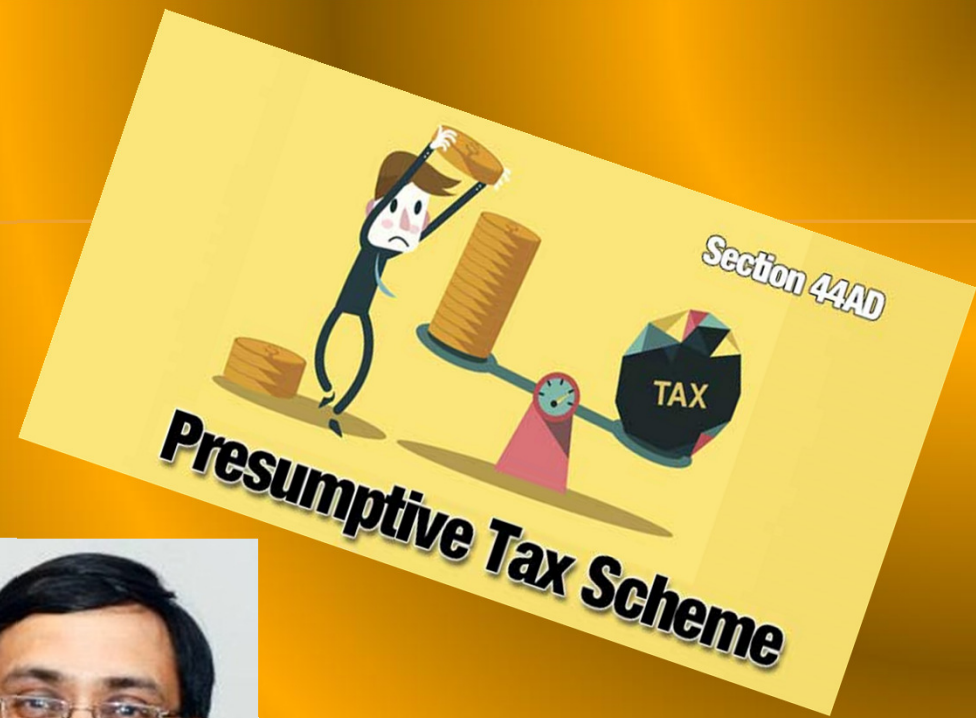


**TAX
AUDIT**



CA. PRAMOD JAIN

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

Shared at

Jalandhar Branch of NIRC of ICAI

8th August 2018



PRESUMPTIVE TAXATION

44AD

- **PGBP other than professionals and agents**

44ADA

- **Professionals**

44AE

- **Goods Carriages**

PRESUMPTIVE TAXATION

- **Section 44AD**
- If income **CLAIMED** to be under presumptive taxation, then:
 - No books of accounts u/s 44AA
 - No audit u/s 44AB
 - Deemed income of 8%/6% (payment before due date of ITR) & above
 - All deductions u/s 30 to 38 deemed to have been given full effect.

APPLICABILITY OF 44AD(44ADA) / 44AB

**Mr. A started mfg – 1st 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

**Mr. C – Trading Turnover – 80L - NP – 5 L; TI-
7 L**

- AD – No
- AB - No

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

- AD - No
- AB - Yes

PRESUMPTIVE TAXATION - CHANGES

- **Limit u/s 44AD increased from 1 Cr to 2 Cr**
- **S. 44ADA introduced for Professionals – Limit 50 Lacs – Deemed Income -50%**
- **For firms - partners salary & interest not allowable for business as well as professional**
- **If benefit u/s 44AD not claimed in 1 year then cannot claim in next 5 years. In such case to maintain books if income > maximum amount not chargeable to tax and audit u/s 44AB**
- **No similar clause for professionals u/s 44ADA**
- **Advance Tax for 44AD /44ADA– 15th March**

APPLICABILITY-44AD / 44AB FOR AY 2017-18

**AY 2017-18 – T – Rs. 120 Lacs . P
– 10 L, TI – 9 L**

• Y/N

**AY 2018-19 – T – Rs. 120 Lacs . P
– 8 L, TI – 6 L**

• N/Y

**AY 2019-20 – T – Rs. 70 Lacs . P –
10 L, TI – 9 L**

• N/Y

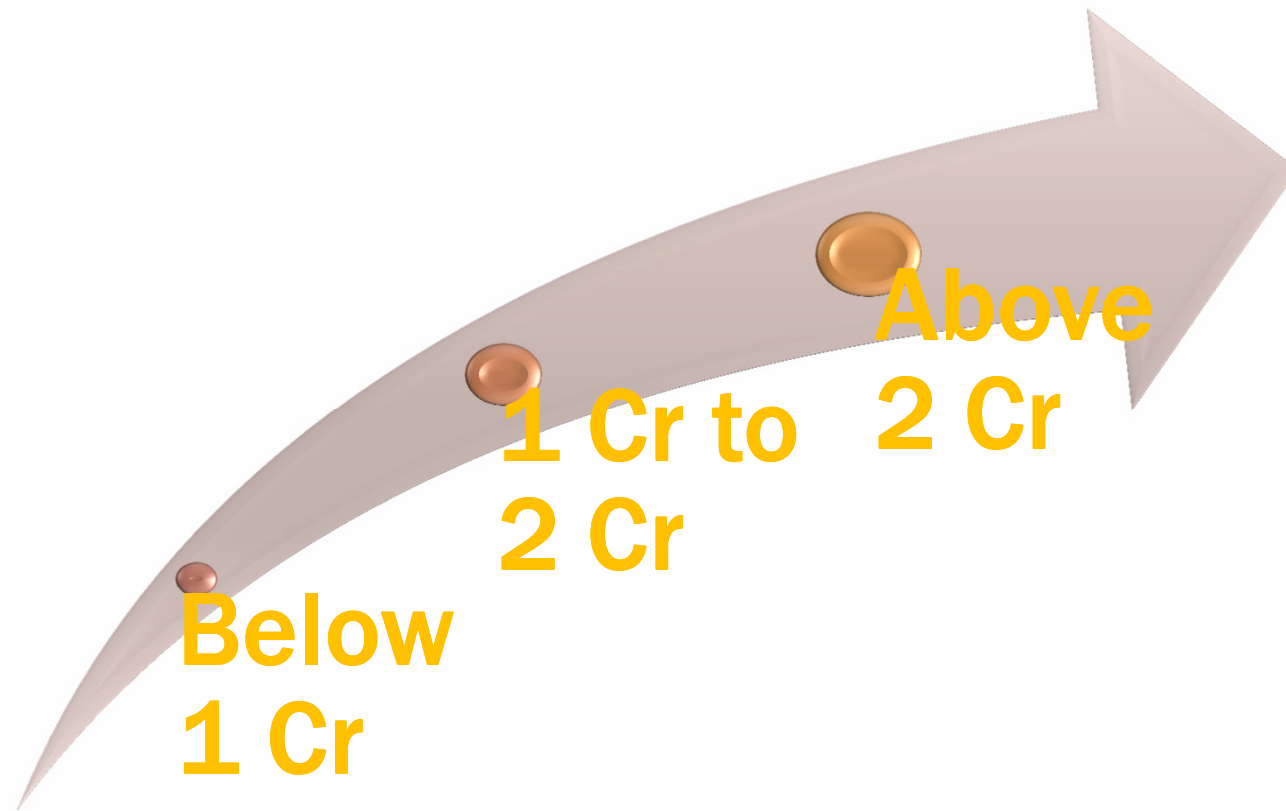
**AY 2020-21 – T – Rs. 60 Lacs . P –
10 L, TI – 2 L**

• N/N

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**
- **Section not applicable to a person carrying:**
 - **Profession**
 - **Commission or brokerage**
 - **Agency business**
- **Deemed profit 8% / 6% or more**
- **Commensurate with bank account !!!**

OTHER THAN 44AD(4)/(5)



SECTION 44ADA ESSENTIALS

- **Should be engaged in profession – section 44AA read with rule 6F**
- **Gross receipt < 50 Lakhs**
- **Deemed profit 50% or more**
- **Commensurate with bank account !!!**

PROFESSION

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

PROFESSION

- **Held as business**
 - **Advertising agent**
 - **Clearing, forwarding & shipping agents**
 - **Insurance agents**
 - **Travel agent**
 - **Stock and share broking**
 - **Courier agency**
 - **Nursing Home**
- **Are they covered u/s 44AD??**



LEGISLATION FOR AY 2017-18

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

WHO CAN CONDUCT AUDIT

- **W.e.f. 1st 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)**

QUALIFICATION - CA

- **T.D. Venkata Rao v. Union of India [1999]
237 ITR 315 (SC):**
 - **Chartered Accountants, by reason of their training have special aptitude in the matter of audits. It is reasonable that they, who form a class by themselves, should be required to audit the accounts of businesses.... There is no material on record and indeed in our view, there cannot be that an income-tax practitioner has the same expertise as chartered accountants in the matter of accounts. ...and it must be pointed out that these income-tax practitioners are still entitled to be authorised representatives of assesseees.”**

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

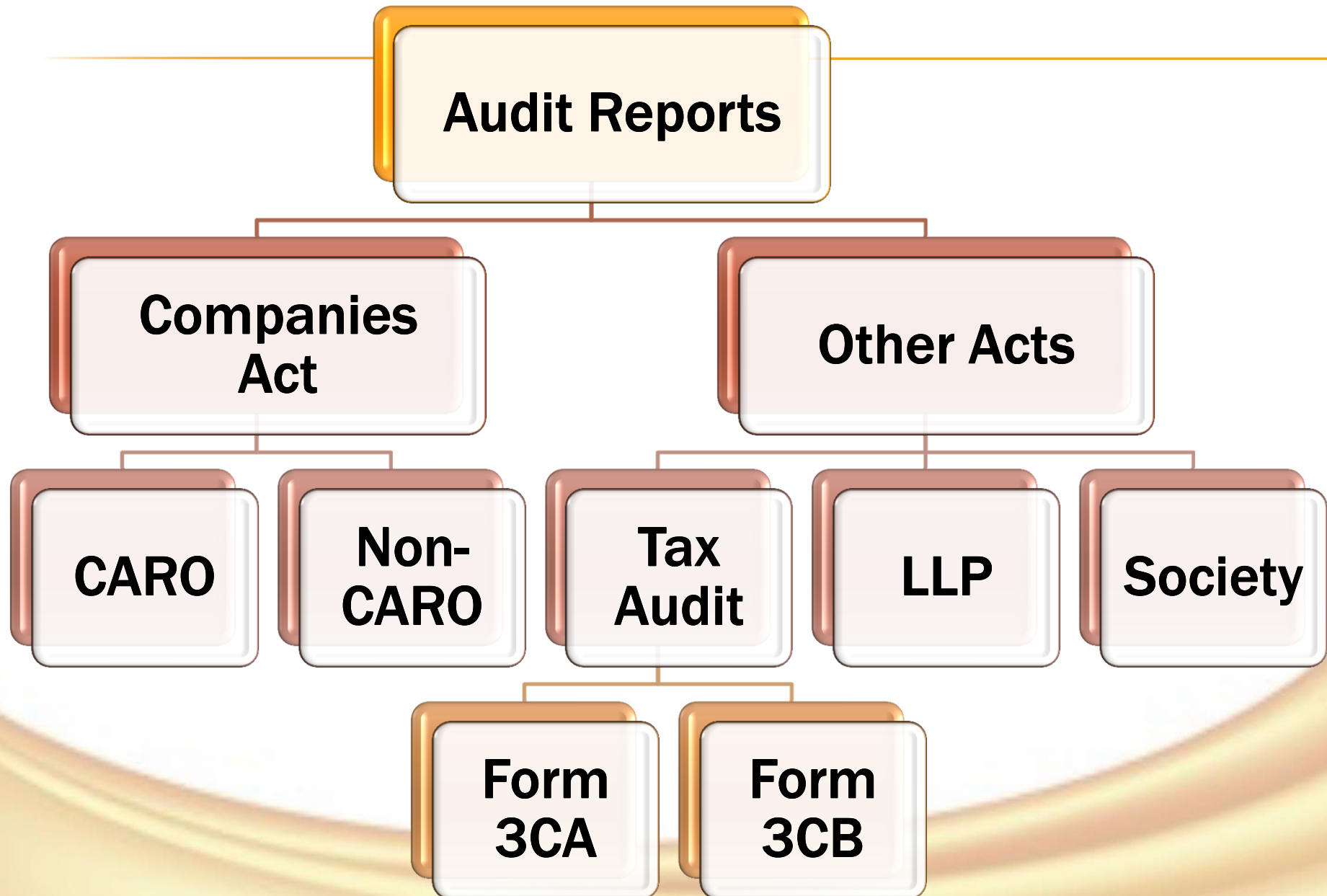
- **Who is a partner, or who is in employment, of an officer or employee of assessee;**
- **Who has been convicted by a court of an offence involving fraud and a period of 10 years has not elapsed from the date of such conviction**
- **An individual who, or his relative or partner**
 - **Is holding any 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 company conduct tax audit of that 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 a company issue certificate in Form 29B for MAT calculation?**



FORM 3CA

- ✖ **Total 3Paras**
- ✖ **Reporting period for PL amended from 31st March to period wise.**
- ✖ **Examination of books by auditor included before giving opinion**
- ✖ **Opinion now to be given subject to observations / qualifications, no annexures ... Para 3**
- ✖ **Name of signatory to be given. FRN??**
- ✖ **To be signed by person eligible as per s. 44AB (earlier CA, auditor as per Companies Act, other person entitled to audit**

FORM 3CB

- ✖ **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

- ✦ **Assessee's Responsibility for the Financial Statements and the Statement of Particulars in Form 3CD**
 1. The **assessee is responsible for the preparation of the aforesaid financial statements** that give a true and fair view of the financial position and financial performance (if applicable) in accordance with the applicable Accounting Standards issued by the Institute of Chartered Accountants of India. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

SA 700

2. **The assessee is also 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

✖ Tax Auditor's Responsibility

3. **Our responsibility is to express an opinion on these financial statements** based on our audit. We have conducted this audit in accordance with the Standards on Auditing issued by the Institute of Chartered Accountants of India. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

SA 700

4. **An audit involves performing procedures to obtain audit evidence** about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purposes of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of the accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

SA 700


5. We believe that the **audit evidence we have obtained is sufficient and appropriate** to provide a basis for our audit opinion.
6. 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**
- 

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 2015-16 from Mr. B
- ✖ As per agreement as the buyer did not comply.. It send forfeiture notice to Mr. B in AY 2018-19 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...
Leasehold rights – TDR?

CA. Pramod Jain

S. 56(2) (X) 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**

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

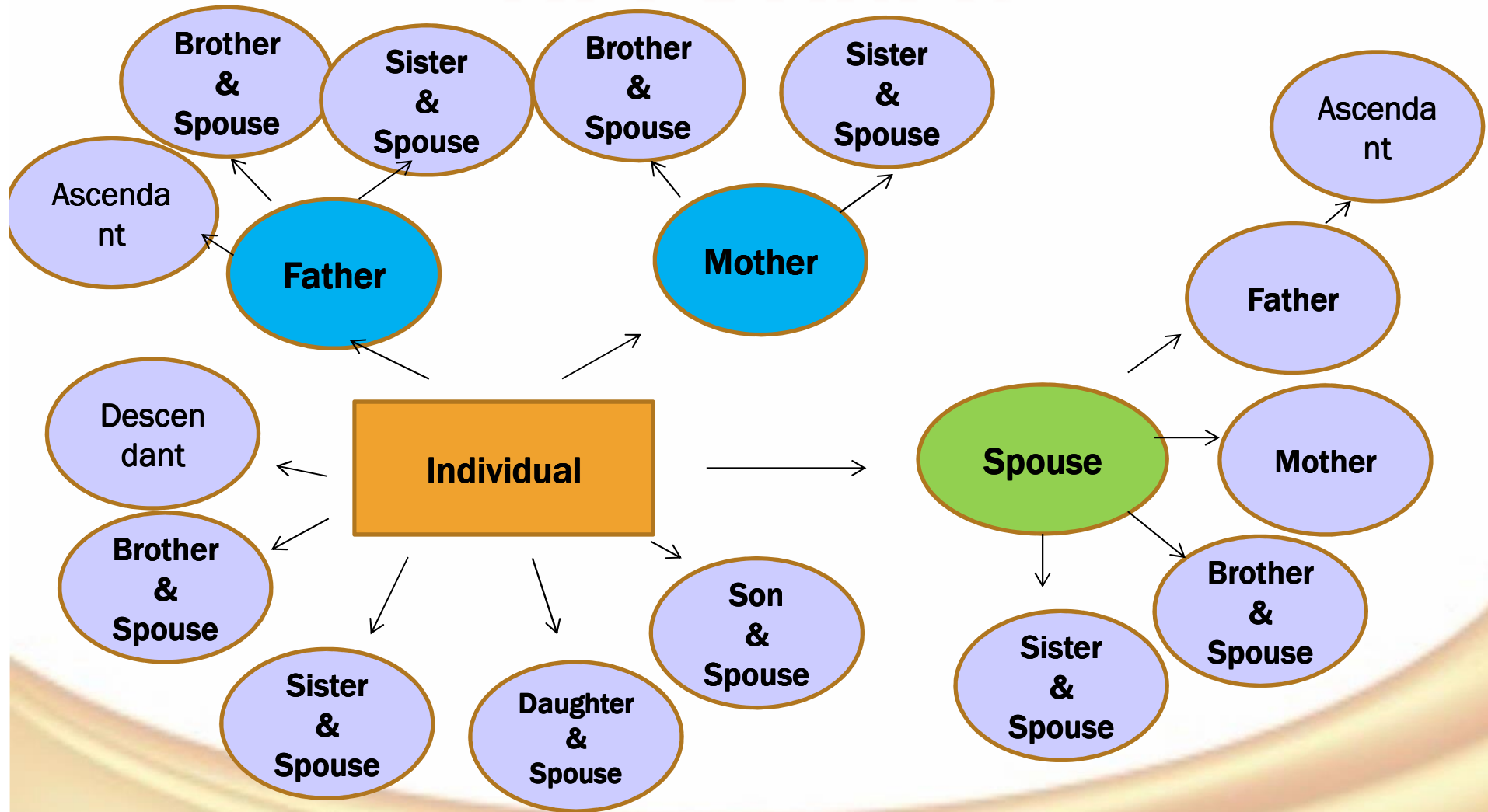
× Relative

+ 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

- ✗ **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

????

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

✗ **Yes**

✗ **Hospitals claiming exemption u/s 10(23C)(iii ae) 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. 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 – 31st 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

- ✖ **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**

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?**



- **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 receives Rs. 2.10 Lakhs on 21.7.2017 for following from Y in cash :**
 - **Loan Rs. 0.15 Lakhs**
 - **Against sale of Car Rs. 1.95 Lakhs**
 - No
- **Father of Ms. C receives gifts from various persons on occasion of C's marriage aggregating Rs. 5 Lakhs?**
 - No



- **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. 2.50 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 receives Rs. 2.10 Lakhs on 21.7.2017 for following from Y in cash :**
 - **Loan Rs. 0.15 Lakhs**
 - **Against sale of Car Rs. 1.95 Lakhs**
 - No
- **Father of Ms. C receives gifts from various persons on occasion of C's marriage aggregating Rs. 5 Lakhs?**
 - No



- **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 1st day, Rs. 60 K 2nd day & Rs. 80 K 3rd 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 2017-18:**
 - **Rs. 1.80 Lacs remuneration Rs. 15K p.m.**
 - **Rs. 36000 being interest on 31.3.2017**
 - **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 3rd July, 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 (AIR)

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

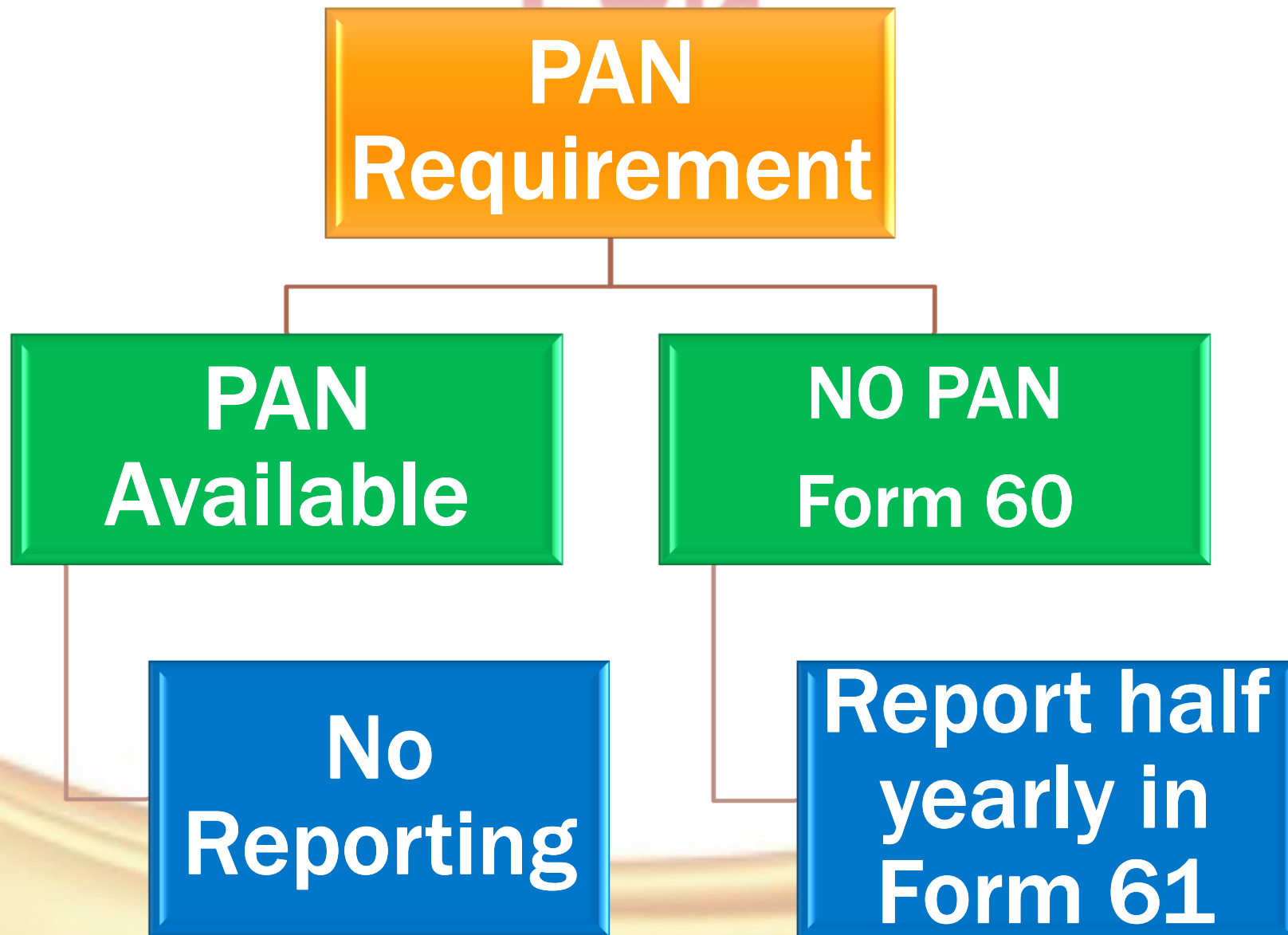
61A

- Statement of Specified Financial Transactions (AIR)

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 Basic Savings Bank Deposit A/c	All
3	Application for Debit / Credit Card	All
4	Opening of Demat A/c	All
5	Payment to Hotel / Restaurant at any one time (earlier 25K)	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	Time Deposit with 1. Bank, 2. Post Office, 3. Nidhi Co. 4. NBFC	50000/- each transaction or 5 Lacs in aggregate during FY
13	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	Cash / draft / PO / banker cheque aggregating > 50000/- in FY

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 other than Shares per transaction	> 1 Lac
16	Sale / Purchase of unlisted shares per transaction (verification by Co) [E - 50k for issue of shares all Cos]	> 1 Lac
17	Sale / Purchase of Immovable Property (earlier 5 L)	> 10 Lacs Tran. value or 50C value

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 1st 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

PAN QUOTING – NOT REQUIRED

- ✖ CG / SG / Consular Offices**
- ✖ Non-Residents for all except:**
 - + Application for Debit and Credit Card**
 - + Payment to a hotel or restaurant against a bill**
 - + Payment for foreign travel or foreign currency**
 - + Payment to RBI for acquiring bonds**
 - + Purchase of DD / PO / Bankers cheque**
 - + Payment for prepaid instruments**
 - + Sale/purchase of goods/services exceeding Rs. 2L**

IMPORTANT FEATURES OF FORM 60

- ✖ **Applicable to all except companies & firm**
- ✖ **If PAN is applied, then application no. to be filled**
- ✖ **If PAN not applied as income is below taxable limits – give estimate of total income**
- ✖ **If estimated total income exceeds taxable limits - Form 60 cannot be accepted unless PAN applied for acknowledgement no. is not mentioned.**

IMPORTANT FEATURES OF FORM 60

- ✖ Amount & mode of transaction also to be given
- ✖ Proof of Identity and address to be furnished along with Form 60
- ✖ In case transaction is by HUF, then proof of Karta
- ✖ In case transaction is by more than 1 persons, number of persons to be mentioned.
- ✖ Wrong verification prosecution u/s 277
 - + 3 months to 2 yrs & Fine;
 - + If amount > 25 Lacs – 6 months – 7 yrs & Fine

FILING DETAIL OF FORM 60 – FORM 61

- ✘ **Everyone not to file statement in Form 61 with department for PAN collection**
- ✘ **Only persons who does not take PAN, but take Form 60 have to file half yearly:**
 - + **Received upto 30th September – 31st October**
 - + **Received upto 31st March – 30th April**
- ✘ **Retain Form 60 for 6 years from end of the FY in which the transaction was undertaken. (earlier Form 60 were also to be filed)**

SFTS - [1.04.2016]

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

SFTS - [1.04.2016]

S. No	Nature & Value of Transaction	Reporting Person
2	Cash 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 cash ; 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) [E- 2L]	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 valued u/s 50C	Registrar

SFTS - [1.04.2016]

S. No.	Nature & Value of Transaction	Reporting Person
11	Receipt of cash 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	Cash Deposit from 9.11.16 to 30.12.16 aggregating: <ul style="list-style-type: none">• \geq 12.50 Lacs in 1 or more Current account of a person• \geq 2.50 Lacs in other than current account	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:

+ 1.4.17 – Rs. 1 Lakh

+ 1.5.17 – Rs. 1.50 Lakhs

+ 2.6.17 – Rs. 1 Lakh

+ It receives Rs. 3.50 Lakhs in cash on 15.6.17. 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:

+ 1.7.17 – Rs. 2.50 Lakh

+ 1.8.17 – Rs. 1.50 Lakhs

+ It receives amounts in cash as under:

✖ Rs. 1.50 Lakh on 15.6.17.

✖ Rs. 1.50 Lakh on 16.8.17

✖ Rs. 1.00 Lakh on 10.9.17

✖ Is this a reportable SFT? If yes on which amount?

+ Yes, 2.50 reportable

SFT REPORTING

- ✗ Report annually by 31st 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

HOW TO DETERMINE THRESHOLD LIMITS

- ✖ **Take into account all the accounts of the same nature in respect of that person;**
- ✖ **Aggregate all the transactions of the same nature in respect of that person (except S. No. 10 & 11) (amended w.e.f. 6.10.16);**
- ✖ **Attribute entire value of transaction or the aggregated value of all transactions to all persons, in a case more than 1 person;**
- ✖ **Apply threshold limit separately to deposits & withdrawals in respect of Current a/c**

PRESS RELEASE DT. 23.12.2016

- ✖ **CBDT vide Notification No. 91/2016 dated 6th October, 2016 has amended Sub-Rule 3 of Rule 114E clearly indicating that**
- ✖ **The said transactions **did not require aggregation** and**
- ✖ **The reporting requirement under SFT for this purpose is on **receipt of cash payment exceeding Rs. 2 Lakh for sale of goods or services per transaction.****

PENALTY U/S 271FA

✖ Failure to furnish Form 61A

+ Rs. 100 per day increased to Rs. 500/- p.d. w.e.f. AY 2018-19

+ In case notice issued u/s 285BA(5) – Rs. 500 per day after 30 days increased to Rs. 1000/- p.d. w.e.f. AY 2018-19

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

- ✖ **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**

AUDIT PROCEDURE

- × **Appointment**
- × **Engagement Letter**
- × **Understanding of Client**
- × **Understanding the Engagement**
- × **Authorizations**
- × **Confirmations**
- × **Management Representations**
- × **Certificates**
- × **Reports**
- × **Billing /Collection**

**AUDIT NOT
DOCUMENTED
IS
AUDIT NOT DONE**



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1 answer
11 views

Q. Buy back of shares
Answered By **CA PRAMOD JAIN**

Have a written opinion?

Ask a question:

Next

Concept by
CA Pramod Jain

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

Thank You!



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