

PAPER 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION

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 31st October, 2019 are applicable for May, 2020 examination. The relevant assessment year for May, 2020 examination is A.Y.2020-21. The amendments made by the Taxation Laws (Amendment) Act, 2019 and significant notifications/circulars issued upto 31st October, 2019, relevant for May, 2020 examination but not covered in the October, 2019 edition of the Study Material, are given hereunder:

PART – I : DIRECT TAX LAWS

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%

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(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 notwithstanding anything contained in the Income-tax Act, 1961 but subject to the provisions of Chapter XII, other than sections 115BA and 115BAA. [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]	The rate of tax (i.e., 25.168%) is notwithstanding anything 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 <i>plus</i> 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 <i>plus</i> 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).	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

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		In respect of such income, no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income.	relevant provisions of the Act.	
	Rate of tax on STCG from transfer of a capital asset on which no depreciation is allowable under the Act	The applicable rate of tax is 25.168% (i.e., tax@22%, plus surcharge@10% plus HEC@4%). There is, however, no restriction regarding claiming of deduction or allowance in this regard.	The applicable rate of tax is 25.168% i.e., tax @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		
	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	
			Section 115BAA	

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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)	<p>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.</p> <p>Note – <i>Business of manufacture or production of any article or thing does not include business of –</i></p> <p>(1) <i>Development of computer software in any form or in any media</i></p> <p>(2) <i>Mining</i></p> <p>(3) <i>Conversion of marble blocks or similar items into slabs</i></p> <p>(4) <i>Bottling of gas into cylinder</i></p> <p>(5) <i>Printing of books or production of cinematograph films</i></p> <p>(6) <i>Any other business as may be notified by the Central Govt. in this behalf.</i></p>	No similar condition has been prescribed
		<p>Note - <i>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</i></p>		

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		<p><i>or production of article or thing using new plant and machinery.</i></p> <p><i>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.</i></p>															
(8)	Common conditions for both sections for availing the concessional rate of tax and exemption from MAT	<p>In case of a company opting for either section 115BAA or 115BAB, the total income should be computed -</p> <p>(i) without providing for deduction under any of the following provisions:</p> <table border="1"> <thead> <tr> <th>Section</th> <th>Provision</th> </tr> </thead> <tbody> <tr> <td>10AA</td> <td>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.</td> </tr> <tr> <td>32(1)(ia)</td> <td>Additional depreciation @20% or 35%, as the case may be, of actual cost of new plant and machinery acquired and installed by manufacturing undertakings.</td> </tr> <tr> <td>32AD</td> <td>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.</td> </tr> <tr> <td>33AB</td> <td>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.</td> </tr> <tr> <td>33ABA</td> <td>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.</td> </tr> <tr> <td>35(1)(ii)/(ia)/(iii)</td> <td>Deduction/weighted deduction for payment to any research association, company, university etc. for undertaking scientific research or social science or statistical research.</td> </tr> </tbody> </table>	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)(ia)	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)/(ia)/(iii)	Deduction/weighted deduction for payment to any research association, company, university etc. for undertaking scientific research or social science or statistical research.	
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		35(2AA)	Weighted deduction@150% of payment to a National Laboratory or University or IIT or approved specified person for scientific research
		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)(ia) cannot be claimed.
			<p><u>Note – Additional points relevant in the context of section 115BAA:</u></p> <p><i>(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]</i></p>

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		<p>(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.</p> <p>(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, 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]</p> <p>(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.</p>	
	Particulars	Section 115BAB	Section 115BAA
(9)	Failure to satisfy conditions	<p>On failure to satisfy the conditions mentioned in point no. (7) and (8) above, the option exercised would be invalid in respect of the assessment year relevant to that previous year and subsequent assessment years;</p> <p>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.</p> <p>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.</p>	<p>On failure to satisfy the conditions mentioned in point no.(8) above, the option exercised would be invalid in respect of the assessment year relevant to that previous year and subsequent assessment years;</p> <p>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.</p>

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	Particulars	Section 115BAB	Section 115BAA
(10)	Availability of set-off of MAT credit brought forward from earlier years	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 115BAA. Note - <i>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.</i>
	Particulars	Section 115BAB	Section 115BAA
(11)	Adjustments for transactions with persons having close connection	<p>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.</p> <p>In case the arrangement referred to 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).</p> <p>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.</p> <p>The income-tax on the income so deemed shall be subject to tax@34.32%(i.e., tax@30% + surcharge @10% +HEC@4%).</p>	No such requirement to make any adjustment

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		<i>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.</i>	
	Particulars	Section 115BAB	Section 115BAA
(12)	Exercise of option by the company within the prescribed time	<p>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.</p> <p>Such option, once exercised, would apply to subsequent assessment years.</p> <p>Further, once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.</p> <p>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.</p> <p><i>(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.</i></p>	<p>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..</p> <p>Such option, once exercised, would apply to subsequent assessment years.</p> <p>Further, once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.</p> <p>Note – The option can be exercised even in a later year, but once exercised, cannot be withdrawn subsequently.</p> <p><i>Further, where the person exercises option under section 115BAA, the option under section 115BA may be withdrawn.</i></p>

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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;
- (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.**

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Annexure 2

Rate 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%	<ul style="list-style-type: none"> • 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%	<ul style="list-style-type: none"> • 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.
(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%	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • 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

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(iv)	<p>Where total income (excluding income u/s 111A and 112A) exceeds ₹ 5 crore</p> <p>Rate of surcharge on the income-tax payable on the portion of income chargeable to tax u/s 111A and 112A</p>	<p align="center">37%</p> <p align="center">Not exceeding 15%</p>	<ul style="list-style-type: none"> • STCG u/s 111A ₹ 50 lakhs; • LTCG u/s 112A ₹ 65 lakhs; and • Other income ₹ 6 crore 	<p>Surcharge@15% would be levied on income-tax on:</p> <ul style="list-style-type: none"> • STCG of ₹ 50 lakhs chargeable to tax u/s 111A; and • LTCG of ₹ 65 lakhs chargeable to tax u/s 112A. <p>Surcharge@37% would be leviable on the income-tax computed on other income of ₹ 6 crores included in total income.</p>
(v)	<p>Where total income (including income u/s 111A and 112A) exceeds ₹ 2 crore in cases not covered under (iii) and (iv) above</p>	<p align="center">15%</p>	<ul style="list-style-type: none"> • STCG u/s 111A ₹ 60 lakhs; • LTCG u/s 112A ₹ 55 lakhs; and • Other income ₹ 1.10 crore 	<p>Surcharge would be levied@15% on income-tax computed on total income of ₹ 2.25 crore.</p>

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.

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Annexure 3

Rate 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 is ≤ ₹ 1 crore	10%	<ul style="list-style-type: none"> 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 is ≤ ₹ 2 crore	15%	<ul style="list-style-type: none"> 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 section 115AD(1)(b)] > ₹ 2 crore ≤ ₹ 5 crore	25%	<ul style="list-style-type: none"> 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

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	Rate of surcharge on the income-tax payable on the portion of income chargeable to tax u/s 115AD(1)(b)	Not exceeding 15%	<ul style="list-style-type: none"> • Other income ₹ 3 crores; 	referred 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%	<ul style="list-style-type: none"> • 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%	<ul style="list-style-type: none"> • 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 15: Deduction, Collection and Recovery of Tax

Clarification as to the applicability of section 194N and manner of computing the threshold limit of Rs.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, with effect from 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 Rs. 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 Rs. 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;

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;

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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].

PART - II: INTERNATIONAL TAXATION

Chapter 3: 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: <u>Within 90 days</u> <u>from</u>	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 <i>suo-motu</i> by the assessee in his return of income	the due date of filing of return u/s 139(1)	<i>the due date of filing of return u/s 139(1)</i>

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(ii) If primary adjustments to transfer price as determined in the order of the Assessing Officer or the appellate authority has been accepted by the assessee	the date of the said order	<i>the date of the said order</i>
(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 -		
<ul style="list-style-type: none"> 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)
<ul style="list-style-type: none"> 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.