of machinery costing ₹ 60 lakhs acquired on 1.4.2019 and put to use on 1.11.2019)

Computers: ₹ 30 lakhs

It may be noted that the above values have been duly recognised while providing depreciation in the books of accounts.

(3) During the year 2019-20, the company has employed 24 additional employees (qualified as "workman" under the Industrial Disputes Act, 1947). All these employees contribute to a recognized provident fund. 12 out of 24 employees joined on 1.6.2019 on a salary of ₹ 23,000 per month, 4 joined on 1.7.2019 on a salary of ₹ 25,500 per month, and 8 joined on 1.11.2019 on a salary of ₹ 20,000 per month. The salaries of 2 employees who joined on 1.6.2019 are being settled by bearer cheques every month.

(4) Employees contribution to EPF of ₹ 3 lakhs recovered from their salaries for the month of March 2020 and shown in the Balance Sheet under the head Sundry Creditors was remitted on 31st July, 2020.

Compute the total income and tax liability of PQR Ltd. for the Assessment Year 2020-21. The turnover of the company for the year ended 31.3.2018 was ₹ 251 crores. Ignore the provisions of MAT. Assume that the company does not opt for the special provisions inserted by the Taxation Laws (Amendment) Act, 2019.

15. Sowbaghya, a charitable trust, is registered under section 12AA of the Act. On 1.4.2019, it got merged with M/s. LMN (P) Ltd., which is a company engaged in manufacturing of furniture. All the assets and liabilities of the erstwhile trust became the assets and liabilities of M/s. LMN (P) Ltd. which is not entitled for registration under section 12AA. The trust appointed a registered valuer for the valuation of its assets and liabilities. From the following particulars (including the valuation report), calculate the tax liability in the hands of the trust arising as a result of such merger, giving reasons for treatment of each item:

(i) Stamp duty value of land held ₹ 30 lakhs. However; if this land is sold in the open market, it would ordinarily fetch ₹ 34 lakhs. The book value of the land is ₹ 40 lakhs.

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(ii) 75,000 equity shares in XYZ Ltd. traded in National Stock Exchange. The lowest price per share on 1.4.2019 was ₹ 150 and the highest price on that day was ₹ 170. The book value was ₹ 134 lakhs.

(iii) 55,000 preference shares held in ABC Ltd. The shares will fetch ₹ 88 lakhs, if they are sold in the open market on 1.4.2019. Book value was ₹ 50 Lakhs.

(iv) Corpus fund as on 1.4.2019 ₹ 30 Lakhs.

(v) Outside liabilities ₹ 180 lakhs

(vi) Provision for taxation ₹ 10 lakhs.

(vii) Liabilities in respect of payment of various utility bills ₹ 12 lakhs.

16. Mr. Suresh aged 60 years, is a resident and ordinarily resident in India for the A.Y. 2020-21. He owns an apartment in Sharjah, U.A.E., which he purchased on 1.4.2008, and he also has a bank account in the Bank of Sharjah.

    (a) Mr. Suresh contends that since his total income of ₹ 3,00,000 for the P.Y.2019-20, comprising of income from house property and bank interest, is less than the basic exemption limit, he need not file his return of income for A.Y.2020-21.

    (b) Mr. Suresh also contends that the notice issued by the Assessing Officer under section 148 in September, 2019 for A.Y.2009-10 is not valid due to the following reasons –

        (i) There is no escaped income relating to that year; and

        (ii) The time period prescribed in section 149 for issuing notice under section 148 for A.Y.2009-10 has since lapsed.

    Discuss the correctness of the above contentions of Mr. Suresh.

17. M/s. Himalaya LLP filed its return of income for the A.Y. 2018-19 on 23-07-2018. The assessment u/s 143(3) was completed on 27th April, 2019. The Assessing Officer made two additions to the income of the LLP, namely, ₹ 20 lakhs towards unexplained investment u/s 69 and ₹ 3 lakhs u/s 40(b) due to excess interest paid to partners.

    The LLP, being aggrieved, contested the addition of ₹ 20 lakhs under section 69 and filed an appeal before the Commissioner (Appeals). The appeal was decided on 12th February, 2021 against the LLP.

    In March, 2021, the LLP approaches you to know whether it should apply for revision to Principal Commissioner u/s 264 or for rectification u/s 154 to the Assessing Officer as regards disallowance u/s 40(b). You are required to advise the LLP, keeping in mind the relevant provisions of income-tax law.

18. Is issue of notice under section 143(2) mandatory for making a regular assessment under section 143(3)? Can failure on the part of the Assessing Officer to issue notice under section 143(2) be treated as a defect curable under section 292BB, if the assessee

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participates in assessment proceedings? Discuss, with the aid of a recent Supreme Court ruling.

19. Mr. Hari, a resident aged 42 years is a salaried employee employed with Omega P Ltd. He received the following components of his salary income during the previous year 2019-20.

Basic Salary	₹ 60,000 p.m.
Dearness Allowance	12% of basic salary
Transport Allowance	₹ 10,000 p.m.
Medical Allowance	₹ 5,000 p.m.

He contributed ₹ 18,000 to approved Pension Fund of LIC. He also paid ₹ 2,00,000 by crossed cheque for mediclaim premium to insure the health of his mother, a resident aged 61 years, who is not dependent on him as a lumpsum payment for 5 years including the current previous year.

He also delivered guest lecture in a reputed university in Country X during the year. He received ₹ 8,00,000 from such university after deduction of tax of ₹ 2,00,000 in Country X. India does not have any double taxation avoidance agreement under section 90 of the Income-tax Act, 1961, with Country X. Compute the tax liability of Mr. Hari for the A.Y. 2020-21.

20. Examine whether transfer pricing provisions under the Income-tax Act, 1961 would be attracted in respect of the following cases -

(i) Transfer of process patents by Rho Ltd., an Indian company, to ABC Inc., a US company, which guarantees 12% of the borrowings of Rho Ltd.

(ii) Marketing management services provided by Athena, a Greece company to Alpha Ltd., an Indian company. Athena is a "specified foreign company" as defined in section 115BBD, in relation to Alpha Ltd.

(iii) Gamma Ltd., an Indian company, has two units, Delta & Phi. Unit Delta, which commenced business four years back, is engaged in the development of a highway project, for which purpose an agreement has been entered into with the Central Government. Unit Phi is carrying on the business of trading in steel. Unit Phi transfers 25,000 metric tons of steel of the value of ₹ 30,000 per MT to Unit Delta for ₹ 20,000 per MT.

(iv) Purchase of machinery by Beta Ltd., an Indian company, from Huff AG, a German company. Beta Ltd. is the subsidiary of Huff AG.

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MOST APPROPRIATE OPTION – OBJECTIVE TYPE QUESTIONS

MCQ No.	Sub-part	Most Appropriate Answer
1.	(i)	d
	(ii)	a
	(iii)	c
	(iv)	c
	(v)	b
2.	(i)	c
	(ii)	a
	(iii)	c
	(iv)	b
	(v)	a
3.	(i)	d
	(ii)	a
	(iii)	d
	(iv)	b
	(v)	a

MCQ No.	Most Appropriate Answer
4.	a
5.	d
6.	c
7.	d
8.	c
9.	c
10.	d
11.	c
12.	d

ANSWERS TO DESCRIPTIVE QUESTIONS

13. Section 80-IC applies to an undertaking or enterprise which has begun or begins to manufacture any specified article or thing therein by setting up a new factory in special category States, which includes the State of Himachal Pradesh. As per section 80-IC(3), the category of undertakings or enterprises to which the assessees' belong, is entitled to deduction@100% of profits and gains for 5 assessment years commencing from the "initial assessment year" and, thereafter, deduction@25% of profits and gains (30% of profits and gains in case of a company) for the next 5 assessment years. As per section 80-IC(6), the total period of deduction is, however, capped at 10 assessment years.

As per sub-clause (v) of section 80-IC(8), **"initial assessment year"** means the assessment year relevant to the previous year in which the undertaking or the enterprise:

(1) begins to manufacture or produce articles or things, or

(2) commences operation or

(3) completes substantial expansion.

As per sub-clause (ix) of section 80-IC(8), "**Substantial expansion**" means increase in the investment in the plant and machinery **by at least 50%** of the book value of plant and

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machinery (before taking depreciation in any year), as on the first day of the previous year in which the substantial expansion is undertaken.

Section 80-IC(2)(b)(ii) requires that the undertaking or enterprise should begin to manufacture or produce any article or thing specified in the Fourteenth Schedule or commence operation specified in that Schedule and undertake substantial expansion during the period between 7.1.2003 and 31.3.2012 in the State of Himachal Pradesh.

This issue of whether deduction@100% of profits and gains under section 80-IC can be claimed for a fresh period where an entity has already claimed deduction@100% of profits and gains for a period of five years came up before the Supreme Court in *Pr. CIT v. Aarham Softronics [2019] 412 ITR 623.* The Apex Court noted that as per the definition of "initial assessment year", the first two events i.e., the previous year in which the undertaking or the enterprise begins to manufacture or produce article or things; or commences operation are relatable to new units, whereas third incident i.e., completes substantial expansion, would occur in respect of existing units. The benefit of section 80-IC is, thus, admissible not only when an undertaking or enterprise sets up new unit and starts manufacturing or producing article or things. The advantage of this provision also accrues to existing units, if they carry out "substantial expansion" of their units by investing required capital, in the assessment year relevant to the previous year.

The Apex Court also observed that the various provisions of section 80-IC should be read conjointly, i.e., sub-section (2)(b)(ii), sub-section (3)(ii), sub-section (6) and sub-section (8)(v) and (ix). Sub-section (3) enumerates the deduction, as being 100% of profits and gains for the first 5 initial assessment years commencing with the initial assessment year and thereafter, 25% (or 30% where the assessee is a company) of the profits and gains. The deduction at 25% or 30% for the next 5 years is on the assumption that the new unit remains static in so far as expansion thereof is concerned. However, the moment "substantial expansion" takes place, another "initial assessment year" gets triggered. This new event entitles that unit to start getting deduction at 100% of the profits and gains. At the same time, new period of 10 years does not start, on account of the cap under sub-section (6) of section 80-IC. Thus, the total period for which deduction can be allowed is capped at 10 years, however, there is no cap on quantum.

However, the substantial expansion should have also taken place on or before 31.3.2012 as per section 80-IC(2)(b)(ii), for the entity to be entitled to benefit of 100% deduction for a fresh period on the basis of such substantial expansion. In this case, however, the substantial expansion took place after 31.3.2012, in the P.Y.2016-17. Hence, the rationale of the above Supreme Court ruling cannot be applied to the case on hand, since the condition laid down in section 80-IC(2)(b)(ii) is **not** satisfied. The claim of ABC Ltd. is, therefore, **not** correct. **Accordingly, even though it has undertaken "substantial expansion" during the P.Y.2016-17, it would be entitled to a deduction of only 30% of profits and gains from A.Y.2017-18 to A.Y.2021-22.**

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14. Computation of Total Income of PQR Ltd. for the A.Y. 2020-21

Particulars	Amount (₹)	
Net profit as per the statement of profit and loss		5,44,00,000
Add: **Items debited but to be considered separately or to be disallowed**		
(i) Depreciation charged as per Companies Act, 2013	64,00,000	
(iii) Employer's contribution to EPF	Nil	
[As per section 43B, employers' contribution to EPF is allowable as deduction, since the same has been deposited on or before the 'due date' of filing of return under section 139(1) i.e., 30.9.2020. Since the same has been debited to statement of profit and loss, no further adjustment is necessary]		
(iv) Interest on term loan for purchase of plant and machinery [₹ 50 lakhs x 12% x 7/12]	3,50,000	
[As per the proviso to section 36(1)(iii), interest paid in respect of capital borrowed for acquisition of an asset for the period from the date of borrowing till the date on which such asset is first put to use shall not be allowed as deduction. Since the same has been debited to statement of profit and loss, it has to be added back while computing business income]		
(v) Payment to XYZ & Co., a sub-contractor, without deduction of tax [30% of ₹ 20 lakh]	6,00,000	
[Under section 40(a)(ia), 30% of any sum paid to any resident on which tax is deductible is disallowed if tax is not deducted at source. In this case, TDS provisions under section 194C are attracted on payment for processing of raw material. Since tax has not been deducted on such payment, 30% of the expenditure shall be disallowed]		73,50,000
		6,17,50,000
Add: **Amount taxable but not credited to statement of profit and loss**		
AI(5) Employee's contribution to EPF		3,00,000

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[Any sum received by the assessee from his employees as contribution to any provident fund is treated as income of the assessee. Since employees contribution to EPF has not been deposited on or before the due date under the PF Act, the same is not allowable as deduction as per section 36(1)(va)[1].]		
		6,20,50,000
***Less:* Items credited to statement of profit and loss, but not includible in business income / permissible expenditure and allowances**		
(ii) Waiver of sundry creditor's outstanding amount	Nil	
[Waiver of ₹ 12,00,000 from the sundry creditors is a benefit in respect of a trading-liability by way of remission or cessation thereof and is, hence, taxable under section 41(1). Since the amount is already credited to statement of profit & loss, no adjustment is necessary]		
AI (1) Provision for wages payable to workers		
[The provision based on fair estimate of wages and reasonable certainty of revision is allowable as deduction, since ICDS X requires 'reasonable certainty' for recognition of a provision, which is present in this case. As the provision has not been debited to statement to profit and loss, the same has to be reduced while computing business income]	24,00,000	24,00,000
		5,96,50,000

[1] Employee contribution to PF deposited after the due date under PF Act is not allowable as deduction as per section 36(1)(va). This view has been affirmed by the Gujarat High Court in *CIT v. Gujarat State Road Transport Corporation (2014) 366 ITR 170.* Alternate view that the same is allowable as deduction if deposited on or before the due date of filing of return is possible as per the Delhi High Court ruling in *CIT v. AIMIL (2010) 321 ITR 508* and the Uttrakhand High Court ruling in the case of *CIT v. Kichha Sugar Co. Ltd. (2013) 356 ITR 351.*

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Less: **Depreciation as per Income-tax Rules, 1962**		
A(2) Depreciation under section 32		
Depreciation on factory building [10% of ₹ 360 lakh]	36,00,000	
Depreciation on plant and machinery		
- Depreciation@7.5% on ₹ 63.50 lakhs [₹ 60 lakh, being machinery cost + ₹ 3.50 lakh, being interest from 1.4.2019 to 31.10.2019] since machinery is put to use for less than 180 days].	4,76,250	
- Depreciation@15% on ₹ 280 lakh [₹ 340 lakh – ₹ 60 lakh]	42,00,000	
- Depreciation on computers [40% of ₹ 30 lakh]	12,00,000	
	94,76,250	
Add: Additional *d*epreciation @10% on ₹ 63.50 lakh, since machinery is put to use for less than 180 days	6,35,000	1,01,11,250
Gross Total Income		**4,95,38,750**
Less: **Deduction under Chapter VI-A**		
Under section 80JJAA **[See Working Note below]**		9,30,000
Total Income		**4,86,08,750**

Computation of tax payable by PQR Ltd. for the A.Y. 2020-21

Particulars	₹
Tax payable on ₹ 4,86,08,750@25%, since the turnover of the company for the P.Y. 2017-18 does not exceed ₹ 400 crores	1,21,52,188
Add: Surcharge@7% (since the total income of the company exceeds ₹ 1 crore but does not exceed ₹ 10 crore)	8,50,653
	1,30,02,841
Add: Health and education cess@4%	5,20,114
Tax liability	**1,35,22,954**
Tax liability (Rounded off)	1,35,22,950

Working Note: Computation of deduction under section 80JJAA

PQR Ltd. is eligible for deduction u/s 80JJAA since the company is subject to tax audit under section 44AB for A.Y.2020-21 and has employed "additional employees" during the P.Y.2019-20.	
Number of additional employees	
Total number of employees employed during the year	24

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Less: Employees employed on 1.7.2019, since their total monthly emoluments > ₹ 25,000	4
Employees employed on 1.6.2019 whose emoluments are paid by bearer cheque	2
Number of additional employees [10 employees employed on 1.6.2019 and 8 employed on 1.11.2019]	**18**
Additional employee cost ₹ 23 lakh, being ₹ 23,000 × 10 ×10 + ₹ 8 lakh, being ₹ 20,000 x 5 x 8	₹ 31,00,000
Deduction under section 80JJAA [30% of ₹ 31 lakh]	9,30,000

15. As per section 115TD, the accreted income of "Sowbaghya", a charitable trust, registered under section 12AA which is merged with M/s LMN (P) Ltd., an entity not entitled for registration under section 12AA, would be chargeable to tax at maximum marginal rate@34.944% [30% plus surcharge @12% plus cess@4%].

Computation of accreted income and tax liability in the hands of the trust arising as a result of merger with LMN (P) Ltd. for A.Y. 2020-21

Particulars	Amount (₹)
Aggregate FMV of total assets as on 1.4.2019, being the specified date (date of merger) **[See Working Note 1]**	2,42,00,000
Less: Total liability computed in accordance with the prescribed method of valuation **[See Working Note 2]**	1,92,00,000
Accreted Income	**50,00,000**
Tax Liability @ 34.944% of ₹ 50,00,000	**17,47,200**
Working Notes:	
(1) Aggregate fair market value of total assets on the date of merger	
- **Land, being an immovable property** [The fair market value of land would be higher of ₹ 34 lakhs i.e., price that the land would ordinarily fetch if sold in the open market and ₹ 30 lakhs, being stamp duty value as on the specified date]	34,00,000
- **Quoted equity shares in XYZ Ltd. [75,000 x ₹ 160 per share]** [₹ 160 per share, being the average of the lowest (₹ 150) and highest price (₹ 170) of such shares on the date of merger]	1,20,00,000

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- **55,000 preference shares of ABC Ltd.** [The fair market value which it would fetch if sold in the open market on the date of merger i.e. FMV on 1.4.2019]	88,00,000
	2,42,00,000
(2) Total liability	
- Outside liabilities	1,80,00,000
- Corpus Fund of ₹ 30 lakhs [not includible]	-
- Provision for taxation ₹ 10 lakhs [not includible]	-
- Liabilities in respect of payment of various utility bills [since this liability is an ascertained liability]	12,00,000
	1,92,00,000

16. (a) The first contention of Mr. Suresh is **not** correct.

Section 139(1) requires every resident other than not ordinarily resident, who at any time during the previous year, holds as a beneficial owner or otherwise, any asset (including financial interest in any entity) located outside India or has signing authority in any account located outside India or is a beneficiary of any asset located outside India, to file a return of income compulsorily whether or not he has income chargeable to tax.

Mr. Suresh has a house property in Sharjah, UAE and a bank account in the Bank of Sharjah. Therefore, Mr. Suresh has to file his return of income mandatorily for the A.Y.2020-21, even though his total income of ₹ 3,00,000, comprising solely of income from house property and bank interest, does not exceed the basic exemption limit of ₹ 3,00,000 applicable to a senior citizen.

(b) Mr. Suresh's second contention is also **not** correct.

Income chargeable to tax shall be deemed to have escaped assessment for the purpose of section 147, where a person is found to have any asset (including financial interest in any entity) located outside India. Accordingly, the Assessing Officer can serve a notice under section 148 on such assessee requiring him to furnish a return of income within the specified period, for the purpose of making an assessment, reassessment or re-computation under section 147.

Further, section 149 prescribes an extended time limit of sixteen years from the end of the relevant assessment year for issue of notice under section 148, in case income in relation to such assets located outside India has escaped assessment.

In this case, since Mr. Suresh has a house property located outside India in the P.Y.2008-09, income is deemed to have escaped assessment for A.Y.2009-10. Notice under section 148 issued to Mr. Suresh in September 2019 in respect of

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A.Y.2009-10 is valid, since the extended time limit of sixteen years from the end of the relevant assessment year has not expired.

17. Section 264(4)(c) provides that the Principal Commissioner or Commissioner has no power to revise any order which has been made the subject matter of an appeal to the Commissioner (Appeals), even if the relief claimed in the petition is different from the relief claimed in appeal. The concept of total merger would apply in the case of section 264. It was so held by the Supreme Court in the case of *Hindustan Aeronautics Ltd v. CIT (2000) 243 ITR 898.*

Section 154(1A) provides that where any matter had been considered and decided in any proceeding by way of appeal or revision relating to an order, Assessing Officer may amend the order for rectification of mistake apparent from the record, in relation to a matter other than the matter which has been considered and decided. The concept of partial merger would apply in the case of section 154.

In the present case, since the order passed by the Assessing Officer in respect of the addition of unexplained investment of ₹ 20 lakhs became the subject matter of an appeal to the Commissioner (Appeals), the assessee, M/s. Himalaya LLP, cannot apply for revision under section 264 even if the subject matter of revision i.e., addition of ₹ 3 lakhs under section 40(b) is different from the subject matter of appeal.

However, M/s. Himalaya LLP can apply to the Assessing Officer for rectification of the order in respect of addition of ₹ 3 lakh under section 40(b), if the mistake is apparent from the record, as this matter has not been considered and decided in any proceeding by way of appeal or revision.

In the view of above, the assessee, M/s. Himalaya LLP should seek rectification under section 154.

18. Issue of notice under section 143(2) is mandatory for making a regular assessment under section 143(3). Section 292BB is a deeming provision that seeks to cure defects in any notice issued under any provision of the Income-tax Act, 1961, if the assessee has participated in the proceedings. Section 292BB provides that where the assessee has participated in the proceedings, any notice which is required to be served upon him shall be deemed to have been duly served and the assessee would be precluded from taking any objection that the notice was (a) not served upon him; or (b) not served upon him in time; or (c) served upon him in an improper manner.

The issue as to whether the Assessing Officer's omission to issue notice under section 143(2) is a defect curable under section 292BB if the assessee participates in the assessment proceedings came up before the Supreme Court in *CIT v. Laxman Das Khandelwal (2019) 417 ITR 325.*

The Supreme Court observed that the law on the point as regards applicability of the requirement of issue of notice under section 143(2) is quite clear. According to section 292BB, if the assessee had participated in the proceedings, by way of legal fiction, notice

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issued would be deemed to be valid even if there be infractions as detailed in the said section. The scope of the provision is to make service of notice having certain infirmities to be proper and valid if there was requisite participation on the part of the assessee. It is, however, to be noted that the section does not save complete absence of issue of notice. **For section 292BB to apply, the notice must have emanated from the Department.** It is only the infirmities in the manner of service of notice that the section seeks to cure. The section is not intended to cure complete absence of notice itself.

The Supreme Court, accordingly, held that non-issuance of notice under section 143(2) is not a curable defect under section 292BB inspite of participation by the assessee in assessment proceedings.

19. Computation of total income of Mr. Hari for A.Y.2020-21

Particulars	₹	₹
Salaries [Indian Income]		
Basic Salary (₹ 60,000 x 12 months)	7,20,000	
Dearness Allowance (12% of basic salary of ₹ 7,20,000)	86,400	
Transport Allowance (₹ 10,000 x 12) [Fully taxable]	1,20,000	
Medical Allowance (₹ 5,000 x 12) [Fully taxable]	60,000	
Gross Salary	9,86,400	
Less: Standard deduction u/s 16(ia) Lower of actual salary or ₹ 50,000	50,000	
Net Salary		**9,36,400**
Income from Other Sources [Foreign Income]		
Income from lectures in foreign university [₹ 8,00,000 plus tax deducted at source of ₹ 2,00,000]		10,00,000
Gross Total Income		**19,36,400**
***Less:* Deduction under Chapter VIA**		
Under section 80CCC – Contribution to approved Pension Fund of LIC	18,000	
Under section 80D – Medical insurance premium of mother, being a resident senior citizen for the year 2019-20, ₹ 40,000 [being 1/5th of the lumpsum premium of ₹ 2,00,000 paid for 5 years] fully allowable, even though she is not dependent on him, since the same does not exceed ₹ 50,000	40,000	58,000
Total Income		**18,78,400**

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Computation of tax liability of Mr. Hari for A.Y.2020-21		
Particulars		**₹**
Tax on total income [₹ 2,63,520 (i.e., 30% of ₹ 8,78,400) *plus* ₹ 1,12,500 (Tax on income of ₹ 10 lakh)]		3,76,020
Add: Health and education cess@4%		15,041
Tax Liability		3,91,061
Average rate of tax in India [i.e., ₹ 3,91,061 / ₹ 18,78,400 x 100]	20.82%	
Tax rate in Country X [2,00,000 /10,00,000] x 100	20%	
Deduction under section 91 on ₹ 10,00,000, being the doubly taxed income@ 20% [being the lower of Indian rate of tax (20.82%) and Country X tax rate (20%)]		2,00,000
Tax Payable		**1,91,061**
Tax Payable (rounded off)		1,91,060

20. **(i)** The scope of the term "intangible property" includes, *inter alia*, process patents, which is a technology related intangible asset. Transfer of intangible property falls within the scope of the term "international transaction". Since ABC Inc., a US company, guarantees not less than 10% of the borrowings of Rho Ltd., an Indian company, ABC Inc. and Rho Ltd. are deemed to be associated enterprises under section 92A(2). Therefore, since transfer of process patents by Rho Ltd., an Indian company, to ABC Inc., a US company, is an international transaction between associated enterprises, the provisions of transfer pricing are attracted in this case.

(ii) Clause (i) of *Explanation* to section 92B amplifies the scope of the term "international transaction". According to the said *Explanation*, international transaction includes, *inter alia*, provision of marketing management services. Athena is a specified foreign company in relation to Alpha Ltd. Therefore, the condition of Alpha Ltd. holding shares carrying not less than 26% of the voting power in Athena is satisfied, assuming that all shares carry equal voting rights. Hence, Athena and Alpha Ltd. are deemed to be associated enterprises under section 92A(2). Since the provision of marketing management services by Alpha Ltd. to Athena is an "international transaction" between associated enterprises, transfer pricing provisions are attracted in this case.

(iii) Unit Delta is eligible for deduction@100% of the profits derived from its eligible business (i.e., the business of developing an infrastructure facility, namely, a highway project in this case) under section 80-IA. However, Unit Phi is not engaged in any "eligible business". Since Unit Phi has transferred steel to Unit Delta at a price lower than the fair market value, it is an inter-unit transfer of goods between eligible business and other business, where the consideration for transfer does not correspond with the market value of goods. Therefore, this transaction would fall

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within the meaning of "specified domestic transaction" to attract transfer pricing provisions, since the aggregate value of such transactions during the year exceeds a sum of ₹ 20 crore.

(iv) Purchase of tangible property falls within the scope of "international transaction". Tangible property includes machinery. Huff AG and Beta Ltd. are associated enterprises under section 92A, since Huff AG is a holding company of Beta Ltd. Therefore, purchase of machinery by Beta Ltd., an Indian company, from Huff AG, a German company, is an international transaction between associated enterprises, and consequently, the provisions of transfer pricing are attracted in this case.

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