

# Critical aspects of Tax Audit



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**Shared at**

**ICAI – Urban Estate CPE Study Circle – Faridabad Branch (NIRC)**

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# Legislation for AY 2024-25

## S. 44AB

- Business – exceeds Rs. 1 Cr. / 10 Cr
- Profession – exceeds Rs. 50 L
- Business u/s 44AE /44BB/44BBB; income <deemed profit
- Profession u/s 44ADA; deemed profit <50% &TI > MANCT
- Business u/s 44AD (4) & TI > MANCT

## Rule 6G

- Prescribing the Forms for Report u/s 44AB

## Form 3CA

- Report in case of a person who is required to get his A/cs audited under any law

## Form 3CB

- Report in any other case

## Form 3CD

- Particulars as required in Form 3CA or Form 3CB

## S. 271B

- Penalty  $\frac{1}{2}\%$  Maximum Rs. 1.50 L

# Applicability of 44AD(44ADA) / 44AB

Mr. A started Mfg – 1<sup>st</sup> Yr - Turnover (all cash) – 150L;  
NP – 8 L; TI - 8.50 L

- AD - No
- AB - Yes

Ms. B - Trading - Turnover (all cash) – 90L; NP - 10L;  
Doctor– Fee – 45 L; NP- 25 L; TI -32L

- AD – No
- ADA - Yes
- AB - No

Ms. C – Trading Turnover (all cash)– 80L      NP – 4 L; TI-  
3 L

- AD – No
- AB - No

Mr. D - Trading; Turnover (all cash) - 95L; Commission –  
6 L; NP- 15L; TI - 14L

- AD - No
- AB - Yes

## Applicability of 44AD(44ADA) / 44AB

Mr. E - Turnover (all bank) – AY 2023-24 -150L availed S. 44AD; AY 2024-25 – Tr 225 L (all bank) NP – 10 L; TI - 8.50 L

- AD - No
- AB - Yes

Ms. F - Turnover in 1<sup>st</sup> year (all cash) – AY 2023-24 - 120L; NP - 10L; No 44AD; Turnover (all bank) AY 2024-25 – 220L; NP – 20 L – 44AD!!

- AD - Yes
- AB - No

Ms. G - CA Turnover (all Bank)– 60L NP – 35 L; TI- 32 L

- ADA – Yes
- AB - No

Mr. H – CA Turnover – 18L; NP– 7L ; TI- 7 L

- ADA – No
- AB - Yes

# Applicability of 44AB – Spl. cases

Mr. I – Profession – 40 L; Business – 80 L

• No

Ms. J – Profession – 80 L; Business – 70 L

• Yes, B & P

M/s K Inc – Non- Resident, FTS 11 Cr. TDS u/s 195, DTAA

• Yes

CA. L – Remuneration 90 L from firm in which partner

• No, Perizad Zorabian Irani v. PCIT Mumbai WP 1333/2021 Bombay HC

## Section 44AD essentials

- Should be eligible assessee
  - Ind., HUF, Firm (except LLP); and
  - No s. 10A, 10AA, 10B, 10BA & Chp VIA Part C
- Should be doing eligible business
  - Any except 44AE; and
  - Turnover < 2 Crs / 3 crs
- Section not applicable to a person carrying:
  - Profession u/s 44AA(1)
  - Commission or brokerage
  - Agency business
- Deemed profit 8% / 6% or more
- Commensurate with fund flow!!!

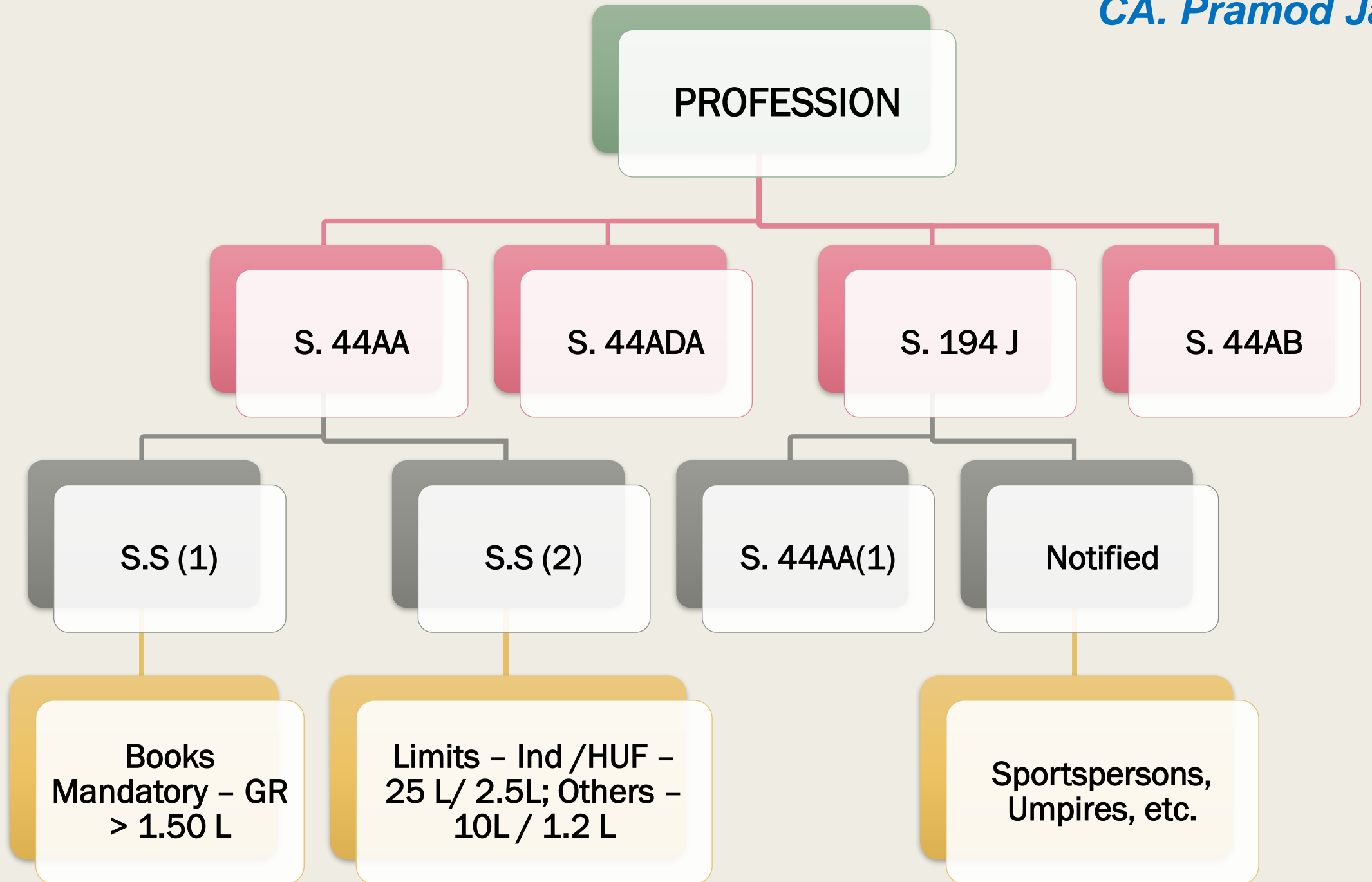
## Section 44ADA essentials

- Applicable to Individual, ~~HUF~~, Firm (excluding LLP)
- Should be engaged in profession – section 44AA(1) read with rule 6F
- Gross receipt < 50 Lakhs / 75 Lakhs
- Deemed profit 50% or more
- Commensurate with fund flow!!!

# Profession – s. 44ADA

- Section 44AA (1) read with Rule 6F
  - Legal
  - Medical
  - Engineering
  - Architectural
  - Accountancy
  - Technical Consultancy
  - Interior Decoration
  - Authorised Representative
  - Company Secretary
  - Film Artist, actors, cameramen, editor.....
  - Information Technology





## **S. 194J Notified List**

- **Sports Persons**
- **Umpires & Referees**
- **Coaches & Trainers**
- **Team Physicians & Physiotherapists**
- **Event managers**
- **Commentators**
- **Anchors**
- **Sports Columnists**

# 44AB(a) ????

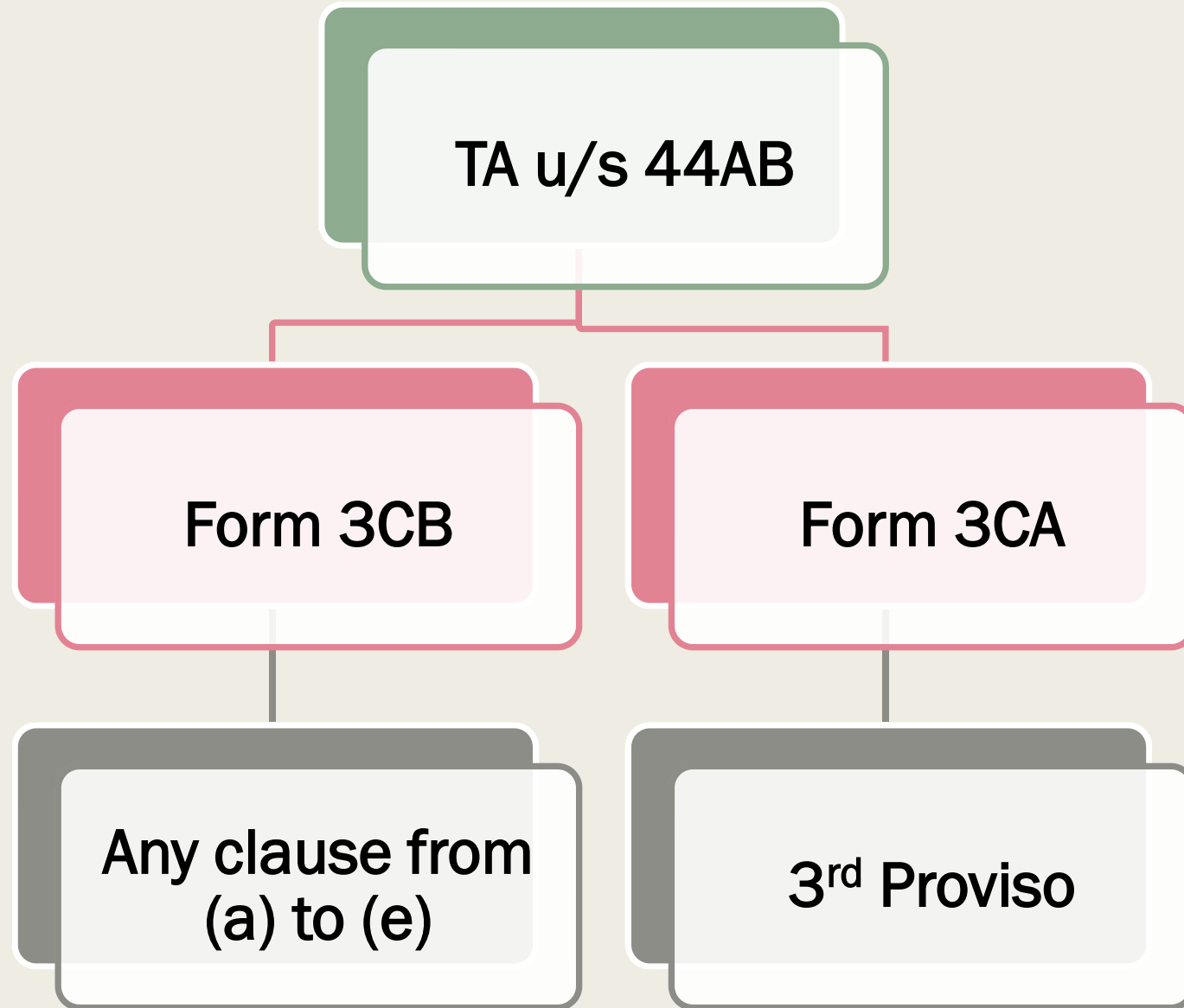
- Payments all by banking channels
- Receipts:
  - 6 Crs sales out of which 20 Lacs in Cash
  - Proprietor introduces capital – 25 Lacs in cash
  - Loans received – 50 Lacs by NEFT
  - Is tax audit u/s 44AB required?
    - Yes, as total receipts - 675 L ; cash – 45L
- Is it mandatory or optional??
  - Mandatory - Part I (1) of 2<sup>nd</sup> schedule
- Non -A/c Payee Cheque/ Draft - Cash

???

- Are Financial Statements Audited during Tax audit of Prop. Partnership?
- Are Notes to the accounts prepared for Non-Corporates
- Are Accounting Standards applicable to Non-corporates?
- What if there is non-compliance?
- Where to Report such non-compliance?

## Matters for FS of Non-corporates

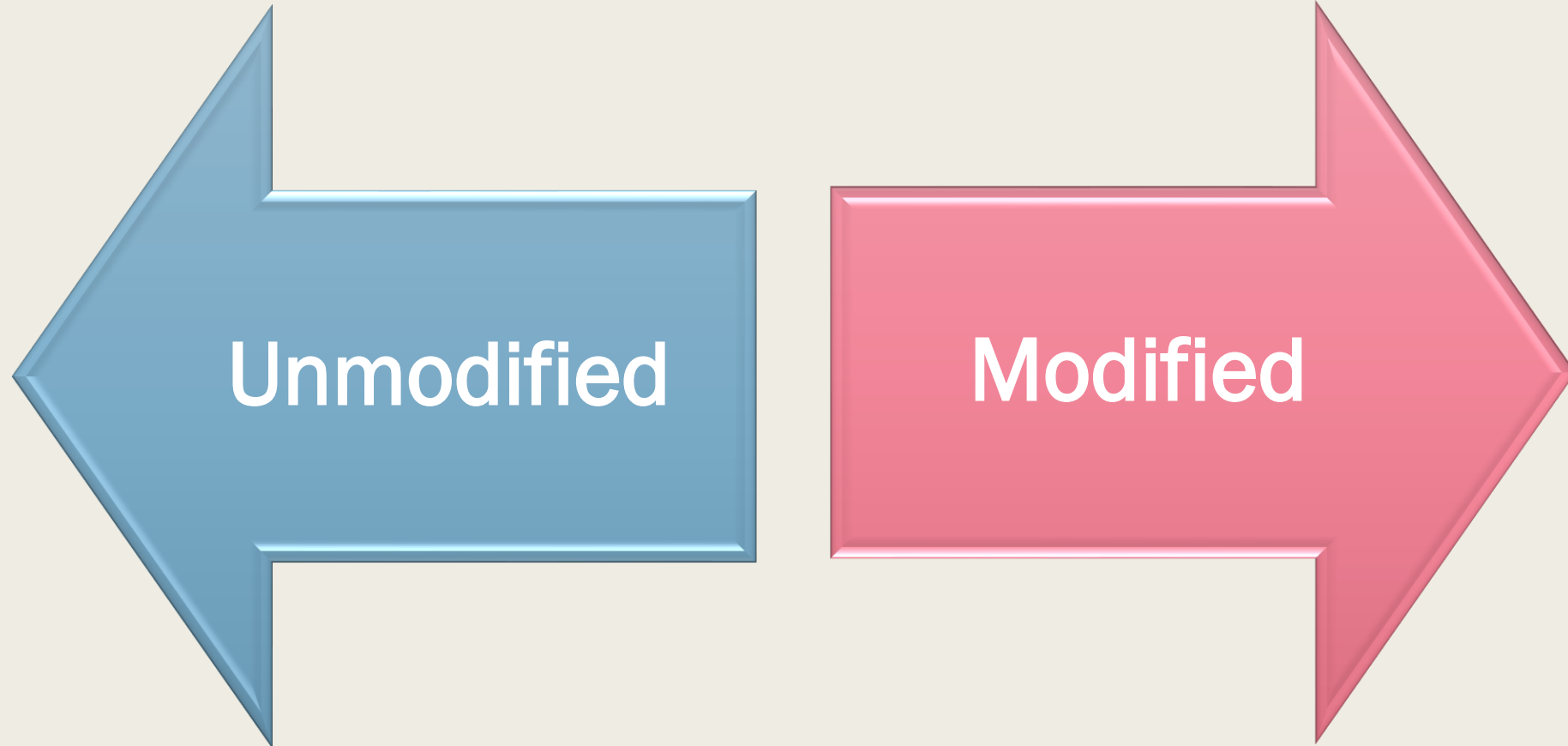
- Can Penalties / other than business Incomes be credited to capital A/c?
- Are list of Trade Receivables / Payables / Unsecured Loans mandatory?
- Notes to the Accounts
- Significant Accounting Policies
- MSMED Act 2006



# AUDIT

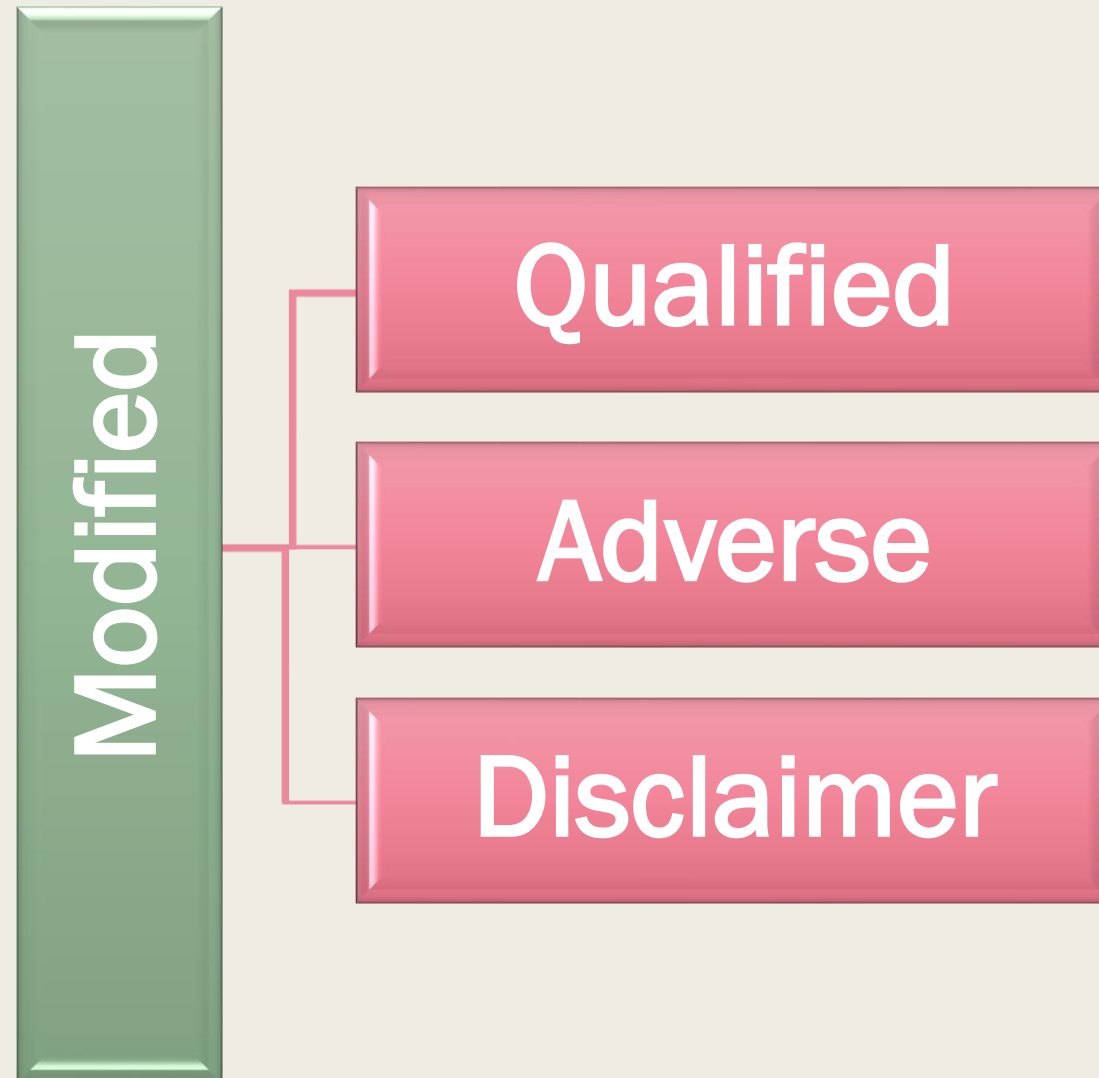


# Types of Audit Reports





# Modified Audit Reports



# Modified Audit Reports

	Auditor's judgment about Pervasiveness of the matter	
Nature of Matter	Material but NOT Pervasive	Material AND Pervasive
Financial statements are Materially misstated	<b>Qualified</b> Opinion (...except for...)	<b>Adverse</b> Opinion (...do not present true & fair...)
Unable to obtain Sufficient Appropriate Audit Evidence	<b>Qualified</b> Opinion (...except for...)	<b>Disclaimer</b> of Opinion (...we do not express an opinion...)

# Amendments to 3CD

- Cl. 8A – Opted for special provision – S. 115BAE (Mfg. Co-op. Society) inserted
- Cl. 12 – Whether PL includes – S. 44ADA added
- Cl. 18 – Dep. – S. 115BAE
- Cl. 19 – Amts Inadmissible u/ss - added:
  - *S. 35ABA (capital expenditure incurred by an assessee to acquire the right to use Spectrum for telecommunication services) &*
  - *“any other relevant section”*

# Amendments to 3CD

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- Cl. 21(a) - amounts debited to PL – added:
  - *expenditure incurred to compound an offence under any law for the time being in force, in India or outside India,*
  - *expenditure incurred to provide any benefit or perquisite to a person and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline governing the conduct of such person, etc*
- Cl. 22 – 43B(h) added
- Cl. 32(a) - brought forward loss/depreciation, add:
  - *not allowed u/s 115BAE*
  - *amount adjusted by way of withdrawal of additional depreciation on account of opting for taxation u/s 115BAE*

# GN on TA

- Form 3CD notified vs. Schema
- Hard Copy vs. uploaded copy
- Cl. 16 (d) – Other Income – 194 R
- Cl. 21 – Contingent Liability
- Cl. 21 [S. 40A(7)] vs. Cl. 26 [S. 43B] – Gratuity
  - S. 40A(7) – *provision*
  - S. 43B – *gratuity fund*

# Few aspects

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- Reporting in 3CD relating to heads of income other than “PGBP” are concerned, these can only be in relation to entries made in such books of a/c, and does not extend to transactions not recorded in such books of account
- Particulars in 3CD are responsibility of assessee - tax auditor is required to verify whether the particulars therein are true and correct

# Few aspects

- Tax Audit is also under Peer Review – document adequately
- Get 3CD authenticated by assessee
- Implementation Guide with respect to Changes in Form No. 3CD and Form No.3CEB

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1

answer

Q. can a defense non public fund apply for CSR-1as they dont have 80G and 12A registration under income tax act

Answered By CA PRAMOD JAIN

5 views

Question added **5 hours** ago Income Tax By CA DEVENDER SAINI, CA, CHANDNI CHOWK

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