

# Important Issues in Tax Audit u/s 44AB



**CA. PRAMOD JAIN**

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

**Shared at**

**West Delhi Study Circle of NIRC of ICAI**

**8<sup>th</sup> August 2019**

# LEGISLATION FOR AY 2018-19

## S. 44AB

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

## 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 u/F 3CA or 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 - 150L;  
NP - 10 L; TI - 8.50 L

- AD - No
- AB - Yes

Mr. B - Trading - Turnover - 90L; NP - 10L;  
Doctor- Fee - 45 L; NP- 25 L; TI -32L

- AD - No
- ADA - Yes
- AB - No

M/s ABC - Trading Turnover - 80L - NP - 1 L;  
TI- 1 L

- AD - No
- AB - No

Mr. D - Trading; Turnover -120L; Commission -  
2L; NP- 15L; TI - 14L

- AD - No
- AB - Yes

**TAX**  
  
**AUDIT**

Qualified  
or  
Disqualified

# WHO CAN CONDUCT AUDIT

- **W.e.f. 1<sup>st</sup> June 2015**
- **Accountant as defined in Explanation below S. 288 (2)**
- **A Chartered Accountant as defined in section 2 (1) (b) of the Chartered Accountants Act, 1949 who holds a valid certificate of practice u/s 6 (1) of that Act**
- **CA in practice (can represent)**

# DISQUALIFICATION - COMPANIES



# DISQUALIFICATION – OTHERS

- **Assessee himself**
- **In case of a firm - any partner of the firm**
- **In case of AOP - member of the association**
- **In case of HUF - member of the family**
- **Person referred to in section 13(3)(a),(b),(c), (cc);**
- **Relative of any of above persons**
- **Other than above, person who is competent to verify return u/s 139/140;**
- **Officer or employee of assessee;**

# **RELATIVE – INCOME TAX AUDITOR**

- **Spouse of the individual;**
- **Brother or sister of the individual;**
- **Brother or sister of the spouse of the individual;**
- **Any lineal ascendant or descendant of the individual;**
- **Any lineal ascendant or descendant of the spouse of the individual;**
- **Spouse of a person referred above**
- **Any lineal descendant of a brother or sister of either the individual or of spouse of individual**

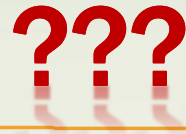


# DISQUALIFICATIONS - OTHERS

- Who is a partner, or who is in employment, of an officer or employee of assessee;
- Who has been convicted by a court of an offence involving fraud and a period of 10 years has not elapsed from the date of such conviction
- An individual who, or his relative or partner
  - Is holding any security of or interest in assessee –  
Relative face value - Rs. 1 L
  - Is indebted to the assessee. Relative – Rs. 1 L
  - Has given a guarantee / provided security . Relative –  
1 L

# DISQUALIFICATIONS – TAX AUDITOR

- A person or a firm who, whether directly or indirectly, has business relationship with assessee. i.e., any transaction entered into for commercial purpose except:
  - In nature of professional services permitted
  - In the **ordinary course of business of co.** at ALP like
    - sale of products or
    - services
  - To **auditor, as customer, in the ordinary course of business**, by companies engaged in business of telecommunications, airlines, hospitals, hotels & such other similar businesses



- **Can a CA in practice who is giving accounting services to a subsidiary, conduct tax audit of its holding company?**
- **Can an internal auditor of a company issue Form 15CB certificate for that company?**
- **Can a CA in practice who is giving accounting services to holding company issue certificate for MAT in Form 29B to its subsidiary company?**

# FORM 3CB

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- × Total 5 Paras
- × Same as Form 3CA except examination of books
- × Opinion subject to observations / qualifications to be given:
  - + Financial Statements – 3(a)
  - + Form 3CD – 5
- × SA 700?

# SA 700 – PARA 3

- × **Assessee's Responsibility for the Financial Statements and the Statement of Particulars in Form 3CD**
  1. The **assessee is responsible for the preparation and fair presentation of the financial statements** in accordance with the Accounting Standards issued by the ICAI, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
  2. In preparing the financial statements, management is responsible for assessing the entity's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the entity or to cease operations, or has no realistic alternative but to do so.
  3. Those charged with governance are responsible for overseeing the entity's financial reporting process.

# SA 700 PARA 3

- × **Tax Auditor's Responsibility**
- × Our objectives are to **obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement**, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is **not a guarantee** that an audit conducted in accordance with SAs will always **detect a material misstatement** when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these FS

# **SA 700 PARA 3**

- × **As part of an audit in accordance with SAs, we exercise professional judgment and maintain professional skepticism throughout the audit.**
- × **We also:**
  - + **Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.**

# SA 700 PARA 3

- + Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances.
- + Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- + Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Company to cease to continue as a going concern.



# SA 700 PARA 3

- + Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- ✘ We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.
- ✘ We also provide those charged with governance with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

# SA 700 – PARA 5

- 2. The assessee is responsible for the preparation of the statement of particulars required to be furnished under section 44AB of the Income-tax Act, 1961 annexed herewith in Form No. 3CD read with Rule 6G(1)(b) of Income Tax Rules, 1962 that give true and correct particulars as per the provisions of the Income-tax Act, 1961 read with Rules, Notifications, circulars etc that are to be included in the Statement.**

# SA 700 – PARA 5

- × We are also responsible for verifying the statement of particulars required to be furnished under section 44AB of the Income-tax Act, 1961 annexed herewith in Form No. 3CD read with Rule 6G (1) (b) of Income-tax Rules, 1962. We have conducted my/our verification of the statement in accordance with Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961, issued by the Institute of Chartered Accountants of India.

**Form 3CD Latest  
Changes in Tax  
Audit Report**

# AMENDMENTS W.E.F 20.8.2018

- × 7 items amended
- × 1 item replaced
- × 10 new items – 2 DEFERRED – 31.3.2019  
and now 31.3.2020 – 30C & 44

# 20.8.2018 - AMENDMENTS

- × S. No. 4, 19, 24, 26 & 31(c), (d) & (e)
- × 4 – GST added
- × 19 – Amounts deductible – s. 32AD added
- × 24 – Amounts deemed to be profits u/s 32AC, etc.. 32AD added
- × 26 – 43B – clause (g) added – railway

**S. NO. 31 (C)- S. 269 SS/T – AMENDED W.E.F. 19.7.17**

- ✘ (c) - Particulars of each repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T made during the previous year
  - + New (iv) - whether the repayment was made by cheque or bank draft or use of electronic clearing system through a bank account;
  - + New (v) - in case the repayment was made by cheque or bank draft, whether the same was **taken or accepted repaid** by an account payee cheque or an account payee bank draft.

**S. NO. 31(D) - S. 269 SS/T - AMENDED W.E.F. 19.7.17**

- ✘ **New (d) - Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year**
  - + **name, address and PAN (if available with the assessee) of the payer;**
  - + **amount of **repayment of** loan or deposit or any specified advance received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.**



**S. NO. 31(E) - S. 269 SS/T - AMENDED W.E.F. 19.7.17**

- ✘ **New (e) -Particulars of repayment of loan/deposit or any specified advance in an amt. exceeding limit specified in s. 269T received by cheque / bank draft which is not an account payee cheque / bank draft during PY**
  - + **name, address & PAN (if available with assessee) of payer;**
  - + **amount of **repayment of** loan or deposit or any specified advance received by a cheque or a bank draft which is not an a/c payee cheque / bank draft during the previous year**

## 34 (B) - SUSBTITUTED

- × 34 (b) – If TDS / TCS Statement **not furnished within prescribed time**, furnish:
- × **New 34(b)** - Whether the assessee is required to furnish the statement of TDS/TCS. If yes, please furnish the details:
  - + TAN
  - + Type of Form
  - + Due date of furnishing
  - + Date of furnishing, if furnished
  - + Whether the TDS / TCS Statement contains information about all transactions which are required to be reported. **If not, please furnish list of details/transactions which are not reported.** – Transporters??? – yes / no?? – Could be genuine difference of opinion

## 29A - INSERTED

- × **29A (a) - Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to S. 56(2)(ix) ? [advance forfeited] (Yes/No)**
- × **29A (b) - If yes, please furnish the following details:**
  - + **(i) Nature of income**
  - + **(ii) Amount thereof**

## 29A - INSERTED

- ✘ M/s XYZ receives Rs. 25 Lakhs as advance against property in AY 2017-18 from Mr. B
- ✘ As per agreement as the buyer did not comply.. It send forfeiture notice to Mr. B in AY 2019-20 and forfeits the amount but does not entry in books.
- ✘ Mr. B confirms that amount is receivable
- ✘ M/s XYZ writes off in AY 2020-21.
- ✘ When should auditor report?

## 29B - INSERTED

- ✘ **29B (a) - Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in S. 56(2)(x)? (Yes/No)**
- ✘ **29B (b) - If yes, please furnish the following details:**
  - + **(i) Nature of income**
  - + **(ii) Amount thereof**
- ✘ **How to report on controversial items?**

*CA. Pramod Jain*

# **S. 56(2) (X) DEEMED GIFTS**



# DEEMED GIFTS

- × **S. 56(2)(x) w.e.f. 1<sup>st</sup> 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**



# 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?
  - + 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 is not 'land or building or both' - *Atul G. Puranik v. ITO (132 ITD 499)(Mum)*.
  - + S. 50C applies to Transfer of Development Rights - *Chiranjeev Lal Khanna v. ITO (132 ITD 474)(Mum)*
  - + Not applicable to TDR – *ACIT vs. Munsons Textiles [TS-6710-2012(Mum)-0]* ; *ACIT vs. Shrikishan Dass [TS-6757-2013(Del)-0]*

# 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

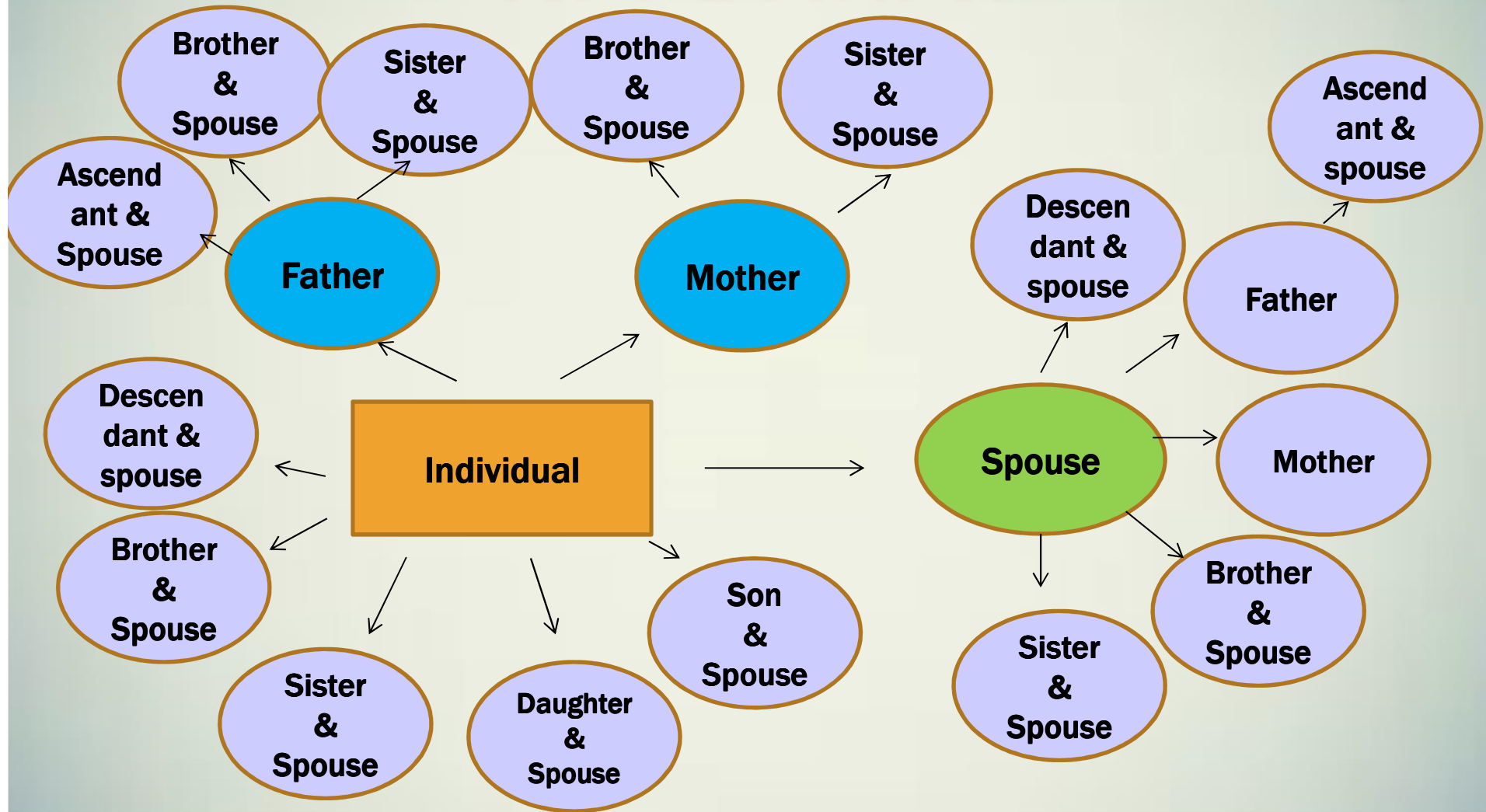
## × Relative

### + 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

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



× 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. 15 Lakhs to Ms. Y (not a relative) on the occasion of her marriage. Is there any tax on Mr. X or Ms. Y?

× No



- × 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. 5 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

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

✘ No

# 30A - INSERTED

- ✘ **30A (a) - Whether primary adjustment to TP, u/s. 92CE(1), has been made during PY? (Yes/No)**
- ✘ **30A (b) - If yes, please furnish :-**
  - + (i) Under which clause of s. 92CE(1) primary adjustment is made? (5 clauses)
  - + (ii) Amount (in Rs.) of primary adjustment:
  - + (iii) Whether the excess money available with AE is required to be repatriated to India as per s.92CE(2)? (Yes/No)
  - + (iv) If yes, whether the excess money has been repatriated within the prescribed time (Yes/No) [90 days from due date of filing of ITR] For AY 2018-19 due date – 31<sup>st</sup> December 2018
  - + (v) If no, amount of imputed interest income on such excess money which has not been repatriated within prescribed time

# 30B - INSERTED

- ✘ **30B (a) - Whether the assessee has incurred exp. during PY by way of interest or of similar nature > Rs. 1 Cr u/s. 94B(1)? (Yes/No)**
- ✘ **30B (b) - If yes, please furnish :-**
  - + (i) Amount (in Rs.) of expenditure by way of interest or of similar nature incurred – ( to AE or all?)
  - + (ii) (EBITDA) during the previous year (in Rs.):
  - + (iii) Amount (in Rs.) of expenditure by way of interest or of similar nature as per (i) above which exceeds 30% of EBITDA as per (ii) above
  - + (iv) Details of interest expenditure b/f as per s. 94B(4) – NA as 94B inserted w.e.f. AY 2018-19
  - + (v) Details of interest expenditure c/f as per s. 94B(4)



## **30C – INSERTED – DEFERRED TO 31.3.2020**

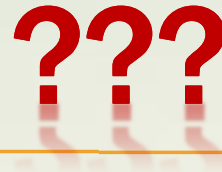
- ✘ **30C (a) - Whether the assessee has entered into an impermissible avoidance arrangement (GAAR), as referred to in s. 96, during the PY? (Yes/No) [w.e.f. AY 2018-19] – Tax benefit 3 Crs.**
- ✘ **30C (b) - If yes, please specify :**
  - + **(i) Nature of the impermissible avoidance arrangement**
  - + **(ii) Amount (in Rs.) of tax benefit in the PY arising, in aggregate, to all the parties to the arrangement**

## **S. NO. 31 (BA) - SECTION 269 ST**

- **No person to receive an amount  $\geq$  Rs. 2 Lakhs otherwise than by A/c payee cheque/draft or use of electronic clearing using bank a/c (i.e. primarily in cash):**
  - **in aggregate from a person in a day; or**
  - **in respect of a single transaction; or**
  - **in respect of transactions relating to one event or occasion from a person**

# SECTION 269 ST

- **Not applicable to receipts by:**
  - **Government,**
  - **Bank,**
  - **Post Office Savings Bank or Co-operative Bank,**
  - **S. 269SS transactions**
  - **Such other persons or class of persons or receipts, which the CG may notify**
- **Not applicable to receipts from Bank, Post Office Savings Bank or Co-operative Bank**
- **Penalty of equal amount u/s 271DA**
- **Rule 6DD?**



- **M/s AB P. Ltd sells Innova car to Mr. Y for Rs. 3 L in cash?**
  - Yes
- **M/s ABC & Co. purchases grains from Shyam an agriculturist for Rs. 2.5 Lakhs in Cash**
  - Yes
- **Mr. A in his proprietorship firm receives gift of Rs. 5 L in cash from his father**
  - Yes
- **M/s ABC & Co. receives Rs. 2.10 Lakhs on 21.2.2019 for following from Y in cash :**
  - **Loan Rs. 0.15 Lakhs**
  - **Against sale of Car Rs. 1.95 Lakhs**
  - No



- **M/s. ABC receives cash payment of Rs. 3.75 L from XYZ P. Ltd. on 25<sup>th</sup> February 2019 for the following:**
  - **Rs. 2.10 Lakhs part payment for invoice no. 4. dt. 17.9.2018 of Rs. 3 Lakhs**
  - **Rs. 95000/- part payment for invoice no. 6 dt. 30.12.2018 of Rs. 2.50 Lakhs**
  - **Rs. 70000/- part payment for invoice no. 12 dt 10.1.2019 of Rs. 1.50 Lakhs**
- **Implications are:**
  - **271DA penalty on M/s ABC for Rs. 3.75 Lakhs**
  - **M/s. ABC to report Rs. 2.10 Lakhs in SFT in Form 61A**
  - **XYZ P. Ltd expense of Rs. 3.75 Lakhs would be disallowed u/s 40A(3)**



- **ABC Pvt. Ltd organised 3 days exhibition out of town. It receives followings in cash:**
  - **Rs. 10 lacs as participation fee from various persons in 3 days**
- **It pays the following:**
  - **Rs. 70 K 1<sup>st</sup> day, Rs. 60 K 2<sup>nd</sup> day & Rs. 80 K 3<sup>rd</sup> day to tent for extra chairs etc**
  - **Rs. 1.75 lacs per day to 2 caterers for water coffee and snacks**
  - **Rs. 75000 per day for security & Valet Parking to contractor**
    - **Yes, In hands of receiver for payment made by Company**



- **PQR P. Ltd receives Rs. 5 lacs each from its 2 subscribers on incorporation in cash**
  - Yes
- **Mr. B introduces Rs. 3 Lacs as capital in partnership firm ABC & Co?**
  - Yes
- **Mr. B partner withdraws the following in cash from ABC & Co. during FY 2018-19:**
  - **Rs. 1.80 Lacs remuneration Rs. 15K p.m.**
  - **Rs. 36000 being interest on 31.3.2018**
  - **Rs. 3 L on different dates, being profit**
    - S. 40A(3)



- **M/s XYZ takes loan of Rs. 5 Lakhs from ABC Ltd (NBFC) by cheque, but repays instalment of Rs. 20000/- p.m. in cash. Is ABC Ltd liable for s. 271DA penalty?**

• No

- **Circular No. 22 of 2017 dated 3rd July 2017**
  - **Receipt in nature of repayment of loan by NBFCs /HFCs - receipt of 1 instalment of loan repayment in respect of a loan shall constitute a 'single transaction' as specified in S. 269ST(b) & all the instalments paid for a loan shall not be aggregated for the purposes of determining applicability of S. 269ST**



## **EXEMPTIONS - NOT. NO. 57/2017 DT. 3.7.17**

- Receipt by a business correspondent on behalf of bank or co-operative bank, as per RBI
- Receipt by a white label automated teller machine operator from retail outlet sources on behalf of bank or co-operative bank, as per RBI
- Receipt from an agent by an issuer of pre-paid payment instruments as per RBI
- Receipt by a company or institution issuing credit cards against bills raised in respect of one or more credit cards
- Receipts which is not includible u/s 10(17A) - Awards by CG / SG

## **31(BA) – INSERTED – 269ST**

- ✘ **31(ba) - Particulars of each receipt in an amount exceeding the limit specified in section 269ST:**
  - + in aggregate from a person in a day or
  - + in respect of a single transaction or
  - + in respect of transactions relating to one event or occasion from a person, during the PY
- ✘ **where such receipt is otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account**

# 31(BA) – INSERTED – 269ST

- × **31(ba) – (i) Name, address and Permanent Account Number (if available with the assessee) of the payer;**
- × **(ii) Nature of transaction;**
- × **(iii) Amount of receipt (in Rs.);**
- × **(iv) Date of receipt;**

## **31(BB) – INSERTED – 269ST**

- × **31(bb) - Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, during the PY, where such receipt is by a cheque or bank draft not being an account payee cheque or an account payee bank draft, during the previous year**

## **31(BC) – INSERTED – 269ST**

- × **31(bc) - Particulars of each payment made in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, during the PY, where such receipt is otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account**

## **31(BD) – INSERTED – 269ST**

- × **31(bd) - Particulars of each payment in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, during the PY, where such receipt is by a cheque or bank draft not being an account payee cheque or an account payee bank draft, during the previous year**

## **31(BD) – INSERTED – 269ST**

- × Particulars at (ba), (bb), (bc) and (bd) need not be given in the case of receipt by or payment to a Government company, a banking Company, a post office savings bank, a cooperative bank or in the case of transactions referred to in section 269SS or in the case of persons referred to in Notification No. S.O. 2065(E) dated 3rdJuly, 2017**

## 36A - INSERTED

- × 36A (a) Whether assessee has received any amount in the nature of dividend as referred to s. 2(22)(e)? (Yes/No)
- × 115 0 amended w.e.f. AY 2018-19 – 30%
- × Would assessee give details??
- × How to ascertain accumulated profits of payer?
- × S. 41(2) profit is not part of accumulated profits [CIT vs. Urmila Ramesh (1998) 230 ITR 422 (SC)]



## **36A - INSERTED**

**✘ Accumulated profits are revenue profits not capital profits:**

- + Tea Estate India Pvt. Ltd. vs. CIT (1976) 103 ITR 785 (SC)]**
- + First ITO vs. Short Brothers Pvt. Ltd. (1966) 60 ITR 83 (SC)**
- + CIT vs. Mangesh J. Sangiri (1979) 119 ITR 962 (Bom)**

**✘ 36A (b) If yes, please furnish the following details:-**

- + (i) Amount received (in Rs.):**
- + (ii) Date of receipt:”**

## 42 - INSERTED

- × **42 (a) - Whether the assessee is required to furnish statement in Form No.61 or Form No. 61A or Form No. 61B? (Yes/No)**
- × **42 (b) - If yes, please furnish :-**
  - + **ITDREIN**
  - + **Type of Form**
  - + **Due date for furnishing**
  - + **Date of furnishing, if furnished**
  - + **Whether Form contains information about all details / transactions which are required to be reported. If not, furnish list of details/transactions- not reported.**

# PROVISIONS - SECTIONS

**139A(5)(c)**

- Quoting of PAN

**285BA**

- Statement of Specified Financial Transactions

**271FA /  
271FAA /  
272B**

- Penalties

# PROVISIONS - RULES

**114B**

- Transactions in which PAN is to be quoted

**114C**

- Verification of PAN

**114D**

- Furnishing of Form 60

**114E**

- Furnishing of Statement of Financial Transaction (SFT)

**114F - H**

- Furnishing of Statement of Reportable Account

# PROVISIONS - FORMS

**60**

- Declaration from persons who do not have PAN

**61**

- Statement containing particulars of declaration received in Form No. 60

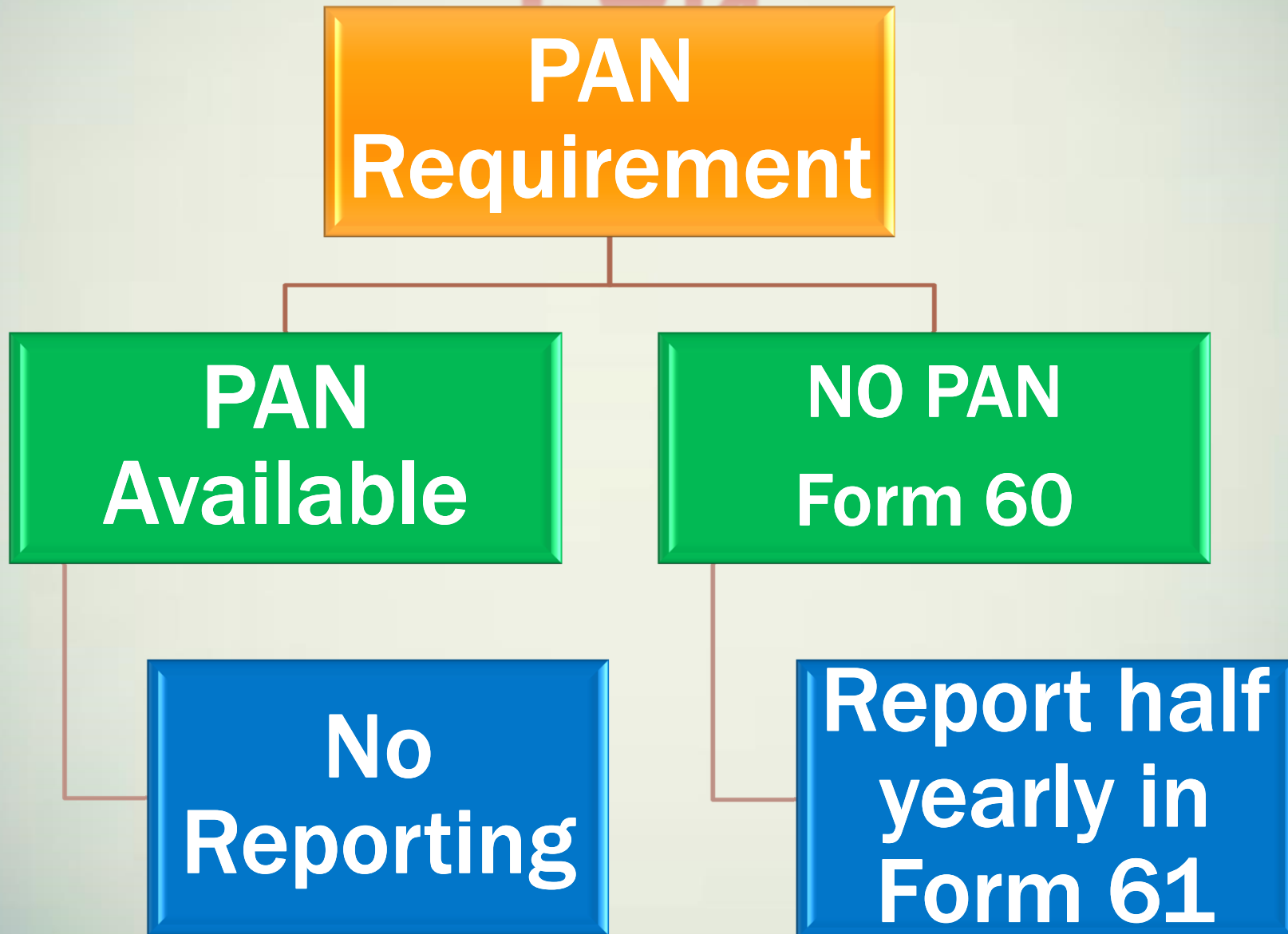
**61A**

- Statement of Specified Financial Transactions (SFT)

**61B**

- Furnishing of Statement of Reportable Account

# PAN



# PAN QUOTING W.E.F. 01.01.2016

S. No.	Nature of Transaction	Value of Transaction
1	Sale / Purchase of Motor Vehicle or Vehicle other than 2 Wheeler	All
2	Opening an Bank A/c other than time-deposit referred to at Sl. No.12 and <b>Basic Savings Bank Deposit A/c</b>	All
3	Application for Debit / Credit Card	All
4	Opening of Demat A/c	All
5	Payment to Hotel / Restaurant at any one time ( <b>earlier 25K</b> )	Cash > 50000/-

# PAN QUOTING W.E.F. 01.01.2016

S. No.	Nature of Transaction	Value of Transaction
6	Payment for Foreign Travel or foreign currency at 1 time (earlier 25K)	Cash > 50000/-
7	Payment to MF for purchase of Units	> 50000/-
8	Payment to Co. or Institution for Debentures / Bonds issued by it	> 50000/-
9	Payment to RBI for Bonds issued by it	> 50000/-
10	Cash Deposit with Bank in any 1 day	> 50000/-
11	Bank Draft / Pay Order / Banker Cheque during one day	Cash > 50000/-



# PAN QUOTING W.E.F. 01.01.2016

S. No.	Nature of Transaction	Value of Transaction
12	<b>Time Deposit with</b> 1. Bank, 2. Post Office, 3. Nidhi Co. 4. NBFC	<b>50000/- each transaction or</b> <b>5 Lacs in aggregate during FY</b>
13	<b>Payment for 1 or more Prepaid Payment Instruments like smart card; magnetic stripe cards; internet a/c; online wallets; mobile a/c; mobile wallets; paper voucher; mass transit system; other</b>	<b>Cash / draft / PO / banker cheque aggregating &gt; 50000/- in FY</b>

# PAN QUOTING W.E.F. 01.01.2016

S. No.	Nature of Transaction	Value of Transaction
14	Life Insurance Premium	Aggregating > 50000/- in FY
15	Sale / Purchase of Securities <b>other than Shares</b> per transaction	> 1 Lac
16	Sale / Purchase of unlisted shares per transaction (verification by Co) <b>[E - 50k for issue of shares all Cos]</b>	> 1 Lac
17	Sale / Purchase of Immovable Property ( <b>earlier 5 L</b> )	> 10 Lacs Tran. value or <b>50C value</b>

# PAN QUOTING W.E.F. 01.01.2016

S. No.	Nature of Transaction	Value of Transaction
18	Sale / purchase of goods / services (earlier 5 L for bullion or jewellery dealer only)	> 2 Lacs per transaction

- ✘ Effective from 1<sup>st</sup> January 2016
- ✘ Concerned person to verify PAN & mention in all documents /invoice/applications
- ✘ If no PAN – take Form 60
- ✘ If Minor– PAN of Father/Mother/Guardian

# SFTS - [1.04.2016]

S. No.	Nature & Value of Transaction	Reporting Person
1(a)	<b>Cash</b> for purchase of bank drafts / pay orders / banker's cheque of aggregate > Rs. 10 Lacs in a FY.	Banks
1(b)	<b>Cash</b> for purchase of pre-paid instruments by RBI aggregate > Rs. 10 Lacs in a FY. [E- 5L bonds all modes]	Banks
1(c)	<b>Cash</b> deposits / withdrawals (including bearer's cheque) aggregating > Rs. 50 Lacs in a FY from 1 or more <b>current account</b> of a person.	Banks

# SFTS - [1.04.2016]

S. No	Nature & Value of Transaction	Reporting Person
2	<b>Cash</b> deposits agg. > Rs. 10 Lacs in a FY, in 1 or more a/cs (other than current a/c & time deposit) [E- saving A/c]	Banks P.O.
3	One or more time deposits (other than renewals) of a person aggregating > Rs. 10 Lacs in a FY of a person.	Banks P.O. ; Nidhi NBFC
4	Payments aggregating to- (i) > Rs. 1 Lac in <b>cash</b> ; or (ii) > Rs. 10 Lacs by any other mode, one or more credit cards in a FY [E - 2L]	Banks issuing Credit Cards

# SFTS - [1.04.2016]

S. No.	Nature & Value of Transaction	Reporting Person
5	Receipt from a person aggregating > Rs. 10 Lacs in a FY for acquiring bonds or debentures issued by Co. or institution (other than renewals) [E- 5L]	Company Institution
6	Receipt from a person aggregating > Rs. 10 Lacs in a FY for acquiring shares (including share application money) issued by co. [E- Pub / Rght 1L]	Company
7	Buy back of shares from a person (other than bought in open market) for aggregating > Rs. 10 Lacs in a FY	Listed Co.

# SFTS - [1.04.2016]

S. No.	Nature & Value of Transaction	Reporting Person
8	> Rs. 10 Lacs in a FY for acquiring units of 1 or more schemes of a MF (except switching) <b>[E- 2L]</b>	MF
9	Sale of foreign currency including through debit /credit card or traveller chq. or draft etc agg. > Rs. 10 L in a FY	Authorised Dealer
10	Purchase or sale of immovable property value > Rs. 30 L or <b>valued u/s 50C</b>	Registrar

# SFTS - [1.04.2016]

S. No.	Nature & Value of Transaction	Reporting Person
11	Receipt of <b>cash</b> payment Rs. 2 Lacs for sale, by any person, of goods or services of any nature (other than above mentioned items).	If liable to Tax Audit u/s 44AB
12	<b>Cash Deposit from 9.11.16 to 30.12.16 aggregating:</b> <ul style="list-style-type: none"> <li>• <b>≥ 12.50 Lacs in 1 or more Current account of a person</b></li> <li>• <b>≥ 2.50 Lacs in other than current account</b></li> </ul>	Bank / PO (inserted by 15.11.16)
13	Cash Deposited from 1.4.16 to 9.11.16 in respect of accounts reportable under S. No. 12	Bank / PO (Inserted by 6.1.17)



# SFT??

✘ A Pvt. Ltd. issues following invoices:

+ 1.4.18 - Rs. 1 Lakh

+ 1.5.18 - Rs. 1.50 Lakhs

+ 2.6.18 - Rs. 1 Lakh

+ It receives Rs. 3.50 Lakhs in cash on 15.6.18. Is this a reportable SFT?

+ No, Take care of 269ST

✘ M/s ABC issues an invoice of Rs. 3 Lakhs. Receives Rs. 1.50 Lakhs by Cheque and balance by Cash. Is it reportable SFT?

✘ No

# SFT??

- × XYZ Pvt. Ltd. issues following invoices:
  - + 1.7.18 – Rs. 2.50 Lakh
  - + 1.8.18 – Rs. 1.50 Lakhs
  - + It receives amounts in cash as under:
    - × Rs. 1.50 Lakh on 15.6.18.
    - × Rs. 1.50 Lakh on 16.8.18
    - × Rs. 1.00 Lakh on 10.9.18
    - × Is this a reportable SFT? If yes on which amount?
      - + Yes, 2.50 reportable

# SFT REPORTING

× Report annually by 31<sup>st</sup> May in Form 61A

× For 12th item before 31st January 2017

× Is Nil Form 61A required to be file mandatorily?

× No

× Is filing Preliminary Response to Form 61A mandatory?

× No

## 43 - INSERTED

- × **43 (a) - Whether the assessee or its parent entity or alternate reporting entity is liable to furnish the report as referred to in s. 286(2)? (Yes/No)**
- × **43 (b) - If yes, please furnish :-**
  - + **Whether report has been furnished by the assessee or its parent entity or an alternate reporting entity  
Name of parent entity. [For FY 2017-18 due date is 31.3.2019]??**
  - + **Name of alternate reporting entity (if applicable)  
Date of furnishing of report**

## 44 – INSERTED – DEFERRED TO 31.3.2019

- × 44 - Break-up of total expenditure of entities registered or not registered under the GST. Total amount of Expenditure incurred during the year
- × Expenditure in respect of entities 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
- × Expenditure relating to entities not rgd. in GST

# OTHER IMPORTANT POINTS

No.	Standard
SAE 3400	The Examination of Prospective Financial Information
SRS 4410	Compilation Engagements

- × **SREs, SAEs and SRSs**
- × **Guidance Note on Reports or Certificates for Special Purposes**
- × **UDIN**

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**[pramodjain@lunawat.com](mailto:pramodjain@lunawat.com)**

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