

**Tax by KK classes for CA, CMA & CS**

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# Amendment Booklet

# Finance Act 2013

CS K.K. Agrawal

Never say die

AY  
2014-15

May /  
June 14

**CA Inter (IPC)**

**CMA Inter / Final**

**CS Exe / Prof.**

**Other Courses**

**SURCHARGE FOR PY 2013-14 | AY 2014-15**

	Domestic Company	Foreign Company	Firm / LLP	Ind / HUF / AOP / BOI / AJP	Local Authority	Co-operative society
• Total Income exceeds ₹ 1 Cr and upto 10 Cr.	5%	2%	10%	10%	10%	10%
• Total Income exceeds ₹ 10 Cr.	10%	5%	NA	NA	NA	NA

**SECTION 2(29C). MAXIMUM MARGINAL RATE OF TAX (MMR)**

As per section 2(29C) maximum marginal rate of tax (MMR) is the highest tax incidence levied on different persons including surcharge and education cess + SHEC.

• Firm / LLP (30% + 10% surcharge + 3% education cess)	33.99%
• Domestic Company (30% + 10% surcharge + 3% education cess)	33.99%
• Foreign Company (40% + 5% surcharge + 3% education cess)	43.26%
• Individual/HUF/AOP/BOI/AJP (30% + 10% surcharge + 3% education cess)	33.99%

Video uploaded of surcharge and mmr at <https://www.youtube.com/user/TheKaushala1>

**REBATE U/S 87A**

Conditions	Amount of rebate	Other Points
1. Assessee is resident individual.	100% of tax or ₹ 2,000 whichever is lower.	Not available to Non Residents
2. His total income is upto ₹ 5,00,000.		

Video uploaded of surcharge and mmr at <https://www.youtube.com/user/TheKaushala1>

**SECTION 32AC. INVESTMENT ALLOWANCE ON PURCHASE & INSTALLATION OF NEW PLANT & MACHINERY****Conditions**

1. Assessee	Assessee is a company.
2. Nature of business	Assessee company is engaged in the business of manufacture or production of any article or thing.
3. Timing of investment	Assessee acquires and installs new asset on or after 1-4-2013 and upto 31-3-2015.
4. Minimum investment.	Aggregate amount of cost of asset should exceeds ₹ 100 crore.

**New Asset** : New asset means new plant & machinery but does not include the following assets :

1. Second hand plant & machinery whether was used in India or outside India.	New asset purchased Lock in period 5 years.
2. Any machinery or plant installed in any office premises or any residential accommodation, or guest house.	
3. Any office appliances including computer or computer software.	
4. Any vehicle, ship or aircraft.	
5. Any machinery or plant, where 100% deduction or depreciation is allowed.	

**Amount of deduction** : If all the above conditions are satisfied then there shall be allowed.

1. for PY 2013-14	A deduction of 15% of aggregate amount of actual cost of new assets acquired and installed during the FY 2013-14 if the cost of such assets exceeds ₹ 100 Crore.
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2.	for PY 2014-15	A deduction of 15% of aggregate amount of actual cost of new assets acquired and installed during the period beginning on 1-4-2013 and ending on 31-3-2015, as reduced by the deduction allowed for PY 2013-14.
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**Note :** The investment allowance @15% under this section is in addition to the depreciation and additional depreciation allowable under section 32(1). Further, the investment allowance would not be reduced to arrive at the written down value of plant and machinery.

**P1:** What will be the amount of investment allowance u/s 32AC in the following cases ? Amount in crores.

	X Ltd	Y Ltd	Z Ltd
Actual cost of new asset acquired & installed during PY 2013-14	70	150	60
Actual cost of new asset acquired & installed during PY 2014-15	50	50	40

**Solution :**

Deduction u/s 32AC in the PY 2013-14	Nil	15% of 150 = 22.5	Nil
Deduction u/s 32AC in the PY 2014-15	15% of 120 = 18	15% of 200 – 22.5 = 7.5	Nil

**P2:** B Ltd., a company engaged in the business of manufacture of sports equipment, furnishes the following particulars pertaining to PY 2013-14 and PY 2014-15. Compute the depreciation allowable under section 32 as well as the investment allowance allowable under section 32AC for AY 2014-15 and AY 2015-16, while computing its income under the head “Profits and gains of business or profession”. Also, compute the written down value of plant and machinery as on 1.4.2014 and 1.4.2015.

S No	Particulars	₹ in Cr
1.	Written down value of plant and machinery (15% block) as on 01.04.2013	25
2.	Sold plant and machinery on 20.5.2013 (15% block)	4
3.	Purchase of second hand machinery (15% block) on 29.5.2013 for business purpose (the machinery was put to use immediately)	12
4.	Purchased new computers (60% block) on 8.11.2013 for office	0.40
5.	Acquired and installed new plant and machinery (15% block) on 31.7.2013 (₹ 50 crore) and on 31.10.2013 (₹ 40 crore)	90
6.	New air conditioners purchased and installed in office premises on 30.6.2013	0.15
7.	Acquired and installed new plant and machinery (15% block) on 2.4.2014	15

#### Computation of normal and additional depreciation for AY 2014-15

	P & M (15%)	P & M (60%)
Opening WDV as on 1-4-2013	25	Nil
+ Purchases		
• Second hand machinery on 29-5-2013 (Full rate)	12	
• Computer on 8-11-2013 (Half rate)		0.40
• Plant & Machinery on 31-7-2013 (Full rate)	50	
• Plant & Machinery on 31-10-2013 (Half rate)	40	
• AC in office on 30-6-2013 (Full rate)	0.15	
Less : Sale of plant & machinery	(4)	
Closing WDV as on 31-3-2014	123.15	0.40
Less : Depreciation		
• Normal Depreciation	Half rate : 7.5% of 40 = 3 Full rate : 15% of 83.15 = 12.4725	(15.47)
	Half rate : 30% of 0.40 = 0.12	(0.12)



• Additional Depreciation			
Acquired and installed new P & M (20% of ₹ 50 crore)	10		
Acquired and installed new P & M (10% of ₹ 40 crore)	4	(14)	
Opening WDV as on 1-4-2014		93.68	0.28

**Note :** Additional depreciation & investment allowance u/s 32AC is not available on

- Second hand machinery.
- New computers for office.
- New AC in office premises.

#### Computation of normal and additional depreciation for AY 2015-16

		P & M (15%)	P & M (60%)
Opening WDV as on 1-4-2014		93.68	0.28
+ Acquired and installed new plant and machinery (Full rate)		15.00	
Closing WDV as on 31-3-2015		108.68	0.28
Less : Depreciation			
• Normal depreciation	15% of 108.68 =	(16.30)	
	60% of 0.28 =		(0.17)
• Additional depreciation (20% of 15)		(3)	
Opening WDV as on 1-4-2015		89.38	0.11

#### Computation of investment allowance u/s 32AC for AY 2014-15

For the AY 2014-15, the company would not be entitled for investment allowance under section 32AC since the investment in new plant and machinery acquired and installed during the year is only ₹ 90 crores (i.e., less than ₹ 100 crores).

**Note :** Investment allowance u/s 32AC is not available on

- Second hand machinery.
- New computers for office.
- New AC in office premises.

#### Computation of investment allowance u/s 32AC for AY 2015-16

Acquired and installed new plant and machinery in AY 2014-15	90 cr
Acquired in plant and machinery in AY 2015-16	15 cr
Total Investment	105 cr
Investment allowance allowed in AY 2014-15	nil
Investment allowance allowed in AY 2015-16 (15% of 105)	15.75 cr

#### **SECTION 36(1)(xvi). DEDUCTION FOR COMMODITIES TRANSACTION TAX PAID IN RESPECT OF TAXABLE COMMODITIES TRANSACTIONS**

It provides that an amount equal to the CTT paid by the assessee (seller) in respect of the taxable commodities transactions entered into in the course of his business during the previous year shall be allowable as deduction, 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". Rate of CTT is 0.01%.

#### **SECTION 43(5). MEANING OF SPECULATIVE TRANSACTIONS**

As per clause (e) trading in commodity derivatives will not be considered as a speculative transaction if carried out electronically on screen based systems.

#### **SECTION 40(a)(ii). DISALLOWANCE OF ROYALTY, LICENCE FEE, SERVICE FEE ETC. LEVIED EXCLUSIVELY ON STATE GOVERNMENT UNDERTAKINGS BY THE STATE GOVERNMENT**

State Governments levy privilege fee, license fee, royalty, etc. exclusively on its undertakings. State Government undertakings are separate legal entities than the State and are liable to income-tax. The issue is whether such fees, royalty etc. are deductible while computing the business income of such undertakings.



In order to protect the tax base of State Government undertakings vis-à-vis exclusive levy of fee, charge, etc. or appropriation of amount by the State Governments from its undertakings, to provide that –

- (1) Any amount paid by way of royalty, licence fee, service fee, privilege fee, service charge, etc., which is levied exclusively on, or
- (2) Any amount appropriated, directly or indirectly,
- from a State Government undertaking, by the State Government, shall not be allowed as deduction while computing the income of such undertakings under the head “Profits and gains of business or profession”.

**SECTION 43CA. FULL VALUE OF CONSIDERATION IN CASE OF TRANSFER OF IMMOVABLE PROPERTY W.E.F 1-4-2013**

Where the consideration on transfer of land or building (other than capital asset) is less than the value adopted or assessed or assessable by any stamp valuation authority for the purpose of payment of stamp duty, the value so adopted shall be deemed to be the full value of the consideration. (Similar to section 50C)

**Note :** The Stamp Duty Value shall be seen on the date of agreement and not the date of registration if consideration or its part is paid in **cheque** before the date of agreement.

**Question**

S N	Date of transfer	Actual consideration	Stamp duty value on the date of agreement	Stamp duty value on the date of registration
1.	28-3-2013	₹ 150	₹ 180 1-7-2012	₹ 300 1-2-2013
2.	28-6-2013	₹ 150 (Received ₹ 20 lakhs by cheque on 1-8-2012)	₹ 180 1-10-2012	₹ 300 1-6-2013
3.	28-6-2013	₹ 150 (Received ₹ 20 lakhs by cash on 1-8-2012)	₹ 180 1-10-2012	₹ 300 1-6-2013
4.	30-3-2014	₹ 150 (Full amount received on the date of registration).	₹ 180 2-5-2013	₹ 300 1-3-2014

**Solution**

S N	Full value of consideration	Provision
1	₹ 150	S 43CA not applicable since date of transfer is before 1-4-2013.
2	₹ 180	Stamp duty value on the date of agreement to be adopted as full value of consideration since amount is paid through cheque.
3	₹ 300	Stamp duty value on the date of registration to be adopted as full value of consideration since amount is paid in cash.
4	₹ 300	Stamp duty value on the date of registration to be adopted as full value of consideration since full payment is made on the date of registration.

**NEW LIMITS OF AREA DEFINED TO DETERMINE WHETHER AGRICULTURAL LAND IS SITUATED IN RURAL AREA OR URBAN AREA**

Agricultural Land is situated in urban area if agricultural land is

- (A) Any area within the jurisdiction of Municipality / Cantonment board; or
- (B) In any area within the distance, measured aerially (shortest aerial distance)

URBAN AREA	Population (as per latest census)	Distance (Straight distance as crows flies)	
(i)	more than 10,000 and upto 1,00,000	2 k.m.	from the local limits of any municipality or cantonment board.
(ii)	more than 1,00,000 and upto 10,00,000	6 k.m.	
(iii)	exceeds 10,00,000	8 k.m.	

Section 2(14). Capital Asset	Section 2(1A). Defines Agricultural Income
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Agricultural Land situated in rural area is not treated as capital asset. Rural area is other than urban area. Urban area is defined above.	<p><b>Earlier position</b> : Any income derived from any building which is used for agricultural purpose and is situated in the immediate vicinity of the agricultural land.</p> <p><b>New Position</b> : If the land is situated within the new limits specified above, the income from building which is situated on such land would not be treated as agricultural income.</p>
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Video uploaded of surcharge and mmr at <https://www.youtube.com/user/TheKaushala1>

### **SECTION 56(2)(vii). GIFTS / SALE AND PURCHASE OF IMMOVABLE PROPERTY**

Where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1-10-2009, any immovable property (being a capital asset),

(i)	without consideration (Gift),	the stamp duty value of which exceeds ₹ 50,000, the stamp duty value of such property is taxable under the head 'Other Sources'
(ii)	for a consideration (purchase price) which is less than the stamp duty value of the property by an amount exceeding ₹ 50,000	the stamp duty value of such property as exceeds such consideration is taxable u/h 'Other Sources'. (Stamp duty value – purchase price = exceeds 50,000, difference amount taxed u/s 'OS')

**Note** : The Stamp Duty Value shall be seen on the date of agreement and not the date of registration if consideration or its part is paid in **cheque** before the date of agreement.

### **DIFFERENCE**

	<b>Section 43CA</b>	<b>Section 50C</b>	<b>Section 56(2)(vii)</b>
<i>Tax treatment in the hands of</i>	<i>Seller</i>	<i>Seller</i>	<i>Buyer</i>
<i>Assets held as</i>	Stock in trade	Capital Asset	Capital Asset
<i>Income charged under the head?</i>	Business	Capital Gain	Other Sources
<i>What is amount of income?</i>	The Stamp Duty Value as on date of agreement if consideration or its part is paid in <b>cheque</b> before the date of agreement. But if payment is not made or payment is made in cash then Stamp Duty value as on date of registration.	The Stamp Duty Value shall be seen on the date of registration.  Therefore Stamp duty value as on date of agreement is ignored in every case.	The Stamp Duty Value as on date of agreement if consideration or its part is paid in <b>cheque</b> before the date of agreement. But if payment is not made or payment is made in cash then Stamp Duty value as on date of registration.

**P1** : Mr. X, a property dealer, sold a building in the course of his business to his friend Mr. Y, who is a dealer in automobile spare parts, for ₹ 90 lakh on 1.1.2014, when the stamp duty value was ₹ 150 lakh. The agreement was, however, entered into on 1.7.2013 when the stamp duty value was ₹ 140 lakh. Mr. X had received a down payment of ₹ 15 lakh by cheque from Mr. Y on the date of agreement. Discuss the tax implications in the hands of Mr. X and Mr. Y, assuming that Mr. X has purchased the building for ₹ 75 lakh on 12-7-2012. Would your answer be different if Mr. X was a share broker instead of a property dealer?

### **Solution**

	<b>Sale Consideration</b>	<b>Stamp duty value</b>
Date of sale (registration) as on 1-1-2014. Purchase price on 12-7-2012 ₹ 75 L	₹ 90 L	₹ 150 L
Date of agreement as on 1-7-2013. Received ₹ 15 L in cheque.	NA	₹ 140 L



	Section 43CA	Section 50C	Section 56(2)(vii)
Tax treatment in the hands of	Mr. X	Mr. X	Mr. Y
Assets held as	Stock in trade	Capital Asset	Capital Asset
Income charged under the head?	Business	Capital Gain	Other Sources
What is amount of income?	140 – 75 = 65 L	150 – 75 = 75 L	140 – 90 = 50 L

### DEDUCTION

	Provisions	Policies issued on or after 1-4-2012 till 31-3-2013	Policies issued on or after 1-4-2013
<b>10(10D)</b>	Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds ..... of “minimum capital sum assured” under the policy on the happening of the insured event at any time during the term of the policy.	10%	<u>Disabled person</u> 15%  <u>Others</u> 10%
<b>80C</b>	Only premium paid to the extent of ..... of “minimum capital sum assured” qualifies for deduction u/s 80C.	10%	<u>Disabled person</u> 15% <u>Others</u> : 10%

### SECTIONS 80CCG. DEDUCTION FOR INVESTMENT UNDER EQUITY SAVING SCHEME

- Who can claim deduction : Any **resident Individual** who is a **new retail investor** and whose gross total income do not exceed **₹ 12 Lakhs**.
- Nature of investment: Acquiring listed equity shares or units of equity oriented fund in accordance with Rajiv Gandhi Equity Saving Scheme 2012. Lock in period 3 years.
- Amount of deduction allowed : 50% of amount invested in the specified scheme or ₹ 25,000 whichever is lower shall be allowed for 3 consecutive AY's, beginning with AY relevant to the PY in which such investment was first made.

	Mr. X resident			Mr. Y resident		
	11,25,000	11,15,000	12,50,000	10,50,000	13,00,000	11,00,000
Gross Total Income						
Previous Year	13-14	14-15	15-16	13-14	14-15	15-16
Investment in listed equity shares	20,000	45,000	32,000	25,000	-	30,000
Investment in units of equity-oriented fund	40,000	-	11,000	15,000	40,000	25,000
				sold within 3 years		
Total investment	60,000	45,000	43,000	40,000	40,000	55,000
Deduction u/s 80CCG 50% of investment or ₹ 25,000 whichever is lower if GTI is upto ₹ 12 L.	₹ 25,000	₹ 22,500	NA since GTI exceeds ₹ 12 L	20,000	NA since GTI exceeds ₹ 12 L	25,000

**Note 1:** 80CCG provides a lock in period of atleast 3 years to claim deduction. In this case units of equity oriented fund is transferred within 3 years. Whatever deduction which was claimed earlier is charged under the head Income from Other Sources. In this case it is ₹ 7,500. (50% of ₹ 15,000). No deduction was claimed for ₹ 40,000 therefore no question of withdrawal.

**Note 2 :** Profit on transfer of units of equity oriented fund is either LTCG STT paid or STCG STT paid. LTCG STT paid is exempt u/s 10(38). STCG STT paid is charged @ 15% flat.

**SECTION 80D. CONTRIBUTION TOWARDS HEALTH INSURANCE PREMIUM**

Section 80D has been amended in order to bring other health schemes of the Central and State Governments (which are similar to the CGHS but for which no deduction is presently available under the Income-tax Act, 1961 to the subscribers of such schemes) at par with CGHS.

**SECTION 80EE. ADDITIONAL DEDUCTION OF INTEREST UPTO ₹ 1,00,000 FOR FIRST TIME HOME BUYERS**Conditions

1. Assessee is individual. Residential status is no bar.
2. The assessee has taken loan for purchase or construction of new residential house property.
3. Loan should be taken from banks or financial institution.
4. The loan is sanctioned during the financial year 2013-14. Ignore date of making of application of loan.
5. Amount of loan sanction is upto ₹ 25 Lakhs.
6. The purchase price of residential house is upto ₹ 40 Lakhs.
7. Assessee do not own any residential house property on the date of sanction of the loan. However house may be owned by spouse or child or HUF or other family members this shall not be treated as disqualification. The assessee shall not be treated as deemed owner as per section 27 for section 80EE.
8. The first house may be purchased at any date i.e, even before the date of sanction of loan.

Amount of deduction : One time deduction of interest payable not exceeding ₹ 1,00,000 shall be allowed in PY 2013-14. If interest payable is less than 1,00,000 then balance interest deduction can be claimed in PY 2014-15.

**P1** : Compute interest allowed as deduction u/s 24b and u/s 80EE.

	PY 13-14	PY 14-15	PY 15-16
Actual interest	1,90,000	2,50,000	1,80,000

**Solution**

Deduction u/s 24b. Allowed from Net Annual Value.	1,50,000	1,50,000	1,50,000
Deduction u/s 80EE. Allowed from Gross Total Income.	40,000	60,000	NA

**P2** : Mr. A purchased a residential house property for self-occupation at a cost of ₹ 30 lakh on 1-6-2013, in respect of which he took a housing loan of ₹ 24 lakh from Bank of India @ 11% p.a. on the same date. Compute the eligible deduction in respect of interest on housing loan for AY 2014-15 and AY 2015-16 under the provisions of the Income-tax Act, 1961, assuming that the entire loan was outstanding as on 31-3-2015 and he does not own any other house property.

**Solution**

	PY 13-14	PY 14-15	PY 15-16
Actual interest (see note)	2,20,000	2,64,000	2,64,000
Deduction u/s 24b. Allowed from Net Annual Value.	1,50,000	1,50,000	1,50,000
Deduction u/s 80EE. Allowed from Gross Total Income.	70,000	30,000	NA

**Note :**

$\frac{11\% \text{ of } 24,00,000 \times 10}{12} = 2,20,000$	$\frac{11\% \text{ of } 24,00,000 \times 12}{12} = 2,64,000$
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**SECTION 80G. DONATIONS**

Name of fund	Deduction allowed
1. National Defence Fund.	100% (Earlier 50%)



**CASH DONATIONS TO POLITICAL PARTIES AND ELECTORAL TRUSTS NOT TO QUALIFY FOR DEDUCTION UNDER SECTION 80GGB & SECTION 80GGC**

A proviso has been inserted in both these sections to provide that no deduction shall be allowed thereunder in respect of any sum contributed by way of cash. Thus, henceforth, cash donations to political parties and electoral trusts would not qualify for deduction under section 80GGB and section 80GGC.

**SECTION 194IA. TDS ON TRANSFER OF IMMOVABLE PROPERTY (OTHER THAN AGRICULTURAL LAND) W.E.F. 1-6-2013**

1. **Tax Deducter:** Any person who is buyer of the property. (no need of having TDCAN).
2. **When to deduct tax at source:** At the time of credit of such sum to the account of the transferrer or at the time of payment of such sum in cash or by issue of cheque or draft or by any other mode, whichever is earlier.
3. **Rate of TDS:** It is 1% of the payment.
4. **No TDS:** If purchase price is less than ₹ 50,00,000.

**P1:** Mr. X sold his house property in Bangalore as well as his rural agricultural land for a consideration of ₹ 60 lakh and ₹ 15 lakh, respectively, to Mr. Y on 1.8.2013. He has purchased the house property and the land in the year 2011 for ₹ 40 lakh and ₹ 10 lakh, respectively. The stamp duty value on the date of transfer, i.e. 1.8.2013, is ₹ 85 lakh and ₹ 20 lakh for the house property and rural agricultural land, respectively. Determine the tax implications in the hands of Mr. X and Mr. Y and the TDS implications, if any, in the hands of Mr. Y, assuming that both Mr. X and Mr. Y are resident Indians.

**Solution**

	Mr. X (Seller)		Mr. Y (Buyer)		
	House Property	Rural Agricultural land		House Property	Rural Agricultural land
Sale consideration as on 1-8-2013	₹ 60 L	₹ 15 L	Purchase price as on 1-8-2013	₹ 60 L	₹ 15 L
Purchase price in 2011	₹ 40 L	₹ 10 L	Stamp duty value as on 1-8-2013	₹ 85 L	₹ 20 L

**Tax treatment in the hands of Mr. X**

	House Property	Rural Agricultural land
Full value of consideration u/s 50C	₹ 85 L	Not a capital asset therefore no capital gain arises.
Less : Cost of acquisition	₹ 40 L	
Short Term Capital Gain	₹ 45 L	

**Tax treatment in the hands of Mr. Y**

Section 56(2)(vii) is applicable. Purchase of immovable property for less than stamp duty value. Difference exceeds ₹ 50,000. Therefore this difference taxed under the head Income from Other Sources. ₹ 85 L – ₹ 60 L = ₹ 25 L is charged under the Income from Other Sources.

Since agricultural land is not a capital asset, the provisions of section 56(2)(vii) are not attracted in respect of receipt of agricultural land for inadequate consideration, since the definition of “property” under section 56(2)(vii) includes only capital assets specified thereunder.

**TDS implications in the hands of Mr. Y**

Since the sale consideration of house property exceeds ₹ 50 lakh, Mr. Y is required to deduct tax at source under section 194IA. The tax to be deducted under section 194-IA would be ₹ 60,000, being 1% of ₹ 60 lakh. TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.



**SECTION 139(9). RETURN OF INCOME FILED WITHOUT PAYMENT OF SELF-ASSESSMENT TAX (ALONG WITH INTEREST) UNDER SECTION 140A CONSIDERED DEFECTIVE WEF 1-6-2013**

Earlier by way of circular section 139(9) was made ineffective. But a new problem arose. Quite a few assessee file their returns of income without payment of self-assessment tax therefore clause (aa) has been inserted in the Explanation to section 139(9) to provide that the return of income shall be regarded as defective unless the tax together with interest payable in accordance with the provisions of section 140A has been paid on or before the date of furnishing of the return.

Assessing Officer may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of **15 days** or such further period which the Assessing Officer may allow at his discretion on an application made in this behalf by the assessee.

If the defect is not rectified within the time allowed by the Assessing Officer, the return is treated as an invalid return. It would be deemed as if the assessee had failed to furnish the return.

**CIRCULARS 5/2012 DATED 1-8-2012**

Inadmissibility of expenses incurred in providing freebies to medical practitioner by pharmaceutical and allied health sector industry
As per explanation to section 37(1) if any expenses, has been incurred for a purpose which is either an offence or prohibited by law then deduction of expenses not allowed.
Now the claim of any expense incurred in providing freebies to medical practitioner is in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002. Therefore the expenditure so incurred shall be inadmissible under section 37(1) being an expense prohibited by the law.
<b>Tax treatment in the hands of payer :</b> The disallowance shall be made in the hands of that assessee which has provided aforesaid freebies.
<b>Tax treatment in the hands of receiver :</b> Also value of freebies enjoyed by the medical practitioner is also taxable as business income or income from other sources, depending on the facts of each case

**SECTION 66D. NEGATIVE SERVICE**

**CLAUSE (I). EDUCATION SERVICES**

Services by way of—

- (i) pre-school education and education up to higher secondary school (+ 2) or equivalent.
- (ii) education as a part of a curriculum (syllabus) for obtaining a qualification recognised by any law for the time being in force. (Graduate or post graduate courses / ICAI / ICSI / ICMAI)
- (iii) education as a part of an approved vocational education course. (Direct Job courses)

•	Course run by an industrial training institute (ITI) or industrial training centre (ITC) affiliated to the <b>National Council for Vocational Training</b> offering courses in designated trades as notified under the Apprentices Act, 1961
•	Modular Employable Skill Course approved by <b>National Council of Vocational Training</b> .
•	Course run by an industrial training institute (ITI) or industrial training centre (ITC) affiliated to the <b>State Council for Vocational Training</b> offering courses in designated trades as notified under the Apprentices Act, 1961
•	a course run by an institute affiliated to the National Skill Development Corporation set up by the Government of India: (deleted)

		<b>Prior to 10-5-2013</b>	<b>w.e.f. 10-5-2013</b>
1.	Courses offered by ITI/ITC affiliated to <b>State Council of Vocational Training</b>	Taxable	Not taxable
2.	Courses offered by ITI/ITC affiliated to <b>National Council of Vocational Training</b>	Not taxable	Not taxable
3.	Modular Employable Skill Course	Not taxable	Not taxable



4.	Courses run by an institute affiliated to the <b>National Skill Development Corporation</b>	Not taxable	Taxable
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**P1** : Comment on the applicability of service tax in case of vocational educational courses (VEC) run by the following institutes during the month of February, 2013 and June, 2013:

(a)	'Udaan' an industrial training institute (ITI) affiliated to the National Council for Vocational Training (NCVT).
(b)	'A-Star' a vocational education provider affiliated to Sector Skill Council formed under National Skill Development Corporation (NSDC).
(c)	'Best Skill Centre' an industrial training centre (ITC) affiliated to the State Council for Vocational Training, Delhi.
(d)	'Horizon', an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council of Vocational Training.

**Ans** : Not taxable; Taxable; Not taxable; Not taxable

### **CLAUSE (f). PROCESS AMOUNTING TO MANUFACTURE**

Any process amounting to manufacture or production of goods not subjected to service tax.

*Section 65B(40). Meaning of process amounting to manufacture or production of goods*

*It means a process on which duties of excise are leviable under section 3 of the Central Excise Act, 1944 or any process amounting to manufacture of alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics on which duties of excise are leviable under any State Act for the time being in force. Also process amounting to manufacture under the Medicinal & Toilet Preparations (Excise Duties) Act, 1955.*

**P1** : State whether following activities undertaken by M & M Manufacturers at Chandigarh would be liable to service tax during April, 2013 and June, 2013:

(i)	Manufacture of herbal cosmetics liable to excise duty under the Central Excise Act, 1944.
(ii)	Manufacture of alcoholic drinks liable to excise duty under the Punjab Excise Act, 1914.
(iii)	Processing of raw materials to make them fit for further production. The process is not liable to any excise duty.
(iv)	Manufacture of medicines liable to excise duty under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.

**Ans** : Not taxable; not taxable; taxable; not taxable

### **CLAUSE (d). SERVICES RELATING TO AGRICULTURE**

ALL testing activities including seed testing directly related to production of any agricultural produce not liable to service tax [Section 66D(d)(i)] [Effective from 10.05.2013]

<b>Erstwhile position</b>	Earlier, sub-clause (i) of section 66D(d) [Negative list of services], inter alia, included only the "seed testing" directly related to production of any agricultural produce. Consequently, other type of testing activities directly related to production of any agricultural produce like soil testing, animal feed testing, testing of samples from plants or animals, for pests and disease causing microbes etc. became liable to service tax.
<b>New position</b>	The Finance Act, 2013 has expanded the scope of the said negative list entry by deleting the word "seed". As a result, all types of testing activities which are directly related to production of any agricultural produce have been covered under the negative list.



**P1 :** 'WOW Agro furnishes the following details with respect to the activities undertaken by them in the month of June, 2013:

(i)	Supply of farm labour	58,000
(ii)	Warehousing of biscuits	1,65,000
(iii)	Sale of rice on commission basis	68,000
(iv)	Training of farmers on use of new pesticides and fertilizers	10,000
(v)	Renting of vacant land to a stud farm	1,31,500
(vi)	Testing undertaken for soil of a farm land	1,21,500
(vii)	Leasing of vacant land to a poultry farm	83,500

Compute the service tax liability of WOW Agro for the month of June, 2013. Assume that the point of taxation in respect of all the activities mentioned above falls in the month of June, 2013 itself. WOW Agro has paid service tax of ₹ 6,18,000 during the Financial Year 2012-13.

### Solution

(i)	Supply of farm labour		not taxable
(ii)	Warehousing of biscuits		1,65,000
(iii)	Sale of rice on commission basis		Not taxable
(iv)	Training of farmers on use of new pesticides and fertilizers developed through scientific research		Not taxable
(v)	Renting of vacant land to a stud farm		1,31,500
(vi)	Testing undertaken for soil of a farm land		Not taxable
(vii)	Leasing of vacant land to a poultry farm		Not taxable
	Net amount charged		2,96,500
	+ Service tax @ 12%	35,800	
	+ Education cess @ 2%	7,116	
	+ SHEC @ 1%	<u>3,558</u>	<u>36,586</u>
	Gross amount charged		3,33,086

**Exemptions**

<b>10(10D)</b>	Any sum received under a life insurance policy. However any sum received under a keyman insurance policy is taxable.	
	To take advantage of S 10(10D) the policies which were originally taken as keyman insurance policy were subsequently assigned to the keyman during the term of the policy, who paid the remaining premium on such policies. The sum received by the keyman in respect of such policies were being claimed as exempt under section 10(10D) on the ground that the policy is no longer a keyman insurance policy.	
	<b>Explanation 1 to section 10(10D). Insertion</b> To prevent this tax avoidance “keyman insurance policy” includes a keyman insurance policy which has been assigned to any person during its term, with or without consideration. Therefore, such policies shall continue to be treated as a keyman insurance policy even after the same is assigned to the keyman. Therefore exemption u/s 10(10D) not available. Such sum is taxable.	
<b>10(23DA)</b>	Exemption of any income of a securitization trust from the activity of securitization is exempt. Securitization trusts are special purpose entities set up in the form of trust to undertake securitization activities.	
<b>10(23ED)</b>	Exemption of income of Investor Protection Fund set up by depositories. Now there is a compulsory requirement for depositories to set up an Investor Protection Fund.	
<b>10(23EA)</b>	Income by way of contributions from a recognised stock exchange received by a Investor Protection Fund set up by the recognised stock exchange is exempt from taxation.	
<b>10(23FB)</b>	Certain Alternative Investment Funds (AIFs) recognized by SEBI to enjoy “pass-through” status, subject to satisfying certain conditions.	
	It exempts any income of a Venture Capital Company (VCC) or Venture Capital Fund (VCF) from investment in a Venture Capital Undertaking (VCU).	
	In effect a tax pass through status (i.e. income is taxable in the hands of investors instead of VCF/VCC).	
<b>10(34A)</b>  <b>w.e.f</b>  <b>1-6-2013</b>	Exemption of income received by an investor on account of buy-back of unlisted shares of a domestic company	
	<i>Tax treatment of Dividend on shares of Indian Company</i>	
	<u>In the hands of shareholders</u> Exempt in the hands of shareholders is exempt u/s 10(34)	<u>In the hands of Company</u> Company is required to pay dividend distribution tax u/s 115O.
	<i>Buyback of shares by company</i>	
	<u>In the hands of shareholders</u> Taxable as capital gains u/s 46A.	<u>In the hands of Company</u> Company is not required to pay dividend distribution tax u/s 115O.
	In order to discourage the practice of domestic companies resorting to buy back of unlisted shares instead of payment of dividends in order to avoid payment of DDT, especially if the capital gains arising to the shareholders are either not chargeable to tax or are taxable at a lower rate.	
A new Chapter XIID comprising of sections 115QA, 115QB and 115QC, has been inserted with effect from 1st June, 2013 to levy additional income-tax on buy back of such shares by domestic companies.		
The income arising to the shareholders in respect of such buy back of unlisted shares by the domestic company would be exempt under section 10(34A) w.e.f. A.Y.2014-15, where the company is liable to pay the additional income-tax on the buy-back of shares.		
<b>10(48)</b>	Scope of exemption of income received in India in Indian currency by a foreign company expanded.	
	Earlier any income received in India in Indian currency by a foreign company on account of sale of <b>crude oil</b> to any person in India.	
	Now Central Govt. can notify sale of any other goods or rendering of services to be exempt u/s 10(48).	
<b>10(49)</b>	<b>Exemption in respect of income of National Financial Holdings Company Ltd.</b>	
	(i)	The Specified Undertaking of Unit Trust of India (SUUTI) was created which was eligible for exemption from income-tax in respect of its income up to 31-3-2014.
	(ii)	Consequent to winding up of SUUTI and its succession by a new company wholly owned by the Central Government i.e., National Financial Holdings Company Limited (NFHCL). Any income accruing or arising to NFHCL on or before 31.03.2014 or the income received by NFHCL on or before the said date shall be exempt.



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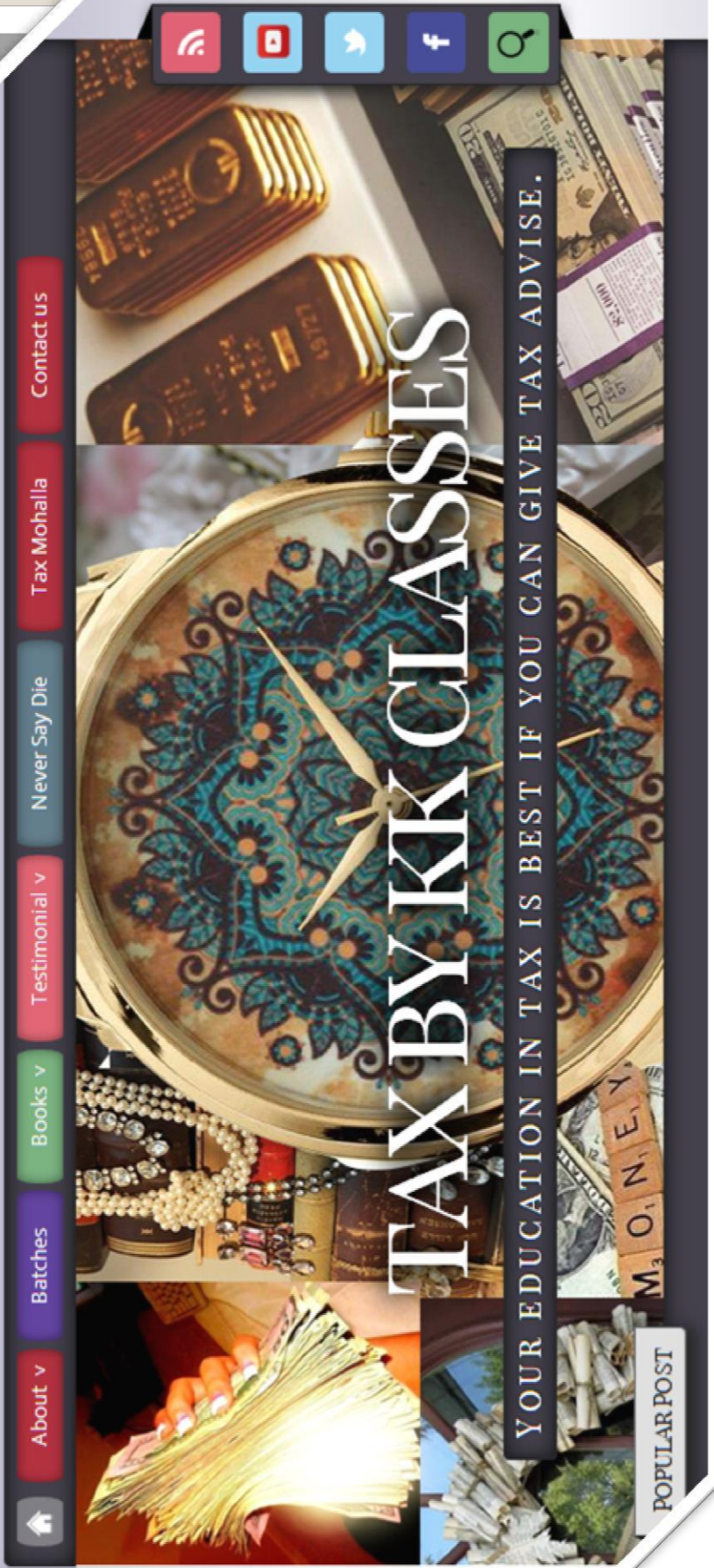
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Income tax + IDT	2-6-2014	MWF	8.30 to 11 a.m.	3 -4 months	Nov 2014 / Dec 2014
Income tax + IDT	To be announced	TTS	11 to 2.30 p.m.	5 months	Nov 2014 / Dec 2014
Income tax + IDT	To be announced	MWF	11 to 2.30 p.m.	5 months	Nov 2014 / Dec 2014
IDT	To be announced	MWF / TTS	3 to 5	3 months	Dec 2014

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