

# An overview of Finance Bill, 2013



Presented By: CA Agarwal Sanjay 'Voice of CA'

Assisted by: CA Jyoti Kaur

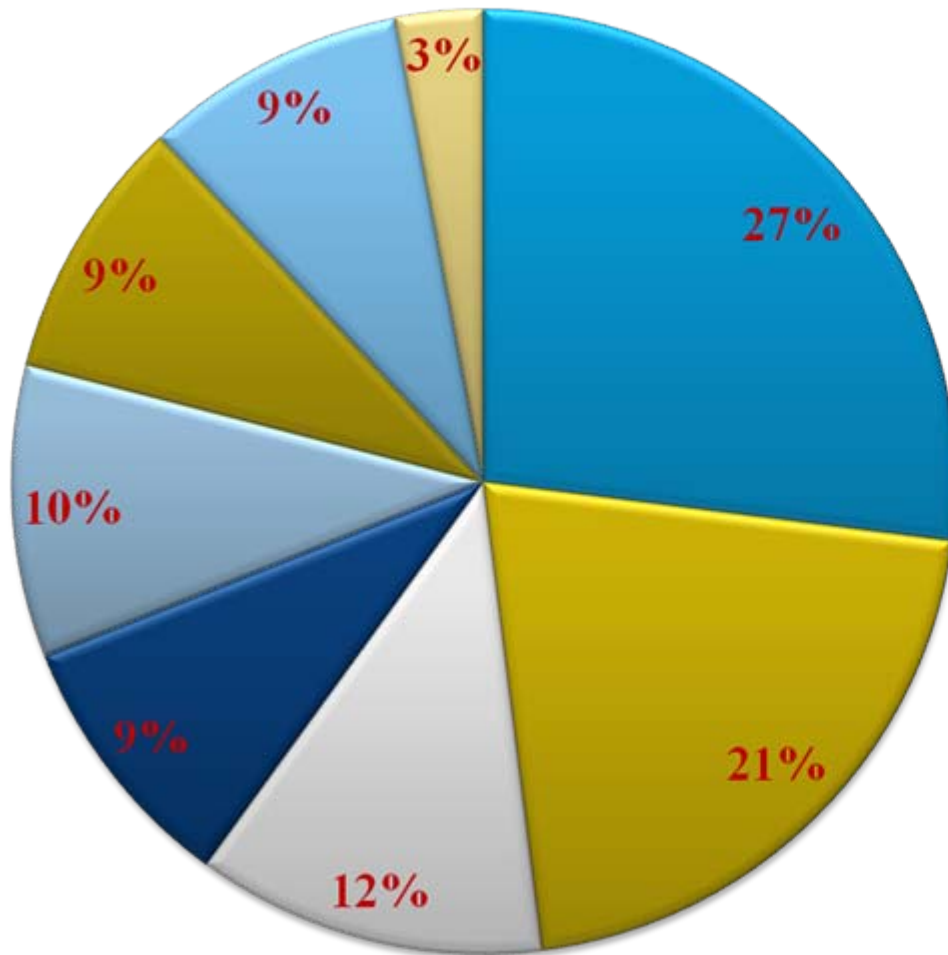
Email id : [agarwal.s.ca@gmail.com](mailto:agarwal.s.ca@gmail.com)



# BUDGET AT A GLANCE

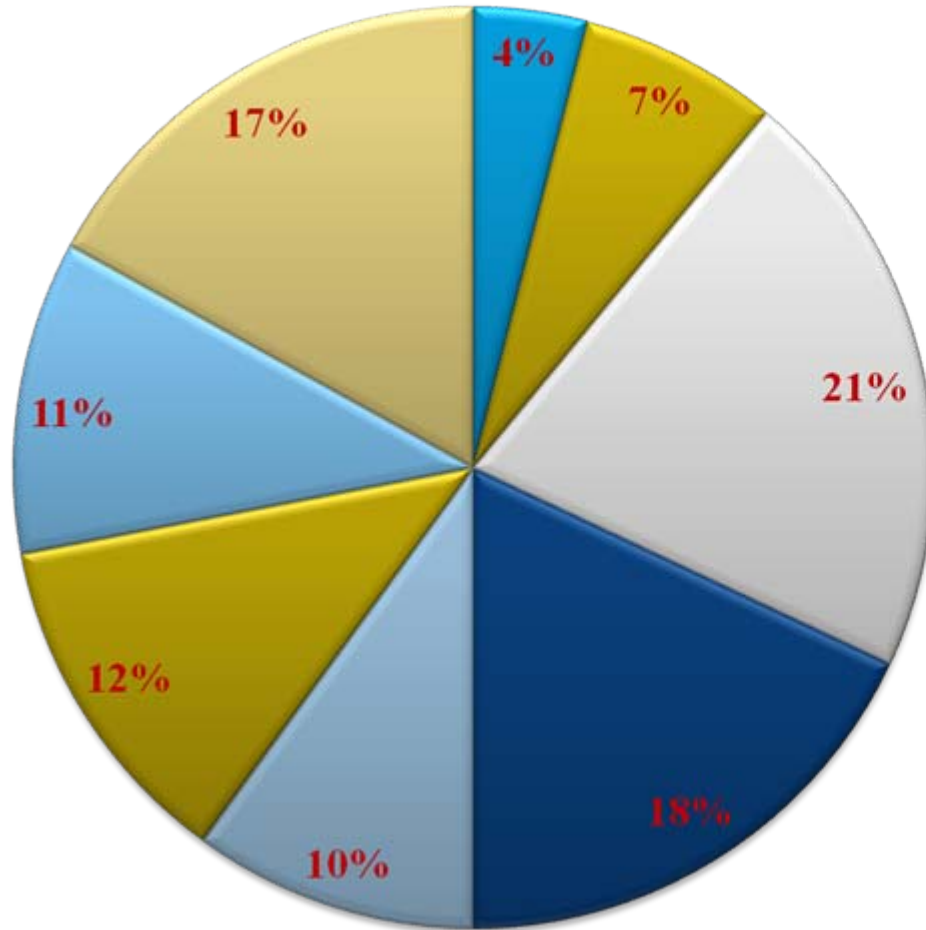
S. No.	Particulars	2011-2012 Actual (Rs. in Cr)	2012-2013 Budget Estimates (Rs. in Cr)	2012-2013 Revised Estimates (Rs. in Cr)	2013-2014 Budget Estimates (Rs. in Cr)
1	Revenue Receipts	7,51,437.00	9,35,685.00	8,71,828.00	10,56,331.00
2	Capital Receipts	5,52,928.00	5,55,241.00	5,58,998.00	6,08,967.00
<b>3</b>	<b>Total Receipts</b>	<b>13,04,365.00</b>	<b>14,90,925.00</b>	<b>14,30,825.00</b>	<b>16,65,297.00</b>
4	Non-Plan Expenditure	8,91,990.00	9,69,900.00	10,01,638.00	11,09,975.00
5	Plan Expenditure	4,12,375.00	5,21,025.00	4,29,187.00	5,55,322.00
<b>6</b>	<b>Total Expenditure</b>	<b>13,04,365.00</b>	<b>14,90,925.00</b>	<b>14,30,825.00</b>	<b>16,65,297.00</b>
7	Fiscal Deficit (% of GDP)	5,15,990.00 <b>(5.7)</b>	5,13,590.00 <b>(5.1)</b>	5,20,925.00 <b>(5.2)</b>	5,42,499.00 <b>(4.8)</b>

## Rupee comes from



- Borrowing and Other Liabilities - 27%
- Corporation tax - 21%
- Income tax - 12%
- custom - 9%
- Union excise duty - 10%
- Service tax and other taxes - 9%
- Non-tax revenue - 9%
- Non-debt capital receipt - 3%

## Rupee goes to



- Non-Plan assistance to State & UT Govt. - 4%
- Plan Assistance to State & UT - 7%
- Central Plan - 21%
- Interest Payment - 18%
- Defence - 10%
- Subsidies - 12%
- Other Non- Plan Expenditure - 11%
- State share of Taxes & Duty - 17%



## BUDGET ESTIMATES 2013-2014

- Budget Estimates of Total Expenditure for 2013-2014 of Rs. 16,65,297.00 crore shows a net increase of Rupees 2,34,472 crore over the Revised Estimates.
- Non-Plan Expenditure of Rs. **11,09,975.00** crore has shown an increase of Rupees 1,08,337 crore and Plan expenditure of Rs. **5,55,322.00** crore has increased by Rupees 1,26,135 crore. The Major items where variations have occurred are indicated below:

		Revised 2012-13	Budget 2013-14	Variation Saving(-)/ Excess(+)	
	<u>PLAN</u>	(Rs. in crore)	(Rs. in crore)		(Rs. in crore)
1	Central Plan	3,17,185.00	4,19,068.00	(+)	1,01,883.00
2	Central Assistance for State and UT Plans	1,12,002.00	1,36,254.00	(+)	24,252.00
	<b>Total Plan Expenditure</b>	<b>4,29,187.00</b>	<b>5,55,322.00</b>	<b>(+)</b>	<b>1,26,135.00</b>

S.No.	Non-Plan Expenditure	Revised 2012-13 (Rs. in crore)	Budget 2013-14 (Rs. in crore)	Variation Saving(-)/ Excess(+)	
					(Rs. in crore)
	<b><u>NON-PLAN</u></b>				
1	Interest Payments and Debt Servicing	3,16,674.00	3,70,684.00	(+)	54,010.00
2	Defence Services expenditure	1,78,504.00	2,03,672.00	(+)	25,168.00
3	Capital Outlay (excluding Defence)	8,102.00	30,131.00	(+)	22,029.00
4	Grants to State Governments	57,023.00	76,105.00	(+)	19,082.00
5	Pensions	63,836.00	70,726.00	(+)	6,890.00
6	Food Subsidy	85,000.00	90,000.00	(+)	5,000.00
7	Police	37,131.00	40,895.00	(+)	3,764.00
8	Grants to Foreign Governments	3,229.00	4,144.00	(+)	915.00
9	Transport	2,607.00	3,541.00	(+)	934.00
10	Petroleum subsidy	96,880.00	65,000.00	(-)	31,880.00
11	Other Non Plan expenditure	1,52,652.00	1,55,077.00	(+)	2,425.00
	<b>Total Non-Plan Expenditure</b>	<b>10,01,638.00</b>	<b>11,09,975.00</b>	<b>(+)</b>	<b>1,08,337.00</b>

# Direct and Indirect Tax Revenue Collection

(in crores of Rupees)

S. No.	Head	Actual 2010-2011	Actual 2011-12	Budget 2012-2013	Revised 2012-2013	Budget 2013-2014
1	Corporation Tax	2,98,687.89	3,22,816.17	3,73,227.00	3,58,874.00	4,19,520.00
2	Taxes on Income	1,46,586.54	1,70,342.63	1,95,786.00	2,06,095.00	2,47,639.00
3	Wealth Tax	687.45	788.14	1,244.00	866.00	950.00
	<b>Total Direct Taxes</b>	<b>4,45,961.88</b>	<b>4,93,946.94</b>	<b>5,70,257.00</b>	<b>5,65,835.00</b>	<b>6,68,109.00</b>
4	Customs	1,35,812.51	1,49,327.50	1,86,694.00	1,64,853.00	1,87,308.00
5	Union Excise Duties (Net)	1,38,299.04	1,45,607.17	1,94,350.34	1,71,996.09	1,97,553.95
6	Service Tax	71,015.87	97,508.92	1,24,000.00	1,32,697.00	1,80,141.00
7	Other Taxes and Duties on Commodities and Services	0.23	0.39	-	-	-
	<b>Total Indirect Taxes</b>	<b>3,45,127.42</b>	<b>3,92,443.59</b>	<b>5,05,044.34</b>	<b>4,69,546.09</b>	<b>5,65,002.95</b>
8	Taxes on Union Territory	1,982.19	2,785.44	2,310.45	2,655.52	2,758.13
	<b>Total Tax Revenue</b>	<b>7,93,071.72</b>	<b>8,89,176.36</b>	<b>10,77,611.79</b>	<b>10,38,036.61</b>	<b>12,35,879.08</b>

# Direct and Indirect Tax Revenue Collection

(in crores of Rupees)

S. No.	Head	Actual 2010-2011	Actual 2011-12	Budget 2012-2013	Revised 2012-2013	Budget 2013-2014
1	Corporation Tax	2,98,687.89	3,22,816.17	3,73,227.00	3,58,874.00	4,19,520.00
<b>2</b>	<b>Taxes on Income</b>	<b>1,46,586.54</b>	<b>1,70,342.63</b>	<b>1,95,786.00</b>	<b>2,06,095.00</b>	<b>2,47,639.00</b>
<b>3</b>	<b>Wealth Tax</b>	<b>687.45</b>	<b>788.14</b>	<b>1,244.00</b>	<b>866.00</b>	<b>950.00</b>
4	Customs	1,35,812.51	1,49,327.50	1,86,694.00	1,64,853.00	1,87,308.00
5	Union Excise Duties (Net)	1,38,299.04	1,45,607.17	1,94,350.34	1,71,996.09	1,97,553.95
6	Service Tax	71,015.87	97,508.92	1,24,000.00	1,32,697.00	1,80,141.00
7	Other Taxes and Duties on Commodities and Services	0.23	0.39	-	-	-
8	Taxes on Union Territory	1,982.19	2,785.44	2,310.45	2,655.52	2,758.13
	<b>Total Tax Revenue</b>	<b>7,93,071.72</b>	<b>8,89,176.36</b>	<b>10,77,611.79</b>	<b>10,38,036.61</b>	<b>12,35,870.08</b>



# The provisions of the Finance Bill, 2013 relating to Direct Taxes :

1. Additional Resource Mobilisation

2. Measures to Promote Socio-economic Growth

3. Relief and Welfare Measures

4. Widening of Tax Base and Anti Tax Avoidance Measures

5. Rationalisation Measures



# 1. Additional Resource Mobilisation



# 1. Additional Resource Mobilisation

- a) **Commodities Transaction Tax** [Clauses 6, 105 to 124]
  - Amendment to Section 36(1) [w.e.f 1<sup>st</sup> April, 2014]  
[Clauses 6]
  - Chapter VII of the Finance Bill, 2013  
[To be notified]
  
- b) **Taxation of Income by way of Royalty or Fees for Technical Services** [w.e.f 1st April, 2014] [Clause 25]



## a) Commodities Transaction Tax

[Clauses 6, 105 to 124]

- **Amendment to Section 36(1) [w.e.f 1<sup>st</sup> April, 2014]** [Clauses 6]

After clause (xv), the following clause shall be inserted, namely:—

*‘an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head “Profits and gains of business or profession”.*

*Explanation - For the purposes of this clause, the expressions “commodities transaction tax” and “taxable commodities transaction” shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013.’*

### Brief of Amendment:

CTT will be an allowable expense u/s 36 of the Act w.e.f. 1<sup>st</sup> April 2014 if the income arising from such taxable commodities transactions is included in the income computed under the head “PGBP”.



## *Chapter VII of the Finance Bill, 2013*

- Commodities Transaction Tax

**[CLAUSES 105 TO 124 ]**

Note: This tax is proposed to be levied from the date on which Chapter VII of the F. Bill, 2013 comes into force by way of notification in the Official Gazette by the Central Government



## b) Taxation of Income by way of Royalty or Fees for Technical Services

[Clause 25]

### Amendment of section 115A- Tax on dividends, royalty and technical service fees in the case of foreign companies [w.e.f 1st April, 2014]

- The existing provisions of clause (b) of sub-section (1) of the aforesaid section provide for the tax rates on which income by way of royalty or fees for technical services in case of non residents (not being a company) or a foreign company, is taxed. **Various sub-clauses of the said clause provide for different rates of tax in case of income by way of royalty or fees for technical services based on the date of agreement under which such income is received** by the non-resident (not being a company) or a foreign company.
- It is proposed to substitute sub-clauses (A), (AA), (B) and (BB) of the aforesaid clause (b), so as to provide that income by way of royalty or fees for technical services shall be taxable at a uniform rate of 25%, if it has been received under an agreement entered after 31st day of March, 1976.



**Section 115A relating to tax on dividends, royalty and technical service fees in the case of foreign companies.**

**In sub-section (1), in clause (b), for sub-clauses (A), (AA), (B) and (BB), the following sub-clauses shall be substituted with effect from the 1st day of April, 2014, namely:—**

- *“(A) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income, at the rate of twenty-five per cent.;*
- *(B) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of twenty-five per cent.; and”*

**Brief of Amendment:**

- This amendment refers to the taxation of Non-resident income from Royalty and Fee for Technical services (FTS)
- On Royalty, irrespective of the date of the contract, the rate of tax has been changed from 30% or 20% or 10% to flat 25%
- On Fee for Technical services (FTS), irrespective of the date of the contract, the rate of tax has been changed from 30% or 20% or 10% to flat 25%



## **2. Measures to Promote Socio-Economic Growth**





## 2. Measures to Promote Socio-Economic Growth

- i. Incentive for acquisition and installation of new plant or machinery by manufacturing company [Clause 5]
  
- ii. Extension of the sunset date under section 80IA for the power sector [Clause 17]



## **i) Incentive for acquisition and installation of new plant or machinery by manufacturing company** **[Clause 5]**

### **Insertion of new section 32AC - Investment in new plant or machinery. [w.e.f. 1st April, 2014]**

#### **Brief of Amendment:**

Section 32AC in the Income tax Act to provide that where an assessee, being a company,—

(a) is engaged in the business of manufacture of an article or thing; and

(b) invests a sum of more than Rs.100 crore in new assets (plant or machinery) during the period beginning from 1st April, 2013 and ending on 31st March, 2015, then, the assessee shall be allowed—

- (i) for assessment year 2014-15, a deduction of 15% of aggregate amount of actual cost of new assets acquired and installed during the financial year 2013-14, if the cost of such assets exceeds Rs.100 crore
- (ii) for assessment year 2015-16, a deduction of 15% of aggregate amount of actual cost of new assets, acquired and installed during the period beginning on 1st April, 2013 and ending on 31st March, 2015, as reduced by the deduction allowed, if any, for assessment year 2014-15.



**The phrase “new asset” has been defined as new plant or machinery but does not include—**

- any plant or machinery was used either within or outside India by any other person;
  - any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;
  - any office appliances including computers or computer software;
  - any vehicle;
  - ship or aircraft; or
  - any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any previous year.
- Restriction on transfer of the plant or machinery for a period of 5 years.** However, this restriction shall not apply in a case of amalgamation or demerger but shall continue to apply to the amalgamated company or resulting company, as the case may be.



## ii) Extension of the sunset date u/s 80IA for the power sector [Clause 17]

**Amendment to *clause (iv) of sub-section (4) of section 80-IA - Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc***

**[w.e.f. 1<sup>st</sup> April, 2014]**

### **Brief of Amendment:**

- The sunset date for power sector u/s 80-IA has been extended to 31-03-2014.



## 3. Relief and Welfare Measures



## 3. Relief and Welfare Measures

S. No.	Particulars	Clause
a.	Rebate of Rs 2000 for individuals having total income up to Rs. 5 lakh	19 & 20
b.	Deduction in respect of interest on loan sanctioned during financial year 2013-14 for acquiring residential house property	13
c.	Raising the limit of percentage of eligible premium for life insurance policies of persons with disability or disease	4 & 10
d.	Deduction for contribution to Health Schemes similar to CGHS	12
e.	Expanding the scope of deduction and its eligibility u/s 80CCG	11

## 3. Relief and Welfare Measures

S. No.	Particulars	Clause
f.	Exemption to income of Investor Protection Fund of depositories	4
g.	100% deduction for donation to National Children's Fund	14
h.	Exemption to National Financial Holdings Company Limited	4
i.	Lower rate of tax on dividends received from foreign companies	26
j.	Removal of the cascading effect of Dividend Distribution Tax (DDT)	27

## 3. Relief and Welfare Measures

S. No.	Particulars	Clause
k.	<b>Concessional rate of withholding tax on interest in case of certain rupee denominated long-term infrastructure bonds</b>	<b>43</b>
l.	<b>Taxation of Securitisation Trusts</b>	<b>4 &amp; 30</b>
m.	<b>Securities Transaction Tax (STT)</b>	<b>125</b>
n.	<b>Pass through Status to certain Alternative Investment Funds</b>	<b>4</b>





a) Rebate of Rs 2000 for individuals having total income up to Rs 5 lakh [Clauses 19 & 20]

Proposed to Insert a new Section 87A- Rebate of income-tax in case of certain individuals. [w.e.f.1<sup>st</sup> April, 2014]

Brief of Amendment:

Additional benefit of :

- 100% of Income tax payable, or
- Rs. 2,000/-

Whichever is lower has been provided to resident individual assessee whose total income does not exceed Rs. 5,00,000/-.

- **Section 87A-** “An assessee, being an individual resident in India, whose total income does not exceed five hundred thousand rupees, shall be entitled to a deduction, from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to hundred per cent. of such income-tax or an amount of two thousand rupees, whichever is less.”

**Note: Section 87 has also been consequentially amended.**



b) Deduction in respect of interest on loan sanctioned during financial year 2013-14 for acquiring residential house property [Clauses 13]

Proposed to Insert a new section 87EE [w.e.f.1<sup>st</sup> April, 2014]

*Brief of Amendment:*

- Earlier in section 24 deduction was available for interest paid on the capital borrowed for acquisitions, construction etc. of residential house property to the maximum limit of Rs. 1,50,000. However such deduction was not available in a case where the residential house property is :
  - Either not constructed, repaired etc. within specified three years: or
  - The property has not been yet launched and the construction is yet to begin.
- *The amendment seems to cover above two aspects by way of providing maximum Rs. 1,00,000 in respect of interest paid subject to specified conditions.*

**Section 80EE - Deduction in respect of interest on loan taken for residential house property :**

*1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property.*

*2) The deduction under sub-section (1) shall not exceed one lakh rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on the 1st day of April, 2014 and in a case where the interest payable for the previous year relevant to the said assessment year is less than one lakh rupees, the balance amount shall be allowed in the assessment year beginning on the 1st day of April, 2015.*

*3) The deduction under sub-section (1) shall be subject to the following conditions, namely:—*

- i. the loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2013 and ending on the 31st day of March, 2014;*
- ii. the amount of loan sanctioned for acquisition of the residential house property does not exceed twenty-five lakh rupees;*
- iii. the value of the residential house property does not exceed forty lakh rupees;*
- iv. the assessee does not own any residential house property on the date of sanction of the loan.*

**Section 80EE - Deduction in respect of interest on loan taken for residential house property :**

*4)Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.*

*5)For the purposes of this section,—*

*a)“financial institution” means a banking company to which the Banking Regulation Act, 1949 applies including any bank or banking institution referred to in section 51 of that Act or a housing finance company;*

*b)“housing finance company” means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.’*



## C) Raising the limit of percentage of eligible premium for life insurance policies of persons with disability or disease

[Clauses 4(i) & 10]

**Amendment to clause (10D) of Section 10- Incomes not included in total income [w.e.f. 1<sup>st</sup> April, 2014]** [Clause 4(i)]

### **Brief of Amendment:**

• Income not to be included in total income if any sum received under an insurance policy issued on or after the 1st day of April, 2013 in respect of which the premium payable for any of the years during the term of the policy less than 15 per cent of the actual capital sum assured in case of insurance on life of any person, who is—

(i) a person with disability or a person with severe disability as referred to **in section 80U**; or

(ii) suffering from disease or ailment as specified in the rules made under **section 80DDB**



**Amendment to Sec. 10D(d)-Incomes not included in total income.**

**Proposed to insert a new proviso after the second proviso—**

any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, other than—

any sum received under an insurance policy issued on or after the 1st day of April, 2012 in respect of which the premium payable for any of the years during the term of the policy exceeds ten per cent of the actual capital sum assured:

*‘Provided also that where the policy, issued on or after the 1st day of April, 2013, is for insurance on life of any person, who is—*

*(i) a person with disability or a person with severe disability as referred to in section 80U; or*

*(ii) suffering from disease or ailment as specified in the rules made under section 80DDB,*

***the provisions of this sub-clause shall have effect as if for the words “ten per cent.”, the words “fifteen per cent.” had been substituted.’;***

**Amendment to Section 80C – proposed to insert a new proviso to Sub section (3A) [w.e.f 1st April, 2014]**

*‘Provided that where the policy, issued on or after the 1st day of April, 2013, is for insurance on life of any person, who is—*

*(a) a person with disability or a person with severe disability as referred to in section 80U, or*

*(b) suffering from disease or ailment as specified in the rules made under section 80DDB, the provisions of this sub-section shall have effect as if for the words “ten per cent.”, the words “fifteen per cent.” had been substituted.’.*

**Brief of Amendment:**

- Deduction u/s 80C for persons suffering with disability u/s 80U & 80DDB will be available if the premium is not more than 15% of Sum assured .
- Cap of 10% extended to 15%



d) Deduction for contribution to Health Schemes similar to CGHS

[Clause 12]

**Amendment to Section 80D [w.e.f 1st April, 2014]**

*In section 80D of the Income-tax Act, in sub-section (2), in clause (a), after the words “Central Government Health Scheme”, the words “or such other scheme as may be notified by the Central Government in this behalf” shall be inserted.*

**Brief of Amendment:**

▪ Previously deduction under this section was available only on CGHS scheme though similar schemes do existed over which no deduction was available.

▪ Through this amendment Government has tried to extend benefit under this Section to such other health schemes as well, which are expected to be notified in due course of time. In a way parity will be maintained by the government among all health schemes.





## Amendment to Section 80CCG [w.e.f 1st April, 2014]

### *Brief of Amendment:*

- Now this deduction is also available for listed units of an *equity oriented mutual funds*. Instead of earlier one-time deduction now this deduction is available for *3 consecutive A.Y.*
- Now taxpayers enjoy this deduction for increased number of product as well as for larger number of years.



### Note:

- The existing provisions of section 80CCG, inter-alia, provide that a resident individual who has acquired listed equity shares in accordance with the scheme notified by the Central Government, shall be allowed a deduction of 50% of the amount invested in such equity shares to the extent that the said deduction does not exceed 25,000. The deduction is a one-time deduction and is available only in 1 A. Y. in respect of the amount so invested. The deduction is available to a new retail investor whose gross total income does not exceed 10 lakh. Rajiv Gandhi Equity Savings Scheme has been notified under section 80CCG.
- **With a view to liberalize the incentive available for investment in capital markets by the new retail investors, it is proposed** to amend section 80CCG so as to provide that investment in listed units of an equity oriented fund shall also be eligible for deduction in accordance with the provisions of section 80CCG. It is proposed to provide that “equity oriented fund” shall have the meaning assigned to it in clause (38) of section 10.
- It is further proposed to provide that the deduction under this section shall be allowed for 3 consecutive A.Y., beginning with the A.Y. relevant to the previous year in which the listed equity shares or listed units were first acquired by the new retail investor whose gross total income for the relevant A.Y. does not exceed 12 lakh.



## **Amendment of Section 10 – Proposed to Insert a new clause (23ED) [w.e.f 1st April, 2014]**

### **Brief of Amendment:**

- a. That income, by way of contribution from a depository, of the Investor Protection Fund set up by the depository in accordance with the regulations prescribed by SEBI will not be included while computing the total income.
  
- b. Where any amount standing to the credit of the fund and not charged to income-tax during any previous year is shared wholly or partly with a depository, the amount so shared shall be deemed to be the income of the previous year in which such amount is shared.



## **Amendment of section 10 – After clause (23EC), the following clause shall be proposed to inserted [w.e.f 1st April, 2014]**

- *‘(23ED) any income, by way of contributions received from a depository, of such Investor Protection Fund set up in accordance with the regulations by a depository as the Central Government may, by notification in the Official Gazette, specify in this behalf:*

*Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with a depository, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.*

*Explanation.—For the purposes of this clause,—*

- (i) “depository” shall have the same meaning as assigned to it in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996;*
- (ii) “regulations” means the regulations made under the Securities and Exchange Board of India Act, 1992 and the Depositories Act, 1996;’;*



## Amendment to section 80G. [w.e.f 1<sup>st</sup> June, 2014]

### Brief of Amendment:

- Earlier any donation made to national children fund was available as 50% deduction. Through this amendment such donation shall now attract 100% deduction.

**Note:** Donations to Funds which are of national importance have been generally provided a deduction of 100% of the amount donated. Since the National Children's Fund is also a Fund of national importance, it is proposed to allow 100% deduction in respect of any sum paid to the Fund in computing the total income of an assessee.

**Amendment of section 10** – Proposed to Insert a new clause (49) after clause 48  
[r.e.f. 01.04.2013 apply in relation to A.Y. 2013-2014 & 2014-205

*“**clause (49)** - any income of the National Financial Holdings Company Limited, being a company set up by the Central Government, of any previous year relevant to any assessment year commencing on or before the 1st day of April, 2014.”*

• **Specified Undertaking of Unit Trust of India (SUUTI)** was created vide the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 as the successor of Unit Trust of India (UTI).

• Exemption from Income-tax was available to SUUTI in respect of its income up to 31st March, 2014.

• Since SUUTI has been wound up and is succeeded by a new company wholly owned by the Central Government. It has been incorporated on 7<sup>th</sup> June, 2012 as National Financial Holdings Company Limited (NFHCL).

• In order to provide the exemption on the lines of SUUTI to NFHCL, it is proposed to amend Section 10 to grant exemption to National Financial Holdings Company Limited in respect of its income accruing, arising or received on or before 31.03.2014.



## i) Lower rate of tax on dividends received from foreign companies

[Clause 26]

**Amendment of section 115BBD- Tax on certain dividends received from foreign companies [w.e.f 1<sup>st</sup> June, 2014]**

### **Brief of Amendment:**

• Benefit of concessional rate of 15% tax on dividends received by an Indian company from a foreign company in which the former holds more than 26% in terms of nominal value of equity share capital, extended by one more year.

**Note:** The provision was introduced as an incentive for attracting repatriation of income earned by residents from investments made abroad subject to certain conditions.

Extend the applicability of section 115BBD in respect of income by way of dividends received from a specified foreign company in Financial Year 2013-14 also, subject to the same conditions.



## j) Removal of the cascading effect of Dividend Distribution Tax (DDT)

[Clause 27]

**Amendment to section 115O** - sub-section (1A), for clause (i), the following clause shall be substituted with effect from the 1st day of June, 2013, namely:—

*“(i) the amount of dividend, if any, received by the domestic company during the financial year, if such dividend is received from its subsidiary and,—*

*(a) where such subsidiary is a domestic company, the subsidiary has paid the tax which is payable under this section on such dividend; or*

*(b) where such subsidiary is a foreign company, the tax is payable by the domestic company under section 115BBD on such dividend:*

*Provided that the same amount of dividend shall not be taken into account for reduction more than once;”*





## *Brief of Amendment:*

- Benefit of concessional rate of 15% tax on dividends received by an Indian company from a foreign company in which the former holds more than 26% in terms of nominal value of equity share capital, extended by one more year.
- 
- Benefit re: removal of cascading effect of DDT in a multi – tier structure where dividend is received by a domestic company from its subsidiary (which is also a **domestic** company), extended to a domestic company which has a **foreign** subsidiary provided the domestic company is subjected to tax u/s 115BBD of the Act.



## k) Concessional rate of withholding tax on interest in case of certain rupee denominated long-term infrastructure bonds

[Clause 43]

**Amendment of section 194LC-Income by way of interest from Indian company engaged in certain business. [w.e.f 1<sup>st</sup> June, 2013]**

### **Brief of Amendment:**

• Lower rate of withholding tax benefit available under section 194LC shall be available to non-resident / foreign companies in respect of interest income arising on subscription of long term infrastructure bonds made in Indian currency through a designated bank account.

**Note:** *In order to facilitate subscription by a non-resident in the long term infrastructure bonds issued by an Indian company in India (rupee denominated bond), it is proposed to amend section 194LC of the Income-tax Act so as to provide that where a non-resident deposits foreign currency in a designated bank account and such money as converted in rupees is utilised for subscription to a long-term infrastructure bond issue of an Indian company, then, for the purpose of this section, the borrowing by the company shall be deemed to be in foreign currency. The benefit of reduced rate of tax would, therefore, be available to such non-resident in respect of the interest income arising on such subscription subject to other conditions provided in the section.*



### **New Chapter XIIEA - Special provisions relating to Tax on Distributed Income by Securitisation Trusts [w.e.f. 1<sup>st</sup> June, 2013]**

- Section 161 of the Income-tax Act provides that in case of a trust if its income consists of or includes profits and gains of business then income of such trust shall be taxed at the maximum marginal rate in the hands of trust.
- The special purpose entities set up in the form of trust to undertake securitisation activities were facing problem due to lack of special dispensation in respect of taxation under the Income-tax Act. The taxation at the level of trust due to existing provisions was considered to be restrictive particularly where the investors in the trust are

## Contd.....

- In order to facilitate the securitisation process, it is proposed to provide a special taxation regime in respect of taxation of income of securitisation entities, set up as a trust, from the activity of securitisation. It is proposed to amend section 10 and also insert a new Chapter XII-EA for providing a special tax regime. **The salient features of the special regime are :-**
  - (i) In case of securitisation vehicles which are set up as a trust and the activities of which are regulated by either SEBI or RBI, the income from the activity of securitisation of such trusts will be exempt from taxation.
  - (ii) The securitisation trust will be liable to pay additional income-tax on income distributed to its investors on the line of distribution tax levied in the case of mutual funds. The additional income-tax shall be levied @ 25% in case of distribution being made to investors who are individual and HUF and @ 30% in other cases. No additional income-tax shall be payable if the income distributed by the securitisation trust is received by a person who is exempt from tax under the Act.
  - (iii) Consequent to the levy of distribution tax, the distributed income received by the investor will be exempt from tax.
  - (iv) The securitisation trust will be liable to pay interest at the rate of one percent. for every month or part of the month on the amount of additional income-tax not paid within the specified time .
  - (v) The person responsible for payment of income or the securitisation trust will be deemed to be an assessee in default in respect of amount of tax payable by him or it in case the additional income-tax is not paid to the credit of Central Government.



## m) Securities Transaction Tax (STT)

[Clause 125]

It is proposed to amend section 98 of the Finance (No.2) Act, 2004 to reduce STT rates in the taxable securities transactions [**w.e.f. 1st June, 2013**]

Proposed to decrease STT	In case of
from 0.1 % to Nil	<u>Delivery based purchase</u> of units of an equity oriented fund entered into in a recognized stock exchange.
from 0.1 % to 0.001%	Delivery based <b>sale</b> of units of an equity oriented fund entered into in a recognized stock exchange.
from 0.017 to 0.01%	<b>sale</b> of a future in securities.
from 0.25% to 0.001%	<b>sale</b> of units of an equity oriented fund to the mutual fund.



## Amendment to section 10(23FB) [w.e.f. 1<sup>st</sup> April, 2013]

### *Brief of Amendment:*

- The SEBI(Alternative Investment Funds) Regulations, 2012 (AIF regulations) have replaced the SEBI (Venture Capital Fund) Regulations, 1996 (VCF regulations) from 21<sup>st</sup> May, 2012.
- In order to provide benefit of pass through to similar venture capital funds as are registered under new regulations and subject to same conditions of investment restrictions in the context of investment in a venture capital undertaking, it is proposed to amend section 10(23FB).



## Note:

■ Existing provisions of section 10(23FB) of the Income-tax Act provide that any income of a Venture Capital Company (VCC) or Venture Capital Fund (VCF) from investment in a Venture Capital Undertaking (VCU) shall be exempt from taxation. Section 115U provides that income accruing or arising or received by a person out of investment made in a VCC or VCF shall be taxable in the same manner as if the person had made direct investment in the VCU.

■ These sections provide a tax pass through status (i.e. income is taxable in the hands of investors instead of VCF/VCC) only to the funds which satisfy the investment and other conditions as are provided in SEBI (Venture Capital Fund) Regulations, 1996. Further the pass through status is available only in respect of income which arises to the fund from investment in VCU, being a company which satisfies the conditions provided in SEBI (Venture Capital Fund) Regulations, 1996.



## **4. Widening of Tax base & Anti Tax Avoidance Measures**



## 4. Widening of Tax base & Anti Tax Avoidance Measures

- a) TDS on transfer of certain immovable properties (other than agricultural land). [Clause 42]
- b) Additional Income-tax on distributed income by company for buy-back of unlisted shares. [Clause 4 & 28]
- c) Computation of income under the head “PGBP” or transfer of immovable property in certain cases. [Clause 8]
- d) Taxability of immovable property received for inadequate consideration. [Clause 9]



## TDS ON TRANSFER OF CERTAIN IMMOVABLE PROPERTIES

### (OTHER THAN AGRICULTURAL LAND)

**[Clauses 42]**

After Section 194-I of the Income-tax Act, a **new Section 194-IA** section shall be proposed to insert **w.e.f. 01/06/2013**



# Section 194-IA

w.e.f. 1<sup>st</sup> June, 2013

- (1) Any person, being a transferee, responsible for paying (other than the person referred to in section 194LA) **to** a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land), shall, at the time of credit of such sum to the account of the transferor or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to 1% of such sum as income-tax thereon.
- (2) No deduction under sub-section (1) shall be made where the consideration for the transfer of an immovable property is less than 50 lakhs.



# Section 194-IA

w.e.f. 1<sup>st</sup> June, 2013

*Explanation.— For the purposes of this section,—*

- (a) “agricultural land” means agricultural land in India, not being a land situate in any area referred to in items (a) and (b) of sub-clause (iii) of clause (14) of section 2;*
  
- (b) “immovable property” means any land (other than agricultural land) or any building or part of a building.*



**Brief of Amendment:**

- Provisions of TDS now made applicable to transfer of certain immoveable properties other than agricultural land if the total amount of consideration Rs. 50 lakhs or more.
- **Transferee at the time of making the payment or crediting any sum as consideration for transfer of immoveable property other than agricultural land to resident transferor shall deduct tax @ 1% of such sum.**



The proposed provisions do not clarify the implementation of the proposed section under the following situations where the assessee

- made payment other than in cash i.e. in kind.
- sale through agreement to sell, GPA Sale, Power of Attorney etc.
- sale or purchase from the Government authorities.
- Section 206A
- purchase a property as a joint owner.
- down payment or part payment made before 1<sup>st</sup> June, 2013.
- claim an exemption u/s 54, 54F and 54EC of Income Tax Act, 1961.

Cases where the seller does not have a PAN, the provisions as contained in Section 206AA will be attracted & tax rate of 20% of the consideration paid or payable.



## **b) Additional Income-tax on distributed income by company for buy-back of unlisted shares [Clause 4 & 28]**

- **Proposed to Insert a New Chapter XIIDA - Provisions relating to Tax on Distributed Income of Domestic Company for Buy-Back of Shares [w.e.f. 1<sup>st</sup> June, 2013]**
  - **115QA** – Tax on distributed income to shareholders
  - **115QB** – Interest payable for non-payment of tax by company.
  - **115QC** -When company is deemed to be assessee in default.
  
- **Insertion of new clause (34A) after clause 34 of Section 10[ w.e.f. 1st April, 2014]**

*“(34A) any income arising to an assessee, being a shareholder, on account of buy back of shares (not being listed on a recognised stock exchange) by the company as referred to in section 115QA;”*

## **Brief of Amendment:**

- Under existing provisions, A company, having distributable reserves, has two options to distribute the same to its shareholders either by declaration and payment of dividends to the shareholders, or by way of purchase of its own shares (i.e. buy back of shares) at a consideration fixed by it. In the first case, the payment by company is subject to DDT and income in the hands of shareholders is exempt. In the second case the income is taxed in the hands of shareholder as capital gains u/s 46A.
- Unlisted Companies, as part of tax avoidance scheme, are resorting to buy back of shares instead of payment of dividends in order to avoid payment of tax by way of DDT particularly where the capital gains arising to the shareholders are either not chargeable to tax or are taxable at a lower rate.
- In order to curb such practice it is proposed to amend the Act, by insertion of new Chapter XII-DA, to provide that the consideration paid by the company for purchase of its own unlisted shares which is in excess of the sum received by the company at the time of issue of such shares (distributed income) will be charged to tax and the company would be liable to pay additional income-tax @ 20% of the distributed income paid to the shareholder. The additional income-tax payable by the company shall be the final tax on similar lines as dividend distribution tax.
- Income arising to the shareholders in respect of such buy back by the company would be **exempt** where the company is liable to pay the additional income-tax on the buy-back of shares.





## c) Computation of income under the head “PGBP” or transfer of immovable property in certain cases [Clause 8]

### **Insertion of new section 43CA. Special provision for full value of consideration for transfer of assets other than capital assets in certain cases . [w.e.f . 1st April, 2014]**

*1) Where the consideration received or accruing as a result of the transfer by an assessee of an asset (other than a capital asset), being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration received or accruing as a result of such transfer.*

*(2) The provisions of sub-section (2) and sub-section (3) of section 50C shall, so far as may be, apply in relation to determination of the value adopted or assessed or assessable under sub-section (1).*



- (3) Where the date of agreement fixing the value of consideration for transfer of the asset and the date of registration of such transfer of asset are not the same, the value referred to in sub-section (1) may be taken as the value assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer on the date of the agreement.*
- (4) The provisions of sub-section (3) shall apply only in a case where the amount of consideration or a part thereof has been received by any mode other than cash on or before the date of agreement for transfer of the asset.”.*



## *Brief of Amendment:*

- New Section inserted to provide the sale consideration of Land or building held as stock in trade to be not less than Stamp Duty Value, In such case Stamp duty value shall be the full value of consideration.
- Where the date of an agreement fixing the value of consideration for the transfer of the asset and the date of registration of the transfer of the asset are not same, the stamp duty value may be taken as on the date of the agreement for transfer provided the amount of consideration or a part thereof for the transfer has been received by any mode other than cash on or before the date of the agreement.



## *Brief of Amendment:*

- Amendment in PGBP to include stamp value/assessable value provisions to builders having land or land and building as stock in trade, the provisions of 50C were inapplicable, as per case laws of AHD ITAT and Delhi ITAT. they have been neutralized.

## **Case Law:**

Where a builder treats land as stock-in-trade, section 50C would have no application

- **Deepak R. Shah Accountant Member And George Mathan Judicial Member [2010] 1 ITR (T) 563 (DELHI)**
- **CIT v. Kan Construction and Colonizers (P.) Ltd. [2012] 20 taxmann.com 381 (All.)**



## d) Taxability of immovable property received for inadequate consideration [Clause 9]

### Amendment to Section 56(2)(vii)(b) of the Act [w.e.f. 1<sup>st</sup> April, 2014]

#### Brief of Amendment:

- Existing provisions of S. 56(2)(vii)(b), inter alia, provide that where any immovable property is received by an individual or HUF without consideration, the stamp duty value of which exceeds Rs. 50,0000, the stamp duty value of such property would be charged to tax in the hands of the individual or HUF as income from other sources.
- Existing provision does not cover a situation where the immovable property has been received by an individual or HUF for inadequate consideration.
- It is proposed to amend the provisions so as to provide that where any immovable property is received for a consideration which is less than the stamp duty value of the property by an amount exceeding Rs. 50,0000, the stamp duty value of such property as exceeds such consideration, shall be chargeable to tax in the hands of the individual or HUF as income from other sources.
- Where the date of an agreement fixing the value of consideration for the transfer of the asset and the date of registration of the transfer of the asset are not same, the stamp duty value may be taken as on the date of the agreement for transfer provided the amount of consideration or a part thereof for the transfer has been received by any mode other than cash on or before the date of the agreement.



## 5. Rationalisation Measures



## **5. RATIONALISATION MEASURES**

<b>S. No.</b>	<b>Particulars</b>	<b>Clauses of Finance Bill, 2013</b>
<b>a</b>	<b>General Anti-Avoidance Rule (GAAR)</b>	<b>[21, 22,23, 24, 34, 35, 36, 37, 38, 39, 44, 45, 46, 47 &amp; 49]</b>
<b>b</b>	<b>Rationalisation of tax on distributed income by the Mutual Funds</b>	<b>29</b>
<b>c</b>	<b>Enabling provisions for facilitating electronic filing of annexure-less return of net wealth</b>	<b>52 &amp; 53</b>
<b>d</b>	<b>Disallowance of certain fee, charge, etc. in the case of State Government Undertakings</b>	<b>7</b>
<b>e</b>	<b>Amendment in the definition of Capital Asset</b>	<b>3 &amp; 51</b>
<b>f</b>	<b>Keyman insurance policy</b>	<b>4</b>



## **5. RATIONALISATION MEASURES**

<b>S.No.</b>	<b>Particulars</b>	<b>Clauses of Finance Bill, 2013</b>
<b>g</b>	<b>Contribution not to be in cash for deduction u/s 80GGB &amp; section 80GGC</b>	<b>15 &amp; 16</b>
<b>h</b>	<b>Clarification of the phrase “tax due” for the purposes of recovery in certain cases</b>	<b>40 &amp; 41</b>
<b>i</b>	<b>Deduction for additional wages in certain cases</b>	<b>18</b>
<b>j</b>	<b>Tax Residency Certificate</b>	<b>21 &amp; 22</b>
<b>k</b>	<b>Application of seized assets u/s 132B</b>	<b>31</b>
<b>l</b>	<b>Direction for special audit under sub-section (2A) of section 142</b>	<b>33</b>
<b>m</b>	<b>Exclusion of time in computing the period of limitation for completion of assessments and reassessments</b>	<b>37 &amp; 38</b>





## **5. RATIONALISATION MEASURES**

<b>S.No.</b>	<b>Particulars</b>	<b>Clauses of Finance Bill, 2013</b>
<b>n</b>	<b>Penalty under section 271FA for non-filing of Annual Information Return</b>	<b>48</b>
<b>o</b>	<b>Extension of time for approval in Part A of the Fourth Schedule to the Income-tax Act, 1961</b>	<b>50</b>
<b>p</b>	<b>Clarification for amount to be eligible for deduction as bad debts in case of banks</b>	<b>6</b>

## **a) General Anti-Avoidance Rule (GAAR)**

**[Clauses 21, 22, 23, 24, 34, 35, 36, 37, 38, 39, 44, 45, 46, 47 & 49]**

- **Chapter X-A of the Income Tax Act (as inserted by section 41 of the Finance Act, 2012) relating Chapter X-A to General Anti-Avoidance Rule shall be omitted with effect from the 1st day of April, 2014.**
- **New Chapter X-A shall be inserted [w.e.f. 1st day of April, 2016.**



- **Section 144BA (as inserted by section 62 of the Finance Act, 2012) shall be omitted w.e.f. 1st April, 2014 and**
- **A new section 144BA. - Reference to Commissioner in certain cases shall be inserted w.e.f. 1st April, 2016**

### *Brief of Amendment:*

- Old section 144BA omitted and a new section inserted w.e.f. 1.4.2016. Section 96 amended- words one of the main purposes omitted meaning thereby that an arrangement which have multiple purpose including obtaining tax benefit will be outside the purview of GAAR. Only arrangements having main purpose of obtaining tax benefit will attract GAAR. Now, the onus is on the assessee to prove that the main purpose of the arrangement entered into is not tax avoidance.



**Amendment of section 144C-Reference to dispute resolution panel -Sub-section 14A of section 144C omitted and new sub section 14A added as it is [w.e.f. 1<sup>st</sup> April, 2016]. This amendment is consequential in nature. In view of new section 144BA.**

**Brief of Amendment:**

*“(14A) The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the Commissioner as provided in subsection (12) of section 144BA.”.*



**Amendment to section 153D, a new proviso shall be inserted  
[w.e.f. 1<sup>st</sup> April, 2016]**

*“Provided that nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the Commissioner under sub-section (12) of section 144BA.”.*

**Brief of Amendment:**

- A new proviso inserted meaning thereby the prior approval is not required where the permission under section 144BA(12) is obtained



- **Amendment to Section 245N-Advance rulings - Definitions.**  
[w.e.f. 1st April, 2015]

**Brief of Amendment:**

- Law amended to give effect to the postponement of the provisions of GAAR.

- **Amendment to Section 245R [w.e.f. 1st April, 2015]-  
Procedure on receipt of application.**

**Brief of Amendment:**

- Law amended to give effect to the postponement of the provisions of GAAR.



- **Amendment to Section 245N-Advance rulings - Definitions. [w.e.f. 1st April, 2015]**
- **Amendment to Section 245R Procedure on receipt of application [w.e.f. 1st April, 2015]- .**
- **Amendment to Section 246A - Appealable orders before Commissioner (Appeals) [w.e.f. 1st April, 2016].**
- **Amendment of section 253 - Appeals to the Appellate Tribunal. [w.e.f. 1st April, 2016].**

### *Brief of Amendment:*

- Law amended to give effect to the postponement of the provisions of GAAR



- **Amendment to Section 295N- Power to make rules [w.e.f. 1st April, 2016]**

### **Brief of Amendment:**

- Law amended to provide following additional powers to the Central Board of Direct Taxes :
- **To make rules under Chapter X-A (GAAR).**
- To decide remuneration of Chairman and members of GAAR panel appointed under Chapter X-A.





## **b) Rationalisation of tax on distributed income by the Mutual Funds**

**[Clauses 29]**

### **Tax on distributed income to unit holders – Section 115R [w.e.f. 1<sup>st</sup> June, 2013]**

#### **Brief of Amendment:**

•Under the existing provisions of section 115R, in case of any distribution made by a fund other than equity oriented fund to a person who is not an individual and HUF, the rate of tax is 30% whereas in case of distribution to an individual or an HUF it is 12.5% or 25% depending on the nature of the fund.

•In order to provide uniform taxation for all types of funds, other than equity oriented fund, it is proposed to increase the rate of tax on distributed income from 12.5% to 25% in all cases where distribution is made to an individual or a HUF.



## **Tax on distributed income to unit holders – Section 115R[w.e.f. 1st June, 2013]**

### **Brief of Amendment:**

•Further in case of an Infrastructure debt fund (IDF) set up as a Non-Banking Finance Company (NBFC) the interest payment made by the fund to a non-resident investor is taxable at a concessional rate of 5%. However in case of distribution of income by an IDF set up as a Mutual Fund the distribution tax is levied at the rates described above in the case of a Mutual Fund.

•In order to bring parity in taxation of income from investment made by a non-resident Investor in an IDF whether set up as a IDF-NBFC or IDF-MF, it is proposed to amend section 115R to provide that tax @ 5% on income distributed shall be payable in respect of income distributed by a Mutual Fund under an IDF scheme to a non-resident Investor.



## c) Enabling provisions for facilitating electronic filing of annexure-less return of net wealth

[Clauses 52 & 53]

- **Power of Board to dispense with furnishing documents, etc., with return of wealth and Filing of return in electronic form - section 14A and 14B of Wealth Tax Act. [w.e.f. 1<sup>st</sup> June, 2013]**
- **Amendment to section 46 (2) of Wealth Tax Act. [w.e.f. 1<sup>st</sup> June, 2013]**
- The Board has been provided with the powers to provide for the class or classes of persons who are required to file return in electronic form along with related forms and to facilitate filing of annexure-less return of wealth.

### Note:

- Sections 139C and 139D of the Income-tax Act contain provisions for facilitating filing of annexure-less return of income in electronic form by certain class of income-tax assesseees. In order to facilitate electronic filing of annexure-less return of net wealth, it is proposed to insert new sections 14A and 14B in the Wealth-tax Act on similar lines.
- Consequently, it is also proposed to amend provisions of section 46 of the Wealth-tax Act which provides for rule making powers of the Board.



## d) Disallowance of certain fee, charge, etc. in the case of State Government Undertakings

[Clauses 7]

**Amendment to Section 40 - Amounts not deductible-** Insertion of new clause (iib)  
[w.e.f. 1<sup>st</sup> April, 2014]

*“any amount—*

*(A) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or*

*(B) which is appropriated, directly or indirectly, from, a State Government undertaking by the State Government .*

***Explanation.***—*For the purposes of this sub-clause, a State Government undertaking includes—*

*(i) a corporation established by or under any Act of the State Government;*

*(ii) a company in which more than fifty per cent. of the paid-up equity share capital is held by the State Government;*



## Contd.....

- (iii) a company in which more than fifty per cent. of the paid-up equity share capital is held by the entity referred to in clause (i) or clause (ii) (whether singly or taken together);*
- (iv) a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;*
- (v) an authority, a board or an institution or a body established or constituted by or under any Act of the State Government or owned or controlled by the State Government;”*



## **Brief of Amendment:**

Insertion of new clause (iib) in Section 40 after clause a (ia)

•It is proposed to amend section 40 to provide that any amount paid by way of fee, charge, etc., which is levied exclusively on, or any amount appropriated, directly or indirectly, from a State Government undertaking, by the State Government, shall not be allowed as deduction for the purposes of computation of income of such undertakings under the head PGBP.

•It is also proposed to define the expression “State Government Undertaking” for this purpose.



## e) Amendment in the definition of Capital Asset

[w.e.f. 1<sup>st</sup> April, 2014]

[Clauses 3 & 51]

Amendment in sub-clause (iii) of clause (14) of section 2 of the Act:

item (b), the following shall be substituted, namely:

‘(b) in **any area** within the distance, **measured aerially**,—

(I) not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten thousand but not exceeding one lakh; or

(II) not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than one lakh but not exceeding ten lakh; or

(III) not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten lakh.

- **Explanation.**—For the purposes of this sub-clause, “population” means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year;’.



## Amendment in the definition of Capital Asset

Population of Municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board remains unchanged i.e. not less than 10,000.

The proposal affects the following decisive factors:

<b><u>Basis</u></b>	<b><u>Under old provision</u></b>	<b><u>Proposed provision</u></b>
<b>Distance measured</b>	Road distance	Aerial distance
<b>Range</b>	Only 1 criteria of 8 km	Divided in 3 segments
<b>Population of area (<i>wherein land is situated</i>)</b>	Not relevant	Distributed according to range



# Distance of land from the municipality limit is measured by .....

## Situation

### Before proposed amendment

For measuring a land Courts have decided to opt for

- **Road distance** as the most appropriate method &
- Not Aerial or straight line distance Method.

### Refer following case laws:

[CIT v. Satinder Pal Singh [2010] 188 Taxman 54 (P & H), CIT v. Lal Singh [2010] 195 Taxman 420 (P & H) and Laukik Developers v. Dy. CIT [2007] 105 ITD 657 (Mum.)]

Thus, for measuring the Road road distance is the most appropriate method and not the crow's flies, i.e., straight line distance.

### After proposed amendment

- Now the distance is measured

Aerially



# Definition of Agriculture land widen to fall outside the scope of Capital Asset

Contd...

Under the below mentioned circumstances, land not considered as capital Asset:-

Case	<u>Proposed provision</u>		<u>Under old provision</u>
	<u>Land is Situated in An Area with in the distance measured aerially</u>	Population	
1	less than 2 km	less than 10,000	Land situated outside the limit of 8 km from the local limits of municipality (irrespective of the population of area wherein land is situated)
2	more than 2 Km but less than 6 Km	less than 1,00,000	
3	more than 6 Km but less than 8 Km	less than 10,00,000	



# “agricultural income”-Section 2(1A)

- The provision contained in clause (1A) of the said section defines the term “agricultural income”. Sub-clause (c) of the said clause (1A) includes any income derived from any building on, or in the immediate vicinity of the land, and is used as a dwelling house, store house or other out-building as required by the receiver of the rent or revenue or the cultivator, in connection with such land, within the definition of “agricultural income”.
- Clause (ii) of proviso to sub-clause (c) provides that where the land is not assessed by land revenue or subject to a local rate, it should not be situated within the areas as specified in item (A) or item (B) of clause (ii) of the proviso, to qualify income derived from any such building as agricultural income.
- *It is proposed to amend item (B) of clause (ii) of the proviso to sub-clause (c) of clause (1A) of section 2 (refer slide no. 79) .*



## f) Keyman insurance policy

[Clauses 4(i)]

### Amendment of Explanation 1 to section 10(10D) [w.e.f. 1<sup>st</sup> April, 2014]

#### Brief of Amendment:

- To plug the loophole and check such practices to avoid payment of taxes, it is proposed to amend section 10(10D) to provide that a keyman insurance policy which has been assigned to any person during its term, with or without consideration, shall continue to be treated as a keyman insurance policy.

#### **Note:**

- It has been noticed that the policies taken as keyman insurance policy are being assigned to the keyman before its maturity. The keyman pays the remaining premium on the policy and claims the sum received under the policy as exempt on the ground that the policy is no longer a keyman insurance policy. Thus, the exemption u/s 10(10D) is being claimed for policies which were originally keyman insurance policies but during the term these were assigned to some other person. The Courts have also noticed this loophole in law.



## **g) Contribution not to be in cash for deduction under section 80GGB & section 80GGC**

[Clauses 15 & 16]

- **Amendment to Section 80GGB-Deduction in respect of contributions given by companies to political parties [w.e.f. 1<sup>st</sup> April, 2014]**
  - Now such deduction shall be available if the contribution is made by any mode, other than cash.
  
- **Amendment to Section 80GGC-Deduction in respect of contributions given by any person to political parties [w.e.f. 1<sup>st</sup> April, 2014]**
  - Now such deduction shall be available if the contribution is made by any mode, other than cash.



## h) Clarification of the phrase “tax due” for the purposes of recovery in certain cases

[Clauses 40 & 41]

**Amendment of section 167C**-Liability of partners of LLP in liquidation-A new Explanation is proposed to insert [w.e.f.1<sup>st</sup> June, 2013] [Clauses 40]

*‘Explanation.—For the purposes of this section, the expression “tax due” includes penalty, interest or any other sum payable under the Act.’*

### **Brief of Amendment:**

- An explanation added which defines tax due which now also included penalty, interest or any other sum payable under the I. Tax Act,1961.



# Clarification of the phrase “tax due” for the purposes of recovery in certain cases

[Clauses 40 & 41]

**Amendment of section 179**-Liability of directors of private company in liquidation - A new Explanation is proposed to insert [w.e.f. 1<sup>st</sup> June, 2013] [Clauses 41]

*‘Explanation.— For the purposes of this section, the expression “tax due” includes penalty, interest or any other sum payable under the Act.’*

## **Brief of Amendment:**

- Definition of tax due has been widened to include interest, penalty or any other sum payable under the Act.



## i) Deduction for additional wages in certain cases

[Clauses 18]

**Amendment to Section 80JJAA- Deduction in respect of employment of new workmen. [w.e.f. 1<sup>st</sup> April, 2014]**

### **Brief of Amendment:**

- The deduction under this section is now available only for typical manufacturing sector. Unlike previous year now this deduction is not available if the factory is hived off or transferred from another entity or acquired as result of amalgamations in a way only fresh investments shall be eligible for deduction herein. Also replacing of words undertaking by factory has further narrowed the applicability of this section.





## Note:

The existing provisions contained in sec 80JJAA provide for a deduction of an amount equal to 30% of additional wages paid to the new regular workmen employed in any previous year by an Indian company in its industrial undertaking engaged in manufacture or production of article or thing. The deduction is available for 3 A.Y. including the A.Y. relevant to the P.Y. in which such employment is provided.

No deduction under this section is allowed if the industrial undertaking is formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking. *The tax incentive u/s 80JJAA was intended for employment of blue collared employees in the manufacturing sector whereas in practice, it is being claimed for other employees in other sectors also.*

**It is, therefore, proposed to amend the provisions of sec. 80JJAA so as to provide that the deduction shall be available to an Indian Company deriving profits from manufacture of goods in its factory.**



### Amendment of section 90. [w.e.f. 1<sup>st</sup> April, 2016]

[clause 21]

- Sub-section (2A) shall be omitted;
- After sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 2016, namely:—

*“(2A) Notwithstanding anything contained in sub-section (2), the provisions of Chapter X-A of the Act shall apply to the assessee even if such provisions are not beneficial to him.”;*
- After sub-section (4) and before Explanation 1, the following sub-section shall be inserted, namely:—

*“(5) The certificate of being a resident in a country outside India or specified territory outside India, as the case may be, referred to in sub-section (4), shall be necessary but not a sufficient condition for claiming any relief under the agreement referred to therein.”*

### *Brief of Amendment:*

- Treaty provisions were being mandatory from 1.4.13. The same has now been omitted.
- GAAR provisions to become mandatory even if they are detrimental to the interest of the assessee.
- With this amendment, the Tax Residency Certificate (TRC) is reiterated to be necessary but not sufficient condition for claiming benefit under DTAA.



*Clarification Regarding Tax Residency Certificate (TRC) by Finance Ministry vide Press Release dated 01.03.2013:-*

- Sub-section (5) of section 90 proposed to be inserted by the Finance Bill 2013 does not mean that the TRC produced by a resident of a contracting state could be questioned by the Income Tax Authorities in India.
- *It has been emphasized that the TRC produced by a resident of a contracting state will be accepted as evidence that he is a resident of that contracting state and the Income Tax Authorities in India will not go behind the TRC and question his resident status.*
- It is also clarified that in the case of Mauritius, Circular No. 789 dated 13.4.2000 continues to be in force, pending ongoing discussions between India and Mauritius.



## Amendment of section 90A. [w.e.f. 1<sup>st</sup> April, 2016] [clause 22]

- Sub-section (2A) shall be omitted;
- After sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 2016, namely:—

*“(2A) Notwithstanding anything contained in sub-section (2), the provisions of Chapter X-A of the Act shall apply to the assessee even if such provisions are not beneficial to him.”;*
- After sub-section (4) and before Explanation 1, the following sub-section shall be inserted, namely:—

*“(5) The certificate of being a resident in a specified territory outside India referred to in sub-section (4), shall be necessary but not a sufficient condition for claiming any relief under the agreement referred to therein.”.*

### Brief of Amendment:

- This is in respect of agreement between specified Associations of two countries.
- GAAR provisions to become mandatory even if they are detrimental to the interest of the assessee.
- With this amendment, the Tax Residency Certificate (TRC) is reiterated to be necessary **but not sufficient** condition for claiming benefit under DTAA.

**Amendment to section 132B-Application of seized or requisitioned assets, a new *Explanation* shall be inserted w.e.f. 1st June, 2013:-**

*‘Explanation 2.—For the removal of doubts, it is hereby declared that the “existing liability” does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII.’*

### **Brief of Amendment:**

- Explanation 2 added which clarifies that *Advance tax liability does not form part of existing tax liability* meaning thereby seized cash cannot be adjusted against the advance tax liability.



## Return of Income filed without payment of self- assessment tax to be treated as defective return [Clauses 32]

**Amendment to Explanation of section 139 (9), a new clause shall be inserted w.e.f. 1<sup>st</sup> June, 2013:-**

*“(aa) the tax together with interest, if any, payable in accordance with the provisions of section 140A, has been paid on or before the date of furnishing of the return;”*

### **Brief of Amendment:**

• Clause (aa) has been added to Explanation which stipulates Return will be treated as defective if tax together **with interest u/s 140A** not paid before furnishing the return of income.



## Amendment to section 142(2A)-Estimate by Valuation Officer in certain cases. [w.e.f. 1<sup>st</sup> June, 2013]

*For the words “the nature and complexity of the accounts of the assessee and”, the words “the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee, and” shall be substituted.*

### Brief of Amendment:

- Powers of AO widened for asking for special audit.
- The expression nature and complexity of the accounts substituted with the nature and complexity of the accounts, volume of accounts, doubts about the correctness of the accounts, multiplicity of the transactions in the accounts or specialized nature of business activity of the assessee and the interest of the revenue.





## **m) Exclusion of time in computing the period of limitation for completion of assessments and reassessments [Clauses 37 & 38]**

- **Amendment of section 153B-Time-limit for completion of assessment u/s 153A. [w.e.f. 1st June, 2013] [clause 37]**
- **Amendment of section 153-Time limit for completion of assessments and reassessments. [w.e.f. 1st June, 2013] [clause 38]**

### **Brief of Amendment:**

- Clause (iii) of Explanation 1 of section 153 amended meaning thereby that the period where the direction of audit u/s 142(2A) is challenged before a court and such order is set aside by the court, the period between the date on which order is challenged and on which the order is set aside by the court was recd. by the AO will be excluded in limitation time of computation of assessment.
- Clause viii of Explanation 1 substituted as - The period commencing from the date on which a reference or first of the references for exchange of the information as referred to in sec 90/90A and ending with the date on which the information last recd. or one year whichever is less shall be excluded in limitation time computation of assessment. And at the end of the clause the word “or” is inserted
- Clause ix of Explanation 1 omitted and reinserted as it is [w.e.f. 1<sup>st</sup> April, 2016], meaning thereby the period specified under the said clause will not be considered in computing the limitation time period of assessment.



### **Substitution of new section for section 271FA -Penalty for failure to furnish annual information return.**

#### **Brief of Amendment:**

- Earlier amount of penalty for not filing Annual Information Return (AIR) was limited to Rs. 100 per day. Now penalty provisions have been enhanced as under :
- Penalty of Rs. 100 per day would be levied for the period from due date of filing of annual information return to date of filing of the such return.
- Penalty of Rs. 500 per day would be levied for the period from the expiry of 60 days of the notice issue by the income tax authority to the date of filing of the annual information return.



## **o) Extension of time for approval in Part A of the Fourth Schedule to the Income-tax Act, 1961**

**[Clauses 50]**

### **Amendment to Fourth Schedule Part A Rule 3 (1) [w.e.f. 1<sup>st</sup> April, 2013]**

#### **Brief of Amendment:**

- Time limit to satisfy the conditions of clause (ea) f rule 4 has been extended for 1 more year.

#### **Note:**

- Rule 4 in Part A of the Fourth Schedule to the Income-tax Act provides for conditions which are required to be satisfied by a Provident Fund for receiving or retaining recognition under the Income-tax Act. One of the requirements of rule 4 as contained in clause (ea) is that the establishment has to be notified by the Central Provident Fund Commissioner under section 1(4) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 [EPF & MP Act] and has obtained exemption u/s 17 of the said Act.

- Rule 3 in Part A of the Fourth Schedule provides that the Chief CIT or CIT may accord recognition to any provident fund which, in his opinion, satisfies the conditions specified under the said rule 4 and the conditions which the Board may specify by rules.



# Contd....

- The first proviso to sub-rule (1) of rule 3, inter alia, specifies that in a case where recognition under the Income-tax Act has been accorded to any provident fund on or before 31st March, 2006, but such provident fund does not satisfy the conditions set out in clause (ea) of rule 4 on or before 31st March 2013, the recognition to such fund shall be withdrawn.
- It has been noticed that a number of applications are yet to be processed by the Employees' Provident Fund Organization (EPFO) for grant of exemption u/s 17 of EPF & MP Act.
- With a view to provide further time to the EPFO to decide on the pending applications seeking exemption u/s 17 of the EPF & MP Act, **it is proposed to amend the first proviso, so as to extend the time limit from 31st March, 2013 to 31st March, 2014.**



p) Clarification for amount to be eligible for deduction as bad debts in case of banks [Clauses 6]

**Amendment to section 36(1) clause (vii)**, a new Explanation 2 shall be inserted , [w.e.f. 1st April, 2014]

*“Explanation 2.—For the removal of doubts, it is hereby clarified that for the purposes of the proviso to clause (vii) of this sub-section and clause (v) of sub-section (2), the account referred to therein shall be only one account in respect of provision for bad and doubtful debts under clause (viia) and such account shall relate to all types of advances, including advances made by rural branches.”*



## *Brief of Amendment:*

- It is proposed to insert an Explanation in clause (vii) of section 36(1) stating that for the purposes of the proviso to section 36(1)(vii) and section 36(2)(v), only one account as referred to therein is made in respect of provision for bad and doubtful debts under section 36(1)(viia) and such account relates to all types of advances, including advances made by rural branches.
- Therefore, for an assessee to which clause (viia) of section 36(1) applies, the amount of deduction in respect of the bad debts actually written off u/s 36(1)(vii) shall be limited to the amount by which such bad debts exceeds the credit balance in the provision for bad and doubtful debts account made u/s 36(1)(viia) without any distinction between rural advances and other advances.

# *Wealth-tax*



[Clause 51,52 & 53]



## Amendment of section 2 Wealth-tax Act, 1957 Clause 51]

- **In section 2 in clause (ea), in Explanation 1, for clause (b), shall be substituted with effect from the 1<sup>st</sup> April, 2014, namely:**





# Meaning of urban land

- If land is situated in an area falling within the jurisdiction of a municipality or a cantonment board, where population is more than 10000.
- land is situated in an area with in the distance measured aerially not more than 2 Km which has a population of more than ten thousand but not exceeding one lakh;
- land is situated in an area with in the distance measured aerially not more than 6 Km which has a population of more than one lakh but not exceeding ten lakh;
- land is situated in an area with in the distance measured aerially not more than 8 Km which has a population of more than ten lakh;
- Urban land does not include
  - land on which construction of a building is not permissible.
  - The land occupied by any building which has been constructed with the approval of the appropriate authority or any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him or any land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him.



## Insertion of new sections 14A and 4B.

[Clause 52 and 53]

- Power of Board to dispense with furnishing documents, etc., with return of wealth.
- Filing of return in electronic form.
- The Board has been provided with the powers to provide for the class or classes of persons who are required to file return in electronic form along with related forms and to facilitate filing of annexure-less return of wealth.



# Thank You...!!!

*Presented by : CA Agarwal Sanjay 'Voice of CA'*

*Assisted by : CA Jyoti Kaur*

*Email ID : [agarwal.s.ca@gmail.com](mailto:agarwal.s.ca@gmail.com)*