

CHANGES IN ITR - AY 2018-19 & RELATED CHANGES



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**Shared at
Faridabad Income Tax Bar Association
13th July 2018**

AGENDA

- ✖ **Changes in ITR for AY 2018-19**
- ✖ **Taxation of Strike-Off Companies**
- ✖ **Deemed Gifts u/s 56(2)(x)**
- ✖ **Share Premium u/s 56(2)(viib)**



**INCOME TAX
RETURN**

2018-19

WHICH ITR?

✖ No major change except ITR 1, 2 & 3

Form	AY 2017-2018	AY 2018-19
ITR- 1	<ul style="list-style-type: none"> For Individuals <ul style="list-style-type: none"> having Income from Salaries, one house property, other sources (Interest etc.) having total income up to Rs.50 lakh 	<ul style="list-style-type: none"> For individuals being a resident other than not ordinarily resident <ul style="list-style-type: none"> having Income from Salaries, one house property, other sources (Interest etc.) having total income up to Rs.50 lakh
ITR-2	<ul style="list-style-type: none"> For Individuals and HUFs not carrying out business or profession <i>Being a partner received Salary, bonus, interest, commission or remuneration from the firm treats as business Income</i> 	<ul style="list-style-type: none"> For Individuals and HUFs not carrying out business or profession

S. 234F FEE

2017

8 Interest payable			
a	For default in furnishing the return (section 234A)	8a	
b	For default in payment of advance tax (section 234B)	8b	
c	For deferment of advance tax (section 234C)	8c	
d	Total Interest Payable (8a+8b+8c)		

2018

8 Interest and fee payable			
a	Interest for default in furnishing the return (section 234A)	8a	
b	Interest for default in payment of advance tax (section 234B)	8b	
c	Interest for deferment of advance tax (section 234C)	8c	
d	Fee for default in furnishing return of income (section 234F)	8d	
e	Total Interest and Fee Payable (8a+8b+8c+8d)		

INCREASED SALARY & HP DETAILS

B1	i	Salary (excluding all allowances, perquisites and profit in lieu of salary)	i	
SALARY / PENSION	ii	Allowances not exempt	ii	
	iii	Value of perquisites	iii	
	iv	Profit in lieu of salary	iv	
	v	Deductions u/s 16	v	
	vi	Income chargeable under the head 'Salaries' (i + ii + iii + iv - v)		
B2	Tick applicable option <input type="checkbox"/> Self Occupied <input type="checkbox"/> Let Out		If let out, furnish c	
HOUSE PROPERTY	i	Gross rent received/ receivable/ letable value	i	
	ii	Tax paid to local authorities	ii	
	iii	Annual Value (i - ii)	iii	
	iv	30% of Annual Value	iv	
	v	Interest payable on borrowed capital	v	
	vi	Income chargeable under the head 'House Property' (iii - iv - v)		

GENDER EQUALITY

2017

Pin code 	Sex (in case of individual) (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> Male <input type="checkbox"/> Female
Mobile No. 2 	Employer Category (if in employment) (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> Govt. <input type="checkbox"/> PSU <input type="checkbox"/> Others
	Income Tax Ward/Circle

2018

Pin code/Zip code 	Employer Category (if in employment) (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> Govt. <input type="checkbox"/> PSU <input type="checkbox"/> Others
Mobile No. 2 	
Income Tax Ward/Circle	

TRANSFER OF TDS CREDIT

Details of Tax Deducted at Source (TDS) on Income [As per Form 16 A issued or Form 26QB/26QC furnished by Deductor(s)]

Sl No	TAN of the Deductor/ PAN of the Buyer/ Tenant	Name of the Deductor/ Buyer/Tenant	Unique TDS Certificate Number	Unclaimed TDS brought forward (b/f)		TDS of the current fin. Year			TDS credit out of (7) or (8) being claimed this Year (only if corresponding income is being offered for tax this year)			TDS credit out of (7) or (8) being carried forward	
				Fin. Year in which deducted	Amount b/f	Deducted in own hands	Deducted in the hands of spouse as per section 5A or any other person as per rule 37BA(2) (if applicable)		Claimed in own hands	Claimed in the hands of spouse as per section 5A or any other person as per rule 37BA(2) (if applicable)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)		(9)	(10)		(11)	
							Income	TDS	PAN of spouse/ other person		Income	TDS	PAN of spouse/ other person

GSTR DETAILS – ITR 4

INFORMATION REGARDING TURNOVER/GROSS RECEIPT REPORTED FOR GST			
E9	GSTR No.	E9	
E10	Amount of turnover/Gross receipt as per the GST return filed	E10	

PRESUMPTIVE – NO BOOKS ???

FINANCIAL PARTICULARS OF THE BUSINESS

NOTE—For E11 to E25 furnish the information as on 31st day of March, 2018

E11	Partners/ Members own capital
E12	Secured loans
E13	Unsecured loans
E14	Advances
E15	Sundry creditors
E16	Other liabilities
E17	Total capital and liabilities (E11+E12+E13+E14+E15+E16)
E18	Fixed assets
E19	Inventories
E20	Sundry debtors
E21	Balance with banks
E22	Cash-in-hand
E23	Loans and advances
E24	Other assets
E25	Total assets (E18+E19+E20+E21+E22+E23+E24)

PRESUMPTIVE – NO BOOKS ???

E25	Total assets (E18+E19+E20+E21+E22+E23+E24)
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NOTE ►	<i>Please refer to instructions for filling out this schedule (E15, E19, E20, E22 are mandatory and others if available)</i>
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GSTR DETAILS – ITR 3, 5 & 6

2017

Duties and taxes, paid or payable, in respect of goods and services purchased

i	Custom duty	7i	
ii	Counter veiling duty	7ii	
iii	Special additional duty	7iii	
iv	Union excise duty	7iv	
v	Service tax	7v	
vi	VAT/ Sales tax	7vi	
vii	Any other tax, paid or payable	7vii	
viii	Total (7i + 7ii + 7iii + 7iv + 7v + 7vi + 7vii)		

2018

Duties and taxes, paid or payable, in respect of goods and services purchased

i	Custom duty	7i	
ii	Counter veiling duty	7ii	
iii	Special additional duty	7iii	
iv	Union excise duty	7iv	
v	Service tax	7v	
vi	VAT/ Sales tax	7vi	
vii	Central Goods & Service Tax (CGST)	7vii	
viii	State Goods & Services Tax (SGST)	7viii	
ix	Integrated Goods & Services Tax (IGST)	7ix	
x	Union Territory Goods & Services Tax (UTGST)	7x	
xi	Any other tax, paid or payable	7xi	
xii	Total (7i + 7ii + 7iii + 7iv + 7v + 7vi + 7vii + 7viii + 7ix + 7x + 7xi)		

REFUND BANK – NON-RESIDENTS

2017

13	Details of all Bank Accounts held in India at any time during the previous year (excluding dormant accounts)					
	Sl.	IFS Code of the Bank	Name of the Bank	Account Number <i>(the number should be 9 digits or more as per CBS system of the bank)</i>	Indicate the account in which you prefer to get your refund credited, if any <i>(tick one account <input checked="" type="checkbox"/>)</i>	<i>Cash deposited during 09.11.2016 to 30.12.2016 (if aggregate cash deposits during the period \geq Rs.2 lakh)</i>
	i					

2018

Details of all Bank Accounts held in India at any time during the previous year (excluding dormant accounts) (In case of non-residents, details of any one foreign Bank Account may be furnished for the purpose of credit of refund)

	Sl.	IFS Code of the Bank in case of Bank Accounts held in India (SWIFT Code in case of foreign Bank Account)	Name of the Bank	Account Number (IBAN in case of foreign Bank Accounts)	Indicate the account in which you prefer to get your refund credited, if any (tick one account <input checked="" type="checkbox"/>)
	i				

FOR NON-RESIDENTS- LTCG included in items B1 to B9 but not chargeable to tax in India as per DTAA

Sl.	Country name, code	Article of DTAA	Whether Tax Residency Certificate obtained?	Item B1 to B9 above in which included	Amount of LTCG	
I				B1e/B2e/B3e/ B4e/ B5c/B6e/B7c/B7f/B8e/B9		
II				B1e/B2e/B3e/ B4e/ B5c/B6e/B7c/B7f/B8e/B9		
III	Total amount of LTCG not chargeable to tax as per DTAA					B10

-Amount of LTCG included in items B1 to B9 but not chargeable to tax or chargeable at special rates in India as per DTAA

Sl. No.	Amount of income	Item No. B1 to B9 above in which included	Country name & Code	Article of DTAA	Rate as per Treaty (enter NIL, if not chargeable)	Whether TRC obtained (Y/N)	Section of I.T. Act	Rate as per I.T. Act	Applicable rate [lower of (6) or (9)]	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	
I										
II										
a	Total amount of LTCG not chargeable to tax as per DTAA									B10a
b	Total amount of LTCG chargeable at special rates as per DTAA									B10b

MORE DETAILS FOR CG DEDUCTIONS

2017

Information about deduction claimed

1	In case of deduction u/s 54/54B/54D/54EC/54EE /54F/54G/54GA/115F give following details					
	a	Section under which deduction claimed			1a	amount of deduction
	i	Cost of new asset			ai	
		Date of its acquisition/construction			aii	dd/mm/yyyy
		Amount deposited in Capital Gains Accounts Scheme before due date			aiii	
	b	Section under which deduction claimed			1b	amount of deduction
	i	Cost of new asset			bi	
		Date of its acquisition/construction			bii	dd/mm/yyyy
		Amount deposited in Capital Gains Accounts Scheme before due date			biii	
	c	Total deduction claimed (1a + 1b)			1c	

MORE DETAILS FOR CG DEDUCTIONS

2018

Information about deduction claimed against Capital Gains

1 In case of deduction u/s 54/54B/54D/54EC/54EE /54F/54G/54GA/115F give following details				
a	Deduction claimed u/s 54			
	i	Date of transfer of original asset	ai	dd/mm/yyyy
	ii	Cost of new residential house	aii	
	iii	Date of purchase /construction of new residential house	aiii	dd/mm/yyyy
	iv	Amount deposited in Capital Gains Accounts Scheme before due date	aiv	
	v	Amount of deduction claimed	av	
b	Deduction claimed u/s 54B			
	i	Date of transfer of original asset	bi	dd/mm/yyyy
	ii	Cost of new agricultural land	bii	
	iii	Date of purchase of new agricultural land	biii	dd/mm/yyyy
	iv	Amount deposited in Capital Gains Accounts Scheme before due date	biv	
	v	Amount of deduction claimed	bv	
c	Deduction claimed u/s 54D			
	i	Date of acquisition of original asset	ci	dd/mm/yyyy
	ii	Cost of purchase/ construction of new land or building for industrial undertaking	cii	
	iii	Date of purchase of new land or building	ciii	dd/mm/yyyy
	iv	Amount deposited in Capital Gains Accounts Scheme before due date	civ	
	v	Amount of deduction claimed	cv	

TRANSFER OF UNQUOTED SHARES

8	From sale of assets where B1 to B7 above are not applicable				
	a	i	In case assets sold include shares of a company other than quoted shares, enter the following details		
		a	Full value of consideration received/receivable in respect of unquoted shares		
		b	Fair market value of unquoted shares determined in the prescribed manner		
		c	Full value of consideration in respect of unquoted shares adopted as per section 50CA for the purpose of Capital Gains (higher of a or b)		ic
		ii	Full value of consideration in respect of assets other than unquoted shares		
		iii	Total (ic + ii)		aiii
	b	Deductions under section 48			
		i	Cost of acquisition with indexation		bi
		ii	Cost of improvement with indexation		bii
		iii	Expenditure wholly and exclusively in connection with transfer		biii
		iv	Total (bi + bii +biii)		biv
	c	Balance (8aiii – biv)			8c
	d	Deduction under section 54D/54EC/54EE /54F/54G/54GA (<i>Specify</i>			8d
	e	Long-term Capital Gains on assets at B8 above (8c-8d)			
9	Amount deemed to be long-term capital gains				

TRANSFER OF UNQUOTED SHARES

8	From sale of assets where B1 to B7 above are not applicable				
	a	i	In case assets sold include shares of a company other than quoted shares, enter the following details		
		a	Full value of consideration received/receivable in respect of unquoted shares		
		b	Fair market value of unquoted shares determined in the prescribed manner		
		c	Full value of consideration in respect of unquoted shares adopted as per section 50CA for the purpose of Capital Gains (higher of a or b)		ic
		ii	Full value of consideration in respect of assets other than unquoted shares		
		iii	Total (ic + ii)		aiii
	b	Deductions under section 48			
		i	Cost of acquisition with indexation		bi
		ii	Cost of improvement with indexation		bii
		iii	Expenditure wholly and exclusively in connection with transfer		biii
		iv	Total (bi + bii +biii)		biv
	c	Balance (8aiii – biv)			8c
	d	Deduction under section 54D/54EC/54EE /54F/54G/54GA (Specify			8d
	e	Long-term Capital Gains on assets at B8 above (8c-8d)			
9	Amount deemed to be long-term capital gains				

ADDITIONAL DETAILS FOR S. 56(2)

Others, Gross (excluding income from owning race horses)Mention the nature			
i	Winnings from lotteries, crossword puzzles etc.		1di
ii	a	Cash credits u/s 68	
	b	Unexplained investments u/s 69	
	c	Unexplained money etc. u/s 69A	
	d	Undisclosed investments etc. u/s 69B	
	e	Unexplained expenditure etc. u/s 69C	
	f	Amount borrowed or repaid on hundi u/s 69D	
	Total (a + b + c + d + e + f)		1dii
iii	Income of the nature referred to in section 56(2)(x) which is chargeable to tax		
	a	Aggregate value of sum of money received without consideration	
	b	In case immovable property is received without consideration, stamp duty value of property	
	c	In case immovable property is received for inadequate consideration, stamp duty value of property in excess of such consideration	
	d	In case any other property is received without consideration, fair market value of property	
	e	In case any other property is received for inadequate consideration, fair market value of property in excess of such consideration	
	Total (a+ b + c +d + e)		1diii
iv			1div
v			1dv
vi	Total (1di + 1dii+ 1diii+ 1div+1dv)		1dvi

S. 58 & S. 59

g	Gross amount chargeable to tax at normal applicable rates (1e – 1fvii)		
h	Deductions under section 57 (other than those relating to income under 1fi, 1fii, 1fiii, 1fiv, 1fv & 1fvi)		
	i	Expenses / Deductions	hi
	ii	Depreciation	hii
	iii	Total	hiii
i	Amounts not deductible u/s 58		
j	Profits chargeable to tax u/s 59		
k	Income from other sources (other than from owning race horses and amount chargeable to tax at special rate) (1g – hiii + 1i + 1j) (If negative take the figure to 4i of schedule CYLA)		
Income from other sources (other than from owning and maintaining race horses) (1fvii + 1k) (enter 1k as nil, if negative)			
Income from the activity of owning race horses			
a	Receipts	3a	
b	Deductions under section 57 in relation to (4)	3b	
c	Amounts not deductible u/s 58	3c	
d	Profits chargeable to tax u/s 59	3d	
e	Balance (3a – 3b + 3c + 3d) (if negative take the figure to 10xi of Schedule CFL)		
Income under the head “Income from other sources” (2 + 3e) (take 3e as nil if negative)			

S. 115BBG – TRANSFER OF CARBON CREDITS

Income by way of winnings from lotteries, crossword puzzles, races, games, gambling, betting etc (u/s 115BB)
--

Dividend Income from domestic company that exceeds Rs.10 Lakh (u/s 115BBDA)

Deemed Income chargeable to tax u/s 115BBE
--

Income from patent chargeable u/s 115BBF
--

Income from transfer of credits u/s 115BBG
--

Any other income chargeable to tax at the rate specified under Chapter XII/XII-A
--

ICDS IMPACT

2017

23	Any other item of addition under section 28 to 44DA	23	
24	Any other income not included in profit and loss account/any other expense not allowable (including income from salary, commission, bonus and interest from firms in which individual/HUF/prop. concern is a partner)	24	
25	Total (14 + 15 + 16 + 17 + 18 + 19 + 20 + 21+22 +23+24)		

30	Any amount disallowed under section 43B in any preceding previous year but allowable during the previous year(10g of PartA-OI)	30	
31	Deduction under section 35AC		
a	Amount, if any, debited to profit and loss account	31a	
b	Amount allowable as deduction	31b	
c	Excess amount allowable as deduction (31b – 31a)	31c	
32	Any other amount allowable as deduction	32	

2018

24	Any other income not included in profit and loss account/any other expense not allowable (including income from salary, commission, bonus and interest from firms in which individual/HUF/prop. concern is a partner)	24	
25	Increase in profit or decrease in loss on account of ICDS adjustments and deviation in method of valuation of stock (Column 3a + 4d of Part A - OI)	25	
26	Total (14 + 15 + 16 + 17 + 18 + 19 + 20 + 21+22 +23+24+25)		

31	Any amount disallowed under section 43B in any preceding previous year but allowable during the previous year(10g of PartA-OI)	31	
32	Any other amount allowable as deduction	32	
33	Decrease in profit or increase in loss on account of ICDS adjustments and deviation in method of valuation of stock (Column 3b + 4e of Part A- OI)	33	
34	Total (27+28+29+30+31+32+33)		

ICDS IMPACT

Schedule ICDS		Effect of Income Computation Disclosure Standards on profit
Sl. No.	ICDS	Amount (+) or (-)
(i)	(ii)	(iii)
I	Accounting Policies	
II	Valuation of Inventories (<i>other than the effect of change in method of valuation w/s 145A, if the same is separately reported at col. 4d or 4e of Part A-OI</i>)	
III	Construction Contracts	
IV	Revenue Recognition	
V	Tangible Fixed Assets	
VI	Changes in Foreign Exchange Rates	
VII	Government Grants	
VIII	Securities (<i>other than the effect of change in method of valuation w/s 145A, if the same is separately reported at col. 4d or 4e of Part A-OI</i>)	
IX	Borrowing Costs	
X	Provisions, Contingent Liabilities and Contingent Assets	
11a.	Total effect of ICDS adjustments on profit (I+II+III+IV+V+VI+VII+VIII+IX+X) (if positive)	
11b.	Total effect of ICDS adjustments on profit (I+II+III+IV+V+VI+VII+VIII+IX+X) (if negative)	

REVISED DEPRECIATION

2017

Schedule DPM		Depreciation on Plant and Machinery (Other than assets on which full capital expenditure is allowable as deduction under any other section)						
1	Block of assets	Plant and machinery						
2	Rate (%)	15	30	40	50	60	80	100
		(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)
3	Written down value on the first day of previous year							

2018

Schedule DPM		Depreciation on Plant and Machinery (Other than assets on which full capital expenditure is allowable as deduction under any other section)		
1	Block of assets	Plant and machinery		
2	Rate (%)	15	30	40
		(i)	(ii)	(iii)
3(a)	Written down value on the first day of previous year			

ITR-6 SPECIFIC CHANGES

- ✖ Separate Format for Balance Sheet and Profit & Loss Account has provided for companies on which Ind-AS is applicable in ITR-6
- ✖ CSR appropriation

51	Appropriations			
	i	Transfer to reserves and surplus	51i	
	ii	Proposed dividend/ Interim dividend	51ii	
	iii	Tax on dividend/ Tax on dividend for earlier years	51iii	
	iv	Appropriation towards Corporate Social Responsibility (CSR) activities (in case of companies covered under section 135 of Companies Act, 2013)	51iv	

ITR-6 SPECIFIC CHANGES - GST

Schedule GST Break-up of total expenditure with entities registered or not registered under the GST (Details in respect of expenditure on or after 01st July, 2017 to be filled up by the assessee who is not liable to get accounts audited u/s 44AB)

DETAILS OF GST	Sl. No.	Total amount of Expenditure during the year (aggregate of expenditure reported at items 6, 8 to 35, 37 & 38 of Part-A-P&L / P&L – Ind AS)	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
			Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)

ITR-6 – FOREIGN CURRENCY

Schedule FD Break-up of payments/receipts in Foreign currency (to be filled up by the assessee who is not liable to get accounts audited u/s 44AB)

Foreign Currency Transaction	S. No.		Amount (in Rs.)
	i	Payments made during the year on capital account	
	ii	Payments made during the year on revenue account	
	iii	Receipts during the year on capital account	
	iv	Receipts during the year on revenue account	

NOTE ► Please refer to instructions for filling out this schedule.

ITR-6 – OWNERSHIP – UNLISTED CO

OWNERSHIP INFORMATION	In case of unlisted company, particulars of natural persons who were the ultimate beneficial owners, directly or indirectly, of shares holding not less than 10% of the voting power at any time of the previous year <i>(if available)</i>			
	S.No.	Name and Address	Percentage of shares held	PAN (if allotted)

ITR 7 CHANGES – CHANGE IN OBJECTS

2017

i	Whether Registered u/s 12A/12AA?	<input type="checkbox"/> Yes <input type="checkbox"/> No
ii	If yes, then enter Registration No.	
iii	Commissioner/Director of Income-tax (Exemptions) who granted registration	
iii	Date of Registration (DD/MM/YYYY)	____/____/____
iv	Whether activity is,- <input type="checkbox"/> charitable, <input type="checkbox"/> religious or <input type="checkbox"/> both? Please tick <input checked="" type="checkbox"/> as applicable.	

i	Is there any change in the objects/activities during the Year on the basis of which approval/registration was granted?
ii	If yes, date of such change (DD/MM/YYYY)

ITR 7 CHANGES – CHANGE IN OBJECTS

2018

i	Is there any change in the objects/activities during the Year on the basis of which approval/registration was granted?		
ii	If yes, please furnish following information:-		
	a	date of such change (DD/MM/YYYY)	
	b	whether an application for fresh registration has been made in the prescribed form and manner within the stipulated period of thirty days as per Clause (ab) of sub-section (1) of section 12A	
	c	whether fresh registration has been granted under section 12AA	
	d	date of such fresh registration (DD/MM/YYYY)	

ITR 7 CHANGES – CORPUS DONATION

2017

5	Additions		
	i	Income chargeable under section 11(1B)	5i
	ii	Income chargeable under section 11(3)	5ii
	iii	Income in respect of which exemption under section 11 is not available by virtue of provisions of section 13	
	a	Being anonymous donation at Diii of schedule VC to the extent applied for charitable purpose	5iiia
	b	Other than (a) above	5iiib
	iv	Income chargeable under section 12(2)	5iv
	v	Total [5i + 5ii+5iiia+5iiib+5iv]	

ITR 7 CHANGES – CORPUS DONATION

2018

5	Additions			
	i	Corpus donation to other trust or institution chargeable as per Explanation 2 to section 11(1) [item No. 15(i) of Schedule ER]		
	ii	Income chargeable under section 11(1B)		
	iii	Income chargeable under section 11(3)		
	iv	Income in respect of which exemption under section 11 is not available by virtue of provisions of section 13		
	a	Being anonymous donation at Diii of schedule VC to the extent applied for charitable purpose	5iva	
		Other than (a) above	5ivb	
	v	Income chargeable under section 12(2)		
	vi	Total [5i + 5ii+5iii+5iva+5ivb+5v]		

CA. Pramod Jain

DEEMED GIFTS



DEEMED GIFTS

- ✗ **S. 56(2)(x) w.e.f. 1st April 2017**
- ✗ **Earlier**
 - + Individual & HUF covered for all assets; and
 - + Firms and Companies for shares
- ✗ **Now ANY PERSON covered for:**
 - + Money
 - + Immovable Property
 - + Property other than Immovable Property

MONEY

- ✖ **Receives any sum of money**
- ✖ **Without consideration**
- ✖ **Aggregate value of which exceeds Rs. 50000/-**
- ✖ **Income - whole of the aggregate value of such sum**
- ✖ **Exceptions – relatives, etc.. discussed later**

CA. Pramod Jain

IMMOVABLE PROPERTY



PROVISIONS

Buyer

S. 56(2)(x)

Seller

S. 50C

S. 43CA

S. 50D

**S. 54 / 54F
/ 54EC**

IMMOVABLE PROPERTY S. 56(2)(X)

- ✗ **Covers land, building or both**
- ✗ **Receives without consideration - stamp duty value exceeds Rs. 50000/-**
- ✗ **Receives through inadequate consideration – consideration less than stamp duty value – difference exceeds Rs. 50000/-**
- ✗ **Exceptions – relatives, etc.. Discussed later**
- ✗ **Where date of agreement & date of registration are not same, value on date of agreement if some payment made by a/c payee cheque /bank draft / ECS on or before date of agreement**

IMMOVABLE PROPERTY

- ✗ If value disputed by assessee u/s 50C(2) , AO may refer to Valuation Officer
- ✗ Is leasehold land covered?
 - + Transfer of leasehold rights in a building do not attract provisions of S. 50C - *DCIT v Tejinder Singh (2012) (50 SOT 391) (Kol)*
 - + Leasehold rights in plot of land is not 'land or building or both' - *Atul G. Puranik v. ITO (132 ITD 499)(Mum).*
 - + S. 50C applies to Transfer of Development Rights - *Chiranjeet Lal Khanna v. ITO (132 ITD 474)(Mum)*

IMMOVABLE PROPERTY

- ✖ Mr. A (not a relative of Mr. B) gifts immovable property whose stamp duty value is Rs. 15 Lakhs to Mr. B.
 - ✖ Actual cost in hands of Mr. A was Rs. 18 Lakhs.
 - ✖ What would be the cost of acquisition in hands of Mr. B?
 - + S. 49(1) – cost to previous owner i.e. Rs. 18 L
 - + S. 49(4) – If subject to s. 56(2), stamp duty value i.e. Rs. 15 L
- + Rs. 15 L

OTHER THAN IMMOVABLE PROPERTY

- ✖ **Property – Expl. to 56(2)(vii) Capital Asset namely:**
 - + **Imm. Property being land or building or both**
 - + **Shares and securities**
 - + **Jewellery**
 - + **Archaeological collections**
 - + **Drawings**
 - + **Paintings**
 - + **Sculptures**
 - + **Any work of art**
 - + **Bullion**

EXCEPTIONS

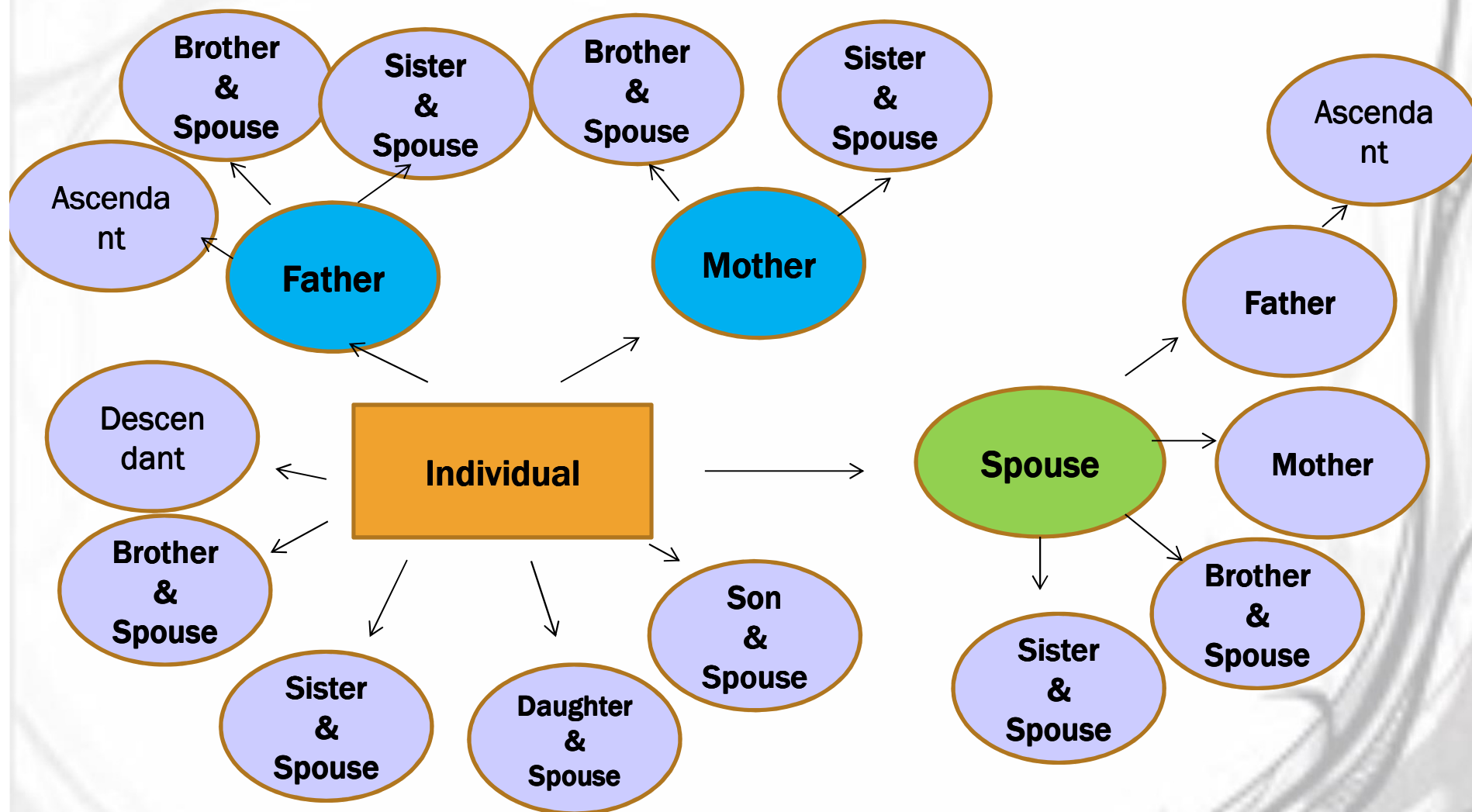
× Relative

+ In case of an individual:

- a) Spouse;
- b) Brother or sister;
- c) Brother or sister of the spouse;
- d) Brother or sister of either of the parents;
- e) Any lineal ascendant or descendant;
- f) Any lineal ascendant or descendant of the spouse;
- g) Spouse of person referred to in (b) to (f)

+ In case of a HUF, any member thereof

RELATIVES



EXCEPTIONS

- ✘ On the occasion of the marriage of the individual**
- ✘ Under a will or by way of inheritance**
- ✘ In contemplation of death of the payer or donor, as the case may be**
- ✘ From any Local Authority as defined in the Explanation to section 10(20)**
- ✘ From any Fund or Foundation or University or other Educational Institution or Hospital or other Medical Institution or any Trust or Institution referred to in section 10(23C)**

EXCEPTIONS

- ✖ **From or by any Trust or Institution registered u/s 12A /12AA**
- ✖ **By any Fund or Trust or Institution or any university or other educational institution or any hospital or other medical institution referred in**
 - + **S. 10(23C) (iv) – Importance in India / states**
 - + **S. 10(23C) (v) – Approved religious or charitable trust**
 - + **S. 10(23C) (vi) – Approved university or educational institute**
 - + **S. 10(23C) (via) – Approved hospitals**

EXCEPTIONS

- ✖ **By way of transaction not regarded as transfer:**
 - + **S. 47 (i) – Total / partial partition of HUF**
 - + **S. 47 (vi) – Amalgamation if amalgamated co. Indian**
 - + **S. 47 (via) – Amalgamation of two foreign companies asset being shares subject to certain conditions**
 - + **S. 47 (viaa) – Amalgamation of banks sanctioned by CG**
 - + **S. 47 (vib) – Demerger if resulting co. in Indian Co**
 - + **S. 47 (vic) – Demerger of foreign company asset being shares subject to certain conditions**

EXCEPTIONS

- ✖ **By way of transaction not regarded as transfer:**
 - + **S. 47 (vica) - business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank**
 - + **S. 47 (vicb) - business reorganisation, of a capital asset being shares by predecessor co-operative bank to successor co-operative bank**
 - + **S. 47 (vid) - transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company**
 - + **S. 47 (vii) - trf by a shareholder, in scheme of amalgamation, of capital asset being share or in amalgamating co. subject to certain conditions**

EXCEPTIONS

- ✖ **From an individual by a trust created or established solely for the benefit of relative of the individual**

SHARES ISSUE & TRANSFER

SHARE ISSUED EXCEEDING FMV

- ✖ **S. 56(2) (viib) – w.e.f. AY 2013-14**
 - + **Company receives consideration from a resident for issue of shares exceeding FMV – aggregate consideration < 50K**
 - + **Exemption for receipt by**
 - ✖ **Company in which public are substantially interested**
 - ✖ **Venture capital undertaking from VC company or VC fund as defined in 10(23FB)**
 - ✖ **Notified companies – startup companies – Not. No. 45/2016 dated 14.6.2016**

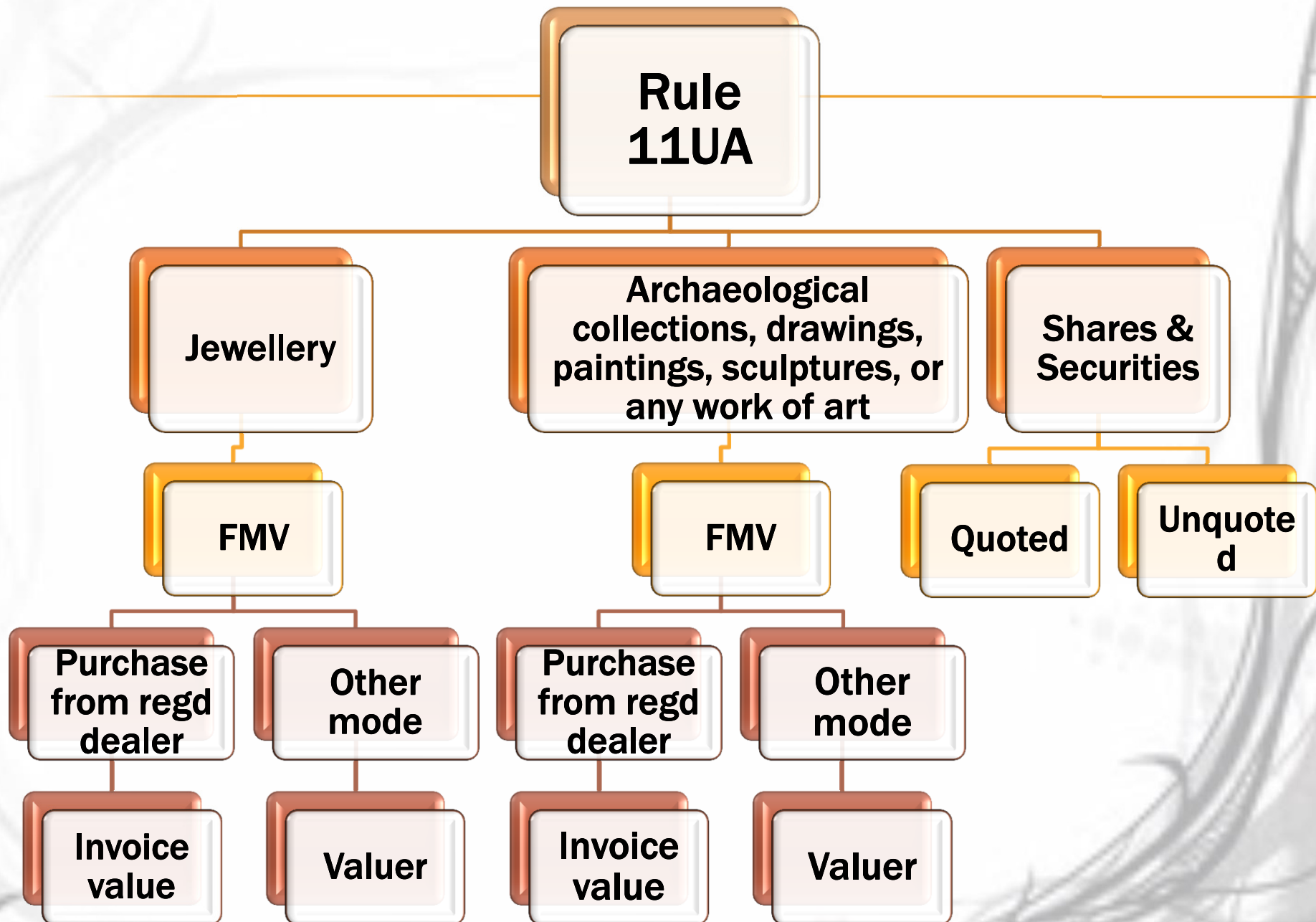
SHARES TRANSFERRED

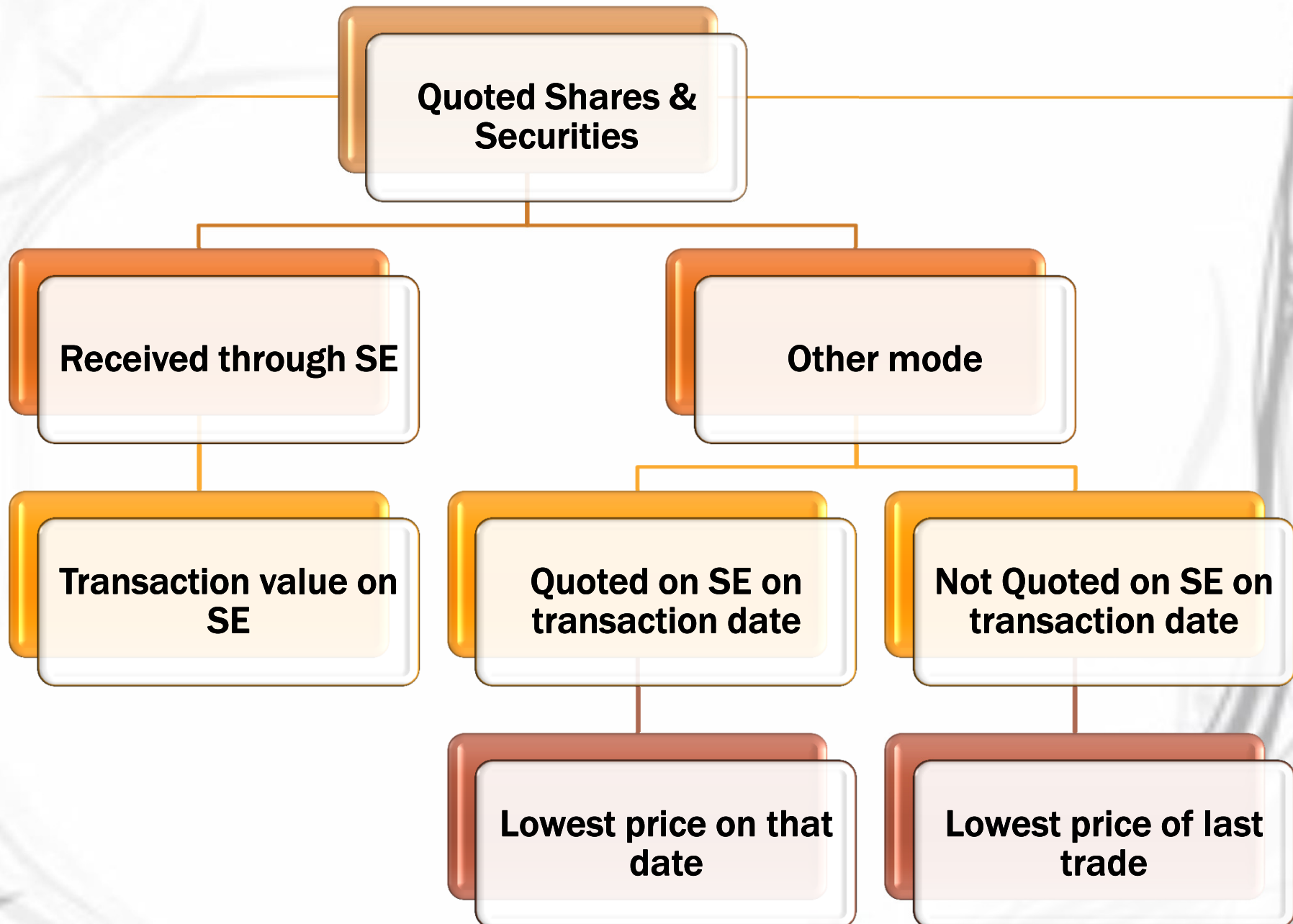
- ✖ **S. 56(2) (x) - Buyer**
- ✖ **S. 50CA w.e.f. AY 2018-19 - Seller**
 - + **Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than FMV of such share determined in such manner as may be prescribed, the value so determined shall be deemed to be the full value of consideration received or accruing as a result of such transfer**

SHARES FMV

✗ **FMV to be on the date of issue of shares higher of :**

- + **Rule 11UA / 11U; or**
- + **Satisfaction of AO based on value of its assets including intangible assets being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature**





UNQUOTED SHARES - TRANSFER

- ✖ **FMV = (A+B+C+D - L) × (PV)/(PE)**
- ✖ **A= Book value of all assets (other than jewellery, artistic work, shares, securities and immovable property) in B/S as reduced by**
 - + any amount of IT paid less IT refund claimed, if any
 - + any amount shown as asset including unamortised amount of deferred expenditure which does not represent the value of any asset
- ✖ **B = Price which jewellery & artistic work would fetch if sold in open market on basis of registered valuer report**

UNQUOTED SHARES - TRANSFER

- ✗ **C = FMV of shares and securities as determined in this rule**
- ✗ **D = Stamp duty value adopted or assessed or assessable by any authority of the Government in respect of the immovable property**
- ✗ **L= Book value of liabilities in B/S not including:**
 - + **Equity paid-up capital**
 - + **Amount set apart for payment of dividends on preference and equity shares where such dividends have not been declared before the date of transfer at AGM**

UNQUOTED SHARES - TRANSFER

- ✗ **L= Book value of liabilities in B/S not including:**
 - + R&S, including negative balance, other than set apart towards depreciation
 - + Provision for tax, other than IT paid less IT Refund to the extent of excess over the tax payable u/s 115JB
 - + Unascertained liabilities
 - + Contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares
- ✗ **PV= Paid up value of such equity shares**
- ✗ **PE = Paid up equity share capital**

UNQUOTED SECURITIES - TRANSFER

- ✖ **Price it would fetch if sold in the open market on the valuation date**
- ✖ **Assessee may obtain a report from a merchant banker or an accountant in respect of which such valuation**

UNQUOTED SHARES - ISSUE

× Two options

1. $FMV = (A - L) \times (PV)/(PE)$

× A= Book value of all assets in B/S as reduced by

★ any amount of IT paid less IT refund claimed, if any

★ any amount shown as asset including unamortised amount of deferred expenditure which does not represent the value of any asset

× L= Book value of liabilities in B/S not including ... same as for Transfer

2. Merchant Banker or **Accountant** as per DCF –
Accountant not allowed w.e.f. 24th May 2018

ACCOUNTANT

- ✖ Who is an accountant for issuing valuation report ?
- ✖ For issue of shares [Rule 11UA(2)]:
 - + A fellow of the ICAI who is not Tax Auditor or Statutory Auditor – **CA cannot do w.e.f. 24th May 2018**
- ✖ For transfer of unlisted shares (other than equity) & securities:
 - + Same as in the Explanation below section 288 (2)

BALANCE SHEET

- ✗ Which B/s date is to be taken for valuation?
- ✗ For issue of shares [Rule 11UA(2)]:
 - + Audited B/S (including the notes) as drawn up on valuation date; or
 - + Where the B/S on the valuation date is not drawn:
 - ✗ B/S (including the notes) drawn up as on a date immediately preceding the valuation date which has been approved & adopted in AGM
- ✗ For transfer of shares:
 - + Audited B/S of such company (including the notes) as drawn up on valuation date audited by statutory auditor

????

✗ Mr. A gifts immovable property whose stamp duty value is Rs. 10 Lakhs to Mr. B (not a relative). Is there any tax on Mr. A or Mr. B?

✗ On B

✗ Mr. X gifts immovable property whose stamp duty value is Rs. 5 Lakhs to Ms. Y (not a relative) on the occasion of her marriage. Is there any tax on Mr. X or Ms. Y?

✗ No

✗ Are Preference Shares covered u/s 56(2)(viib)?

✗ Yes

????

✘ Schools having less than Rs. 1 Cr receipt from education activities claiming exemption u/s 10(23C)(iiia) receive donations for buildings being capital receipts. Are the receipts taxable u/s 56(2)(x)?

✘ Yes

✘ Hospitals claiming exemption u/s 10(23C)(iiia) receive Corpus donations for building hospital? Are the receipts taxable u/s 56(2)(x)?

✘ Yes

????

- ✖ Partner at time of dissolution withdraws immovable property whose book value is 25 Lakhs but stamp duty value is 50 Lakhs. Taxation in hands of firm as well as partner?
 - ✖ Yes, in both hands Rs. 25 L each
- ✖ Few people come together to build a community centre for general public benefit and collect Rs. 5 Lakhs to build it?
 - ✖ Yes
- ✖ Mr. A receives Car Mercedes Benz value Rs. 50 Lakhs as gift from Mr B?
 - ✖ No

????

✘ An unregistered religious Trust receives Rs. 4 Lakhs as corpus donation for building of temple? Is it taxable u/s 56(2)(x)?

✘ Yes

✘ A company dealing in shares receives shares below FMV?

✘ No

✘ Mr. A gives interest free unsecured loan of Rs. 10 Lacs to Mr. Y? Is it taxable u/s 56(2)(x)?

✘ No

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






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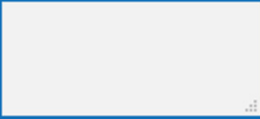
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Q. An NRI wanted to invest the following amounts,


3 views

Have a written opinion?

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Next

nmore-25@googlegroups.com

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Today's topic summary

Concept by CA Pramod Jain

Together ...we shall make it....

THANK YOU!



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