

Tax Audit Series - Version 4.0

Chapter 5 – Clauses 9 to 12



CA. PRAMOD JAIN
B. COM (H), FCA, FCS, FCMA, LL. B, DISA, MIMA, IP
www.capramodjain.com

Namaste

From Chapter - 5 onwards we would discuss the Particulars of Part B of Form 3CD. Form 3CD (As amended by CBDT vide notification dated 5th March 2024 read with corrigenda dated 19th March 2024) is divided into two parts:

- Part A containing Clause Nos. 1 to 8A
- Part B containing Clause Nos. 9 to 44

In this series we would be discussing Part B - Clauses from 9 to 12

Clause 9

9(a) - If firm or association of persons, indicate names of partners/members and their profit-sharing ratios

9(b) - If there is any change in the partners or members or in their profit-sharing ratio since the last date of the preceding year, the particulars of such change

- If the assessee, is a Partnership Firm or Limited Liability Partnership (LLP) or association of persons (AOP) or body of individuals (BOI), the names of partners of the firm or members of the association of persons or body of individuals and their profit-sharing ratios (%) needs to be stated and the same should be verified from deed / agreement or any other document evidencing partnership or association of persons
- If there is any change in partners/ members or their profit-sharing ratio from the last date of preceding year, then:
 - a. Obtain the certified copies partnership deeds / LLP agreement and other relevant documents.
 - b. In case of LLP, confirm the changes with Forms filed with the Registrar.
 - c. Ensure that all the changes, taken place in constitution or profit-sharing ratio since last date of preceding year has been mentioned.
 - d. Verify acknowledgement of filing of notice of change to Registrar of firms, if any.
 - e. Whether relevant facts have been mentioned in case, share of member of AOP is indeterminate.
 - f. Obtain written representation
- If minor is admitted to the benefits of the firm (not LLP) then ensure whether his/her name and Profit-Sharing Ratio has been duly stated.

Tax Audit Series - Version 4.0

Chapter 5 – Clauses 9 to 12



CA. PRAMOD JAIN

B. COM (H), FCA, FCS, FCMA, LL. B, DISA, MIMA, IP

www.capramodjain.com

Clause 10

10(a) - Nature of business or profession (if more than one business or profession is carried on during the previous year, nature of every business or profession)

- Nature of business/profession should be verified from the financial statements especially notes /schedules relating to company. Also verify the incorporation document such as MOA, partnership deed, LLP agreement, trust deed, etc. (if more than one business or profession is carried on during the previous year, nature of every business or profession).
- The code is to be filled for main area(s) of business activities.
- Ensure that broadly required the sub-sector pertaining to the sector in which the assessee is operating is mentioned correctly.
 - For example: If in the manufacturing sector, the assessee is manufacturing electrical components, the same should be stated.
- The relevant code of the sector in which the assessee operates is also required to be stated.

10(b) - If there is any change in the nature of business or profession, the particulars of such change

- If there is any change in the nature of Business or Profession, the particulars of such change should be verified:
 - a) Whether change in nature of business / business line / permanent discontinuance is mentioned in this clause?
 - b) Whether any such change is occurring due to reconstruction / reorganization may also been mentioned?
 - c) Review the minutes of the meeting approving the change in business. Obtain the declaration from the assessee w.r.t. such change.
 - d) Change from manufacturer to trader and vice versa or satring job work are few examples of change.
- Temporary suspension of the business may not amount to change and therefore should not be reported.

Clause 11

11(a) - Whether books of account are prescribed under section 44AA, if yes, list of books so prescribed

- Books have been prescribed only for specified professionals; hence only in case of specified professionals' books prescribed u/s 44AA (1) read with Rule 6F should be mentioned in this clause.

Tax Audit Series - Version 4.0

Chapter 5 – Clauses 9 to 12



CA. PRAMOD JAIN

B. COM (H), FCA, FCS, FCMA, LL. B, DISA, MIMA, IP

www.caprmodjain.com

- For medical profession two specific registers (daily case register in Form 3C and inventory) is specifically provided in Rule 6F.
- In case of business, as no books are prescribed so verify that it is mentioned accordingly- No.

11(b) List of books of account maintained and the address at which the books of account are kept

- Obtain list of books maintained by the assessee either computerized or otherwise.
- Also obtain the address at which the books are maintained. Separate books may be maintained at different place of business.
- In case books of account are maintained in a computer system, mention that the books of account are generated by such computer system.
- In case, where books of accounts are maintained and generated through computer system, the auditor should obtain from the assessee the details of address of the place where the server is located or the principal place of business/Head office or registered office by whatever name called.
- Have appropriate marks of identification been made, to ensure identification of books of accounts produced before us?
- In case of manufacturing/trading, has assessee maintained the quantitative records of stores, raw material and finished goods.
- In case of company assessee, verify the form filed with ROC regarding maintenance of books at a place other than registered office, if any.
- In case assessee's business is of dealing in securities (shares, future & options) only and books are not maintained by assessee but profit/loss and financial position has arrived through brokers statements, mention the said statements available with the assessee.

11(c) - List of books of account and nature of relevant documents examined.

- Mention the books of accounts and nature of relevant documents examined by the auditor.
- There could be difference in books maintained and examined as mentioned in sub-clause (b) and (c) of this clause, as the auditor may not have been certain books or documents for examination, for example stock records.
- Examine not only the books of accounts but also other relevant documents directly related to transactions reflected in the books of accounts like original purchase invoice, copy of bank statements, bills, vouchers, various agreements/ contracts or any other document on the basis of which preliminary entries are passed in the books of accounts.
- In case assessee's business is of dealing in securities (shares, future & options) only and books are not maintained by assessee but profit/loss and financial position has arrived through brokers statements, mention the examination of those statements made available by the assessee.

Tax Audit Series - Version 4.0

Chapter 5 – Clauses 9 to 12



CA. PRAMOD JAIN

B. COM (H), FCA, FCS, FCMA, LL. B, DISA, MIMA, IP

www.caprmodjain.com

Clause 12: Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant sections (44AD, 44ADA, 44AE, 44AF, 44B, 44BB, 44BBA, 44BBB, Chapter XII-G, First Schedule or any other relevant section)?

The auditor needs to verify if the profit and loss account includes any of the income assessable on presumptive basis. S. 44ADA has been inserted w.e.f. 5th March 2024, though it would have also been covered under any other section stated in the question. There could be few different scenarios such as:

1: Books of Accounts not separately maintained for both the businesses

- Ascertainment of correct profit in respect of business covered under PRESUMPTIVE SCHEME should be done by arriving at a fair and reasonable estimate of the expenditure based on the evidence in possession of the assessee or by asking the assessee to prepare such estimate which should be checked (basis of apportionment of common expenditure, if so should be stated).
- However, if the auditor is not satisfied with the reasonableness of such apportionment, he should indicate such fact under this clause and should also give the observation in Para 3 of Form 3CA / Para 5 of Form 3CB.

2: Books of Accounts separately maintained

- In case separate set of books of accounts are maintained, it poses no problem for the auditor in ascertaining the amount of profit to be disclosed.

3: Business under presumptive scheme is additional business and no separate books are maintained for the same

- If, the books of account are not maintained for the business covered in presumptive scheme, the auditor will be unable to find out the correctness of the net income credited in the profit and loss account and he should give a suitable observation expressing his inability to verify the said figure in Para 5 of Form 3CB.
- Since the auditor is not able to form his opinion as to true and fair view of the accounts of the assessee, it would be necessary for him to qualify his audit report in Para 3 of Form 3CB.

I hope this document is of use to you. I thank CA. Shreya Jain in assisting me to compile this part of the series. Your suggestions and comments would be highly appreciated

Best Regards

CA. PRAMOD JAIN

Tax Audit Series - Version 4.0

Chapter 5 – Clauses 9 to 12



CA. PRAMOD JAIN

B. COM (H), FCA, FCS, FCMA, LL. B, DISA, MIMA, IP
www.capramodjain.com

pramodjain@lunawat.com

www.capramodjain.com

9811073867

11th July 2024

EARLIER CHAPTERS

<i>Chapter No.</i>	<i>Title</i>	<i>Link</i>
1	Applicability	http://lunawat.com/Uploaded_Files/Attachments/F_20303.pdf
2	Turnover	http://lunawat.com/Uploaded_Files/Attachments/F_20304.pdf
3	Audit Report Format	http://lunawat.com/Uploaded_Files/Attachments/F_20305.pdf
4	Clauses 1 to 8A	http://lunawat.com/Uploaded_Files/Attachments/F_20307.pdf

(Disclaimer: Though full efforts have been made to state the interpretations correctly, yet the author is not responsible / liable for any loss or damage caused to anyone due to any mistake / error / omissions)

ABOUT CA. PRAMOD JAIN

He is a commerce graduate [B. Com (H)] from Shri Ram College of Commerce (SRCC). He is a fellow member of the Institute of Chartered Accountants of India (FCA). He is a fellow member of the Institute of Companies Secretaries of India (FCS). He is a fellow member of the Institute of Cost Accountants of India (FCMA). He is a Bachelor of Law (LL. B). He is qualified as an Information System Auditor [DISA (ICAI)]. He is also a member of All India Management Association (MIMA). He is also an Insolvency Professional (IP). He has also passed the Certificate Course on CSR of ICAI. He has also passed the Proficiency Self-Assessment Test for Independent Director's Databank. He has passed certification course NCFM of National Stock Exchange of India (NSE). He has also done certification course CAAT and post qualification certificate course on Valuation of ICAI.

He is elected as Central Council Member of ICAI for 2 consecutive terms from 2019 to 2025. Apart from being member in more than 25 committees / groups / directorates of ICAI, and other Bodies he is / was:

- Chairman of Accounting Standards Board (ASB) of ICAI for 3 years from 2022 to 2025
- Deputy Convenor of Centre for Audit Quality Directorate (CAQD) for 2024-25
- Convenor - Members & Students (Grievances Handling & e-Sahayata) Directorate for 2023-24

Tax Audit Series - Version 4.0

Chapter 5 – Clauses 9 to 12



CA. PRAMOD JAIN

B. COM (H), FCA, FCS, FCMA, LL. B, DISA, MIMA, IP

www.caprmodjain.com

- Chairman of Accounting & Finance Services Sectional Committee SSD-12 under the Services Sector Division Council (SSDC) of Bureau of Indian Standards (BIS) for 2023-24
- Chairman of Expert Advisory Committee (EAC) of ICAI for Year 2022-23
- Co-Chairman of Corporate Affairs Committee of PHDCCI for the year 2022-23
- Chairman of Committee on International Taxation (CITAX) of ICAI for 2021-22
- Chairman of Taxation Audit Quality Review Board (TAQRB) of ICAI for 2021-22.
- Member of Quality Review Board (QRB) for 2 terms from 2020 to 2026.
- Member of the SME Implementation Group (SMEIG) of IFRS Foundation, UK for 3 years from 2023 to 2026.
- Chairman of Valuation Standards Board (VSB) of ICAI for the year 2020-21.
- Chairman of CSR Committee of ICAI for year 2020-21.
- Vice-Chairman of Committee on MSME & Start-up of ICAI for the year 2021-22.
- Vice-Chairman of Women Members Empowerment Committee (WMEC) of ICAI for 2021-22.
- Vice-Chairman of Direct Tax Committee (DTC) of ICAI for 2 years from 2019 to 2021.
- Vice-Chairman of Committee on International Taxation (CITAX) of ICAI for 2019-20.
- Member of ICAI Disciplinary Committee for the year 2020-21.

He is the conceptualizer of the portal www.expertspanel.in which is a one stop solution for all professional queries which has given around 36500 answers since its launch in mid of year 2018.

He has delivered more than 1700 lectures and articles on various topics of Income Tax, Corporate Laws, LLP, Audits, Peer Review, Quality Review, etc. at more than 200 forums throughout the country. Most of his presentations and articles since 2013 are available for free download from www.lunawat.com and from 2018 at www.expertspanel.in also.

He is Senior Partner of M/s LUNAWAT & CO., Chartered Accountants. He is president, founder convener and member of various Boards, Directorate, Committees, Study Circles, etc. of ICAI, ICSI and other prestigious bodies and associations. He has been a Technical Reviewer with Financial Reporting Review Board (FRRB) and Quality Review Board (QRB) and Peer Reviewer with Peer Review Board (PRB).

He has authored books on “Chartered Accountant’s Documentation and Compliance for Audits and Reviews”, *Limited liability Partnership – A Complete Resource Book*”, “Chartered Accountant’s Documentation and Compliance for Audits and Reviews”, “Importance of LLP after Companies Act, 2013”, “Chartered Accountant’s Documentation and compliance under Companies Act 2013, Peer Review and Quality Review”, “Limited Liability Partnership – Law, Procedures and Taxation”, “Documentation for Chartered

Tax Audit Series - Version 4.0

Chapter 5 – Clauses 9 to 12



CA. PRAMOD JAIN

B. COM (H), FCA, FCS, FCMA, LL. B, DISA, MIMA, IP

www.capramodjain.com

Accountants”, “Limited Liability Partnership – Law and Procedures with Ready Reckoner”, “Fringe Benefit Tax & Banking Cash Transaction Tax”, “Documentation for Audits” and “Accounting Standards and CARO”.

He has written various articles on taxation, company law and audit in various journals. He has vast practical experience in income tax, audit, corporate laws and LLP.