

# CSR

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# Taxation



**CA. PRAMOD JAIN**

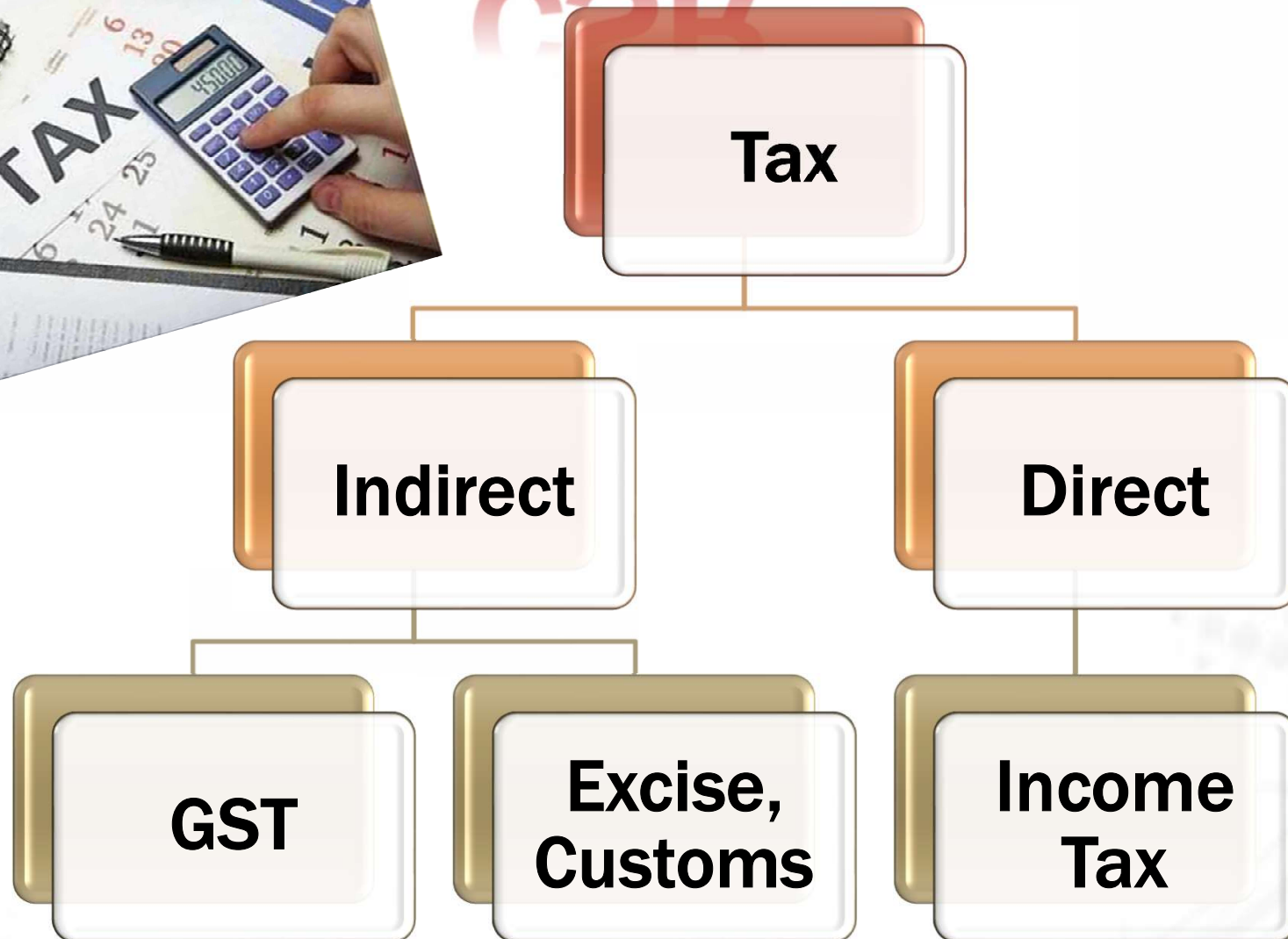
**FCA, FCS, FCMA, LL.B, MIMA, DISA, IP**

**Shared at**

**National Virtual Conference, CSR Committee of ICAI**

**24<sup>th</sup> August 2021**

# CSR



# EXPENDITURE DISALLOWANCE

- **Explanation 2 to S. 37(1)– from AY 2015-16**
  - **For removal of doubts**
  - **it is hereby declared that for purposes of sub-section (1),**
  - **any expenditure incurred by an assessee on activities relating to CSR referred to in s. 135 of Companies Act, 2013**
  - **shall not be deemed to be an expenditure incurred by the assessee**
  - **for purposes of business or profession.**

## SECTION 37

- **S. 37(1) - Any expenditure (not being expenditure of the nature described in s. 30 to 36 and not being in nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of business or profession shall be allowed in computing income chargeable under head "PGBP".**
- **Are expenditures u/ss 30 to 36 allowed??**

# SECTIONS 30 & 31

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- **S. 30 - Rent, Rates, Taxes, Repairs and Insurance for buildings**
  - In respect of rent, rates, taxes, repairs & insurance for premises, **used for the purposes of business or profession, ....**
- **S. 31 - Repairs and Insurance of Machinery, Plant and Furniture**
  - In respect of repairs and insurance of machinery, plant or furniture **used for the purposes of the business or profession, ...**

# SECTIONS 32 & 36

## ✕ S. 32 - Depreciation

- + In respect of depreciation of (i) buildings, machinery, plant or furniture, being tangible assets... owned, wholly or partly, by the assessee, **used for the purposes of business or profession, ....**

## ■ S. 36 – Other Deductions

- Insurance premium for stocks, interest....**for the purposes of the business or profession, ...**



# **SECTION 36 - EMPLOYEES**

- **S. 36 – Other Deductions**
  - Related to employees...
  - (ix) any expenditure bona fide incurred by a company for the purpose of promoting family planning amongst its employees....
- **R. 2(d)(iv) - activities benefitting employees of company as defined s. 2(k) of Code on Wages, 2019 is not CSR**
  - S. 2(k) - "employee" means, any person (other than an apprentice engaged under Apprentices Act, 1961), employed on wages by an establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union

# SALARIES

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- ✖ Allowed u/s 37.. If for business
- ✖ FAQ - Salaries paid to regular CSR staff / volunteers of co. (in proportion to co.'s time spent specifically on CSR) can be factored into CSR project cost as part of CSR exp.



# OTHER SECTIONS

SECTION	PAID TO/INCURRED	PURPOSE
<b>35CCC</b>	<b>Agricultural Extension Project notified by the Board</b>	<b>Any expenditure incurred on agricultural extension</b>
<b>35(2AA)</b>	<b>National Laboratory, University or an IIT or a specified person</b>	<b>Scientific research undertaken an approved program approved by prescribed authority</b>
<b>35(i)(iii)</b>	<b>Approved Research Association /university, college or other institution</b>	<b>Undertaking research in social science or statistical research.</b>
<b>35(1)(ii)</b>	<b>An approved Research Association / University</b>	<b>Undertaking scientific research</b>

## **SECTION 35CCA**

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- **S. 35CCA - For implementing programs of rural development as approved by the prescribed authority by an Association / Institution which has as its object of undertaking any program of rural development or training of persons OR Any sum paid to prescribed funds as notified by the Central Govt**

## **SECTION 35CCD**

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- **S. 35CCD r.w. Rule 6AAF to 6 AAH - Any expenditure incurred (not being used for the acquisition of land or building or construction of building) on any skill development by an eligible company on any skill development project notified by the Board**

# DONATIONS

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- ✖ **FAQ - One-off events such as marathons/ awards/ charitable contribution/ advertisement/ sponsorships of TV programmes etc. - not CSR expenditure**
- ✖ **Has to be for a project / activity?**
- ✖ **Deduction u/s 80G?**

## **SPECIFIC FUNDS – SCH VII**

- ✖ (viii) **Contribution** to the PM's National relief fund or any other fund set up by central govt. for socio-economic development & relief.
- ✖ PM CARES Fund included therein through clarification by MCA vide Office Memorandum dt. 28.3.2020 - in Schedule VII (viii)
- ✖ **S. 80G(2)(a)(iiia)**

## SPECIFIC FUNDS – SCH VII

- ✖ (i) ....**Contribution** to the Swach Bharat Kosh set-up by the Central Government for the promotion of sanitation (inserted w.e.f. 24.10.2014)
- ✖ **S. 80G(2)(a) (iihk)** - Swachh Bharat Kosh, set up by the CG, **other than** the sum spent by the assessee in pursuance **of CSR u/s 135(5)** of Companies Act, 2013

## SPECIFIC FUNDS – SCH VII

- ✗ (iv) ....**Contribution** to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga (inserted w.e.f. 24.10.2014)
- ✗ **S. 80G(2)(a) (iihl)** - Clean Ganga Fund, set up by CG, where such assessee is a resident & such sum is **other than** the sum spent by assessee in pursuance of **CSR u/s 135(5)** of Companies Act, 2013



# SPECIFIC FUNDS – SCH VII

## ✖ (ix) **Contribution** to:

- + Incubators funded by CG or SG or any agency or PSU of CG or SG
- + Public funded Universities,
- + IITs,
- + National Laboratories & Autonomous Bodies (established under auspices of ICAR, ICMR, CSIR, DAE, DRDO, DBT, DST, Ministry of Electronics & IT) engaged in conducting research in science, technology, engineering & medicine aimed at promoting SDGs

# DONATION TO OTHERS

✖ S. 80G(5) read with S. 80G(2)(a)(iv) :

+ Contribution

✖ If as per Schedule VII (ix)

✖ Others – only for project

✖ Total 12 activities.. Out of which only 4 contributions

✖ Out of 4 only against 2 can get 80G benefit

✖ Rest has to be activities / projects

## **FAQ BY MCA**

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- ✖ **FAQ No. 6 of General Cir. No. 01/2016 dt. 12.1.2016**
- + **No specific tax exemption has been extended to CSR Expenditure per se.**
- + **Finance Act 2014 also clarifies that exp. on CSR does not form part of business exp.**
- + **Several activities like PM's relief Fund Scientific Research, rural development projects, skill development projects, etc which find place in Schedule VII, **already enjoy exemptions under different sections of Income Tax Act****

# **TAX BENEFIT OPTIONS UNDER CSR**

<b>TAX DEDUCTION</b>	
<b>NIL</b>	<b>If the company directly undertake CSR Expenditures</b>
<b>50% - 100%</b>	<b>If the company undertakes CSR Expenditures through 80G registered NGOs (including its own foundation)</b>
<b>100%</b>	<b>If the company undertakes CSR Expenditures through institution/project registered u/s. 35CCA, 35(i)(iii),</b>
<b>More than 100% (100 – 150%)</b>	<b>If the company undertakes CSR Expenditures through institution/project registered u/s. 35(2AA), 35CCC, 35CCD, 35(1)(ii)</b>

**If we go for the tax efficiency then the option of choosing the programs from Schedule-VII shall reduce comprehensively**

# **CSR & MAT**

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- ✖ **CSR is charged against income as an expense in statement of Profit & Loss, hence, it results in lesser Book Profit subject to MAT**
- ✖ **CSR expenditure being an expense in statement of Profit & Loss reduces the quantum of CSR expenditure to be spent.**

Thank You!

**STAY SAFE**  
**AND STAY**  
**POSITIVE**

**CA. Pramod Jain**  
**[pramodjain@lunawat.com](mailto:pramodjain@lunawat.com)**  
**+91 9811073867**



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