

# Tax Audit Series - Version 4.0

## Chapter 14 – Clauses 30 to 30C



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Namaste

In Chapter 14 of this series, we would discuss the Particulars of Clauses 30 to 30C of Form 3CD.

### **Clause 30: Details of any amount borrowed on hundi or any amount due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque. [Section 69D]**

This clause is applicable to all assesseees who have borrowings on Hundi or repayment thereof, otherwise than an account payee cheque. Further requires the Tax auditor to report the compliance with the provisions of **section 69D** of the Act dealing with borrowing on Hundi and repayment thereof.

#### **Provisions of Section 69D:**

- The term 'Hundis' has not been defined under the Act. However, the CBDT Circular NO. 208, dated 15 November 1976 explains the scope and characteristics of the said term to be Promissory Note drawn in a vernacular language.
- Amount borrowed on Hundi or Repayment of the same (including interest) has to be made by account payee cheque.
- If not through account payee cheque, the amount borrowed or repaid will be considered as Income in the year of borrowing or repayment.
- If borrowing is taxed then repayment will not be taxed again in the year of repayment
- Account payee draft should also be treated as account payee cheque and the provisions of section 69D are not contravened if the transaction is through account payee draft.

The auditors should:

- Obtain a complete list of borrowings and repayments of hundi loans otherwise than by account payee cheques and verify the same with the books of account.
- There will be practical difficulties in verifying the loan taken or repaid on hundi by account payee cheque. In such cases, the tax auditor should verify the borrowing/repayments with reference to such evidence which may be available and in the absence of conclusive or satisfactory evidence or the auditor may obtain suitable certificate/ management representation in this regard.
- It also includes reporting of the name of the parties involved, date, the amount, and other particulars may be given. The e-filing portal gives the format in which the details are to be given.
- Check the bank book and bank statements.
- Amount repaid shall include interest paid on the same.

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### **Clause 30A: Details about “Primary Adjustments” in transfer pricing to be reported as per Section 92CE**

This clause has been added to Form 3CD w.e.f. 20<sup>th</sup> August 2018. If any primary adjustment to the transfer price has been made as per section 92CE(1) of the Act, then the following details need to be given in this clause.

- Under which clause of section 92CE(1) primary adjustment is made?
  - Suo motu by the assessee in his ITR;
  - By the Assessing Officer and has been accepted by the assessee;
  - Determined by an advance pricing agreement entered into by the assessee u/s 92CC;
  - As per the safe harbour rules framed u/s 92CB; or
  - Arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into u/s 90 or s. 90A for avoidance of double taxation, the assessee shall make a secondary adjustment.
- Amount of primary adjustment.
- Whether the excess money available with the associated enterprise is required to be repatriated to India as per the provisions of section 92CE(2)?
- If yes, whether the excess money has been repatriated within the prescribed time. The due date is 90 days from due date of filing of ITR.
- If no, the amount of imputed interest income on such excess money which has not been repatriated within the prescribed time.

This clause has been necessitated on account of the section 92CE which was inserted into the Statute w.e.f. AY 2018-19.

### **Clause 30B: Limitation of interest deductions for borrowings from an Associated Enterprise up to 30% of EBITDA is to be furnished**

As per Section 94B(1) of the Act, if an Indian Company or a Permanent establishment of a foreign company in India incurs any expenditure by way of interest or of similar nature exceeding Rs. 1 Crore which is deductible in computing income chargeable under the head ‘Profits and Gains of Business or Profession’ in respect of any debt issued by a non-resident, being an associated enterprise of such borrower, the interest shall not be deductible in computation of income under the said head to the extent that it exceeds 30% of EBITDA. The Form gives an additional clause to disclose the following:

- Amount of expenditure by way of interest or of similar nature incurred.
- Earnings before interest, tax, depreciation and amortization (EBITDA) during the previous year.
- Amount of expenditure by way of interest or of similar nature which exceeds 30% of EBITDA.
- Details of interest expenditure brought forward as per section 94B (4).
- Details of interest expenditure carried forward as per section 94B (4).

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### Clause 30C: Details of Impermissible Avoidance Arrangement to be furnished as referred to in Section 96

This clause has been added to Form 3CD w.e.f. 20<sup>th</sup> August 2018. If an assessee has entered into an Impermissible Avoidance Arrangement (GAAR) as defined in section 96 of the Act, then the following details needs to be furnished in clause 30C of the Form:

- Nature of the impermissible avoidance arrangement.
- Amount of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement.

Rules 10U to 10UF have been prescribed by the Central Government in respect of GAAR. As per Rule 10U, GAAR provisions are not applicable to (hence, not reportable in this clause):

- An arrangement where the tax benefit in the relevant assessment year does not exceed Rs. 3 crores in aggregate to all the parties to the arrangement in the relevant assessment year. (In computing such tax benefit, interest and penalty are not to be considered)
- In case of a foreign institutional investor (FII) who has not availed of any tax treaty benefits and has invested in securities (listed/ unlisted) with the prior permission of the competent authority in accordance with the SEBI (Foreign Institutional Investor) Regulations, 1995 and such other regulations as may be applicable
- Person being a Non-resident, in relation to investment made by him by way of offshore derivative instruments or otherwise in FIIs
- Income accruing or arising to any person from transfer of investments made prior to 1st April 2017, as Rule 10U(2) provides that the GAAR provisions shall apply in respect of tax benefit obtained from the arrangement after 1st April 2017, irrespective of when the arrangement was entered into.

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

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9811073867  
29<sup>th</sup> August 2024

### EARLIER CHAPTERS

Chapter No.	Title	Link
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1	Applicability	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_20303.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20303.pdf</a>
2	Turnover	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_20304.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20304.pdf</a>
3	Audit Report Format	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_20305.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20305.pdf</a>
4	Clauses 1 to 8A	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_20307.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20307.pdf</a>
5	Clauses 9 to 12	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_20309.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20309.pdf</a>
6	Clause 13	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_21321.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_21321.pdf</a>
7	Clauses 14 to 15	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_21322.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_21322.pdf</a>
8	Clauses 16 to 17	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_21325.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_21325.pdf</a>
9	Clauses 18 to 20	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_21327.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_21327.pdf</a>
10	Clause 21	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_21329.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_21329.pdf</a>
11	Clauses 22-23	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_21330.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_21330.pdf</a>
12	Clauses 24-26	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_21331.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_21331.pdf</a>
13	Clauses 27-29B	<a href="http://lunawat.com/Uploaded_Files/Attachments/F_21332.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_21332.pdf</a>

(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 / omission)

### 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

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- 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](http://www.expertspanel.in) which is a one stop solution for all professional queries which has given more than 36500 answers since its launch in mid of year 2018.

He has delivered more than 1800 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](http://www.lunawat.com) and from 2018 at [www.expertspanel.in](http://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

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*Liability Partnership – Law, Procedures and Taxation”, “Documentation for Chartered 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.