

**Direct Tax Paper 7**  
**Amendments applicable for December 2021 CA Final**  
**Examination**

**1) Amendment to Section 6: Residential Status**

**Residential Status – determined by the number of days of his stay in India**

- The exception provided in Explanation 1(b) to section 6(1), for Indian citizens and persons of India origin visiting India in that year has been decreased to 120 days, *only in cases where the total income of such visiting individuals during the financial year from sources, other than foreign sources, exceeds INR 15 lakhs.*
- The term ‘income from foreign sources’ has been defined to mean *income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).*

**Residential Status – Provision of ‘Deemed Resident’ applicable if total income exceeds INR 15 lakhs**

- The amendment to clause (1A), introduced by the Finance Bill, 2020 targeted individuals who do not spend considerable amount of time in any country so as to be treated as tax residents of such foreign countries.
- This created a lot of mis-apprehension in the non-resident Indian (NRI) community, especially for Indians who are *bona fide* employed in other countries or carry on business there, etc.; and who are not subject to tax in those countries as per the domestic tax law of those countries, will be taxed in India on the income that they have earned outside India.
- Hence, to avoid such misapprehension, the CBDT issued a Press Release dated 2 February 2020, *clarifying that in case of an Indian citizen who becomes deemed resident of India, income earned outside India by him shall not be taxed in India unless it is derived from an Indian business or profession.*
- The scope of clause (1A) has been now limited through the Finance Act, 2020, and shall only be applicable to such Indian citizens who meet the *threshold\**. Accordingly, all Indian citizens who fail to meet the threshold, but are not subject to tax in any other jurisdiction, will not be considered as Indian tax resident

*(\*Threshold: an individual, being a citizen of India, having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year)*

Deemed resident to be treated as 'Not Ordinarily Resident'

- The proposed relaxation to the Resident but Not Ordinarily Resident (RNOR) under the Finance Bill have been removed through the Finance Act, 2020, that is:

*The Finance Bill proposed to streamline the test for RNORs by providing that an individual or an HUF shall qualify as an RNOR, if such individual or manager of the HUF has been a non-resident in India for seven out of the ten previous years preceding that year*

- The Finance Act, 2020, now adds two categories to the test for RNOR in section 6(6).
- The below persons shall also be treated as RNOR:
  - Indian citizens/ persons of Indian origin who meet the threshold and have been in India for a period of more than 120 days but less than 182 days i.e. those Indian citizens / persons of Indian origin who fulfil the conditions mentioned above in Explanation 1(b) to section 6(1) and
  - Indian citizens who fulfil the conditions mentioned above in Explanation (1A) to section 6(1).
- The above amendments mean that even where an Indian citizen qualifies as a tax resident under section 6(1) of the Act but owing to the amendment as mentioned above to Explanation 1(b) and Explanation (1A) to section 6(1), he will still not be taxed on a worldwide basis (unless as per section 5 of the Act, such foreign income is derived from a business controlled in or a profession set up in India), even if he does exceed the threshold.
- The day count and total income criteria has to be examined every financial year
- The same shall be applicable from AY 2021-22

## **2. Section 43CA:**

### ***Special provision for full value of consideration for transfer of assets other than capital assets in certain cases***

Earlier, 5% variation in the value of consideration received or accruing as a result of transfer of an asset (other than capital asset) being land or building or both was allowed. Now, this variation rate is increased to 10%. It means,

if the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed one hundred and ten per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.

Consequently, even section 50C and section 56(2)(x)(B), are amended on a similar basis, and provides for a ten percent tolerance limit.

The above amendments are effective from AY 2021-2022.

### **3. Section 44AB:**

#### ***Audit of accounts of certain persons carrying on business or profession***

A new proviso to section 44AB(a) has been added, whereby the threshold limit for a person carrying on business who is required to get his accounts audited, has been increased from one crore rupees as provided in section 44AB(a) to five crore rupees, only in cases where both the below conditions are satisfied:

- aggregate of all receipts including sales, turnover or gross receipts, in cash during the previous year does not exceed five per cent of such receipt; and
- aggregate of all payments made including amount incurred for expenditure, in cash during the previous year does not exceed five per cent of such payment

– Further, to enable pre-filing of returns in case of persons having income from business or profession, it is required that the tax audit report may be furnished by the said assesseees at least one month prior to the due date of filing of return of income.

It means, as the due date for furnishing return of income U/s 139(1) is made as 31<sup>st</sup> October of relevant assessment year, the due date for submission of audit report under this section will be 30<sup>th</sup> September of relevant of assessment year.

### **4. Section 50C:**

#### ***Special provision for full value of consideration in certain cases.***

Earlier, 5% variation in the value of consideration received or accruing as a result of transfer of capital asset, being land or building or both, was allowed. Now, this variation rate is increased to 10%. It means, if the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed one hundred and ten per cent of the

consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.

Consequently, even section 43CA and section 56(2)(x)(B), are amended on a similar basis, and provides for a ten percent tolerance limit.

The above amendments are effective from AY 2021-2022.

**5. Section 55:**

***Meaning of “adjusted”, “cost of improvement” and “cost of acquisition”.***

The following proviso is inserted-

In case of capital assets being land or building or both, the fair market value [FMV] of such asset as on the 1<sup>st</sup> day of April, 2001 shall not exceed the stamp duty value, wherever available, of such asset as on 1<sup>st</sup> day of April, 2001.

**6. Section 57: Deduction**

As all the dividends are made taxable in the hands of recipient, the deductions from such income are brought in by inserting the following proviso.

No expenses are allowed as deduction *except the interest expenses* incurred to earn the income in the nature of Dividend or income in respect of units of MF specified under clause (23D) of section 10 or income in respect of units from a specified company defined in the explanation to clause(35) of section 10.

And such deduction *shall not exceed 20%* of the dividend income, or income in respect of such units included in the total income for that year.

**7. Section 80EEA:**

***Deduction in respect of interest on loan taken for certain house property.***

The benefit of deduction given under this section relating to the interest paid on the specified housing loans was allowed only to the loan availed on or before 31.03.2020. But now through this amendment, *this benefit is extended to the loans sanctioned before 01.04.2021.*

**8. Section 80GGA:**

***Deduction in respect of certain donations for scientific research or rural development.***

Earlier the donation could have been paid by cash upto Rs. 10000/-. But now through this amendment the limit is fixed to Rs. 2000/-. It means, any donations referred in Sec. 80GGA paid by cash exceeding Rs. 2000/- will not be allowed as deduction.

**9. Section 80M:*****Deduction in respect of certain inter-corporate dividends.***

This section was omitted by the Finance Act, 2003 w.e.f 01.04.2004. But now again brought into effect as the taxability of dividend is shifted from payer to the receiver.

As the dividend income is made taxable in the hands of recipient, this section aims to provide deduction to the companies receiving dividend from another company.

As per this section, Where the gross total income of a domestic company in any previous year includes any income by way of dividends from any other domestic company, there shall in accordance with and subject to the provisions of this section, be allowed in computing the total income of such domestic company, a deduction of an amount equal to so much of income by way of dividends received from such other domestic company as does not exceed the amount of dividend distributed by the first mentioned domestic company on or before the due date.

**10. Section 115BAA:*****Tax on income of certain domestic companies.***

This section is amended so as to provide deduction *U/s 80M: Deduction in respect of certain inter-corporate dividends* to the domestic Companies opting to pay tax @ 22%, without claiming any deductions as per this section.

It means, now the companies opting to pay tax under this section can claim deduction **U/s. 80M.**

**11. Section 115BAB:*****Tax on income of new manufacturing domestic companies.***

This section is amended so as to provide deduction *U/s 80M: Deduction in respect of certain inter-corporate dividends* to the domestic Companies opting to pay tax @ 15%, without claiming any deductions as per this section.

It means, now the companies opting to pay tax under this section can claim deduction U/s.80M.

**12. Section 115BAC:*****Alternative Tax Rates Slab for Individuals and HUF***

> If an individual and HUF exercises an option to not to claim various exemptions or deductions provided otherwise under the Act, the applicable slabs and tax rates will be as under

<b>Sl. No.</b>	<b>Total Income (Rs.)</b>	<b>Rate of Tax</b>
1	Upto 2,50,000	Nil
2	From 2,50,001 to 5,00,000	5 %
3	From 5,00,001 to 7,50,000	10%
4	From 7,50,001 to 10,00,000	15%
5	From 10,00,001 to 12,50,000	20%
6	From 12,50,001 to 15,00,000	25%
7	Above 15,00,000	30%

> Any individual or HUF who exercises such option shall not be eligible to claim various exemptions or deductions available under the Act including the following:-

- (i) Standard deduction of Rs.50,000
- (ii) Leave Travel Allowance under Section 10(5)
- (iii) House Rent Allowance under Section 10(13A)
- (iv) Certain allowances under Section 10(14) as will be prescribed
- (v) Deduction of interest up to Rs.2,00,000/- allowable under Section 24(b) in respect of self occupied property.
- (vi) Deduction of 1/3rd of family pension allowable under Section 57(iia)
- (vii) All deductions allowed under Chapter VI-A (except the deduction under Section 80 CCD(2) and Section 80 JJAA ) including of Rs. 1,50,000/- under Section 80C in respect of contribution to provident fund, life insurance premium and deduction of Rs.50,000/- as contribution to NPS under Section 80CCD (1B).
- (viii) Allowance for Minor Child Income allowable under Section 10(32) on clubbing of minor income  
In addition to the above, the following deductions/exemptions allowed while computing income of business or profession shall also not be available.
- (ix) Exemption for SEZ Unit under Section 10AA
- (x) Additional initial depreciation in respect of plant and machinery under Section 32(1)(iia)
- (xi) Investment allowance in respect of new plant and machinery in notified backward areas under Section 32AD

- (xii) Tea/Coffee/Rubber development benefit under Section 33AB
  - (xiii) Site restoration benefit under Section 33ABA
  - (xiv) Various deductions for donation for expenditure on scientific research or social sciences research under section 35(1)(ii), section 35(1)(iia), section 35(1)(iiaa) or under section 34(2AA)
  - (xv) Accelerated capital deduction for specified businesses under Section 35AD
  - (xvi) Expenditure on agricultural extension project under Section 35CCC
- > Further, such individual or HUF who exercises such option- Shall not be allowed to set off any loss or depreciation carried forward from an earlier assessment year if such loss or depreciation is attributable to any other deductions referred hereinabove.
  - > No set off of any loss under the head “**Income from House Property**” shall be allowed against income under any other head.
  - > Carried forward loss or depreciation shall be deemed to have given full effect to and no further adjustment in respect of such carried forward loss or depreciation shall be available meaning thereby that such loss or depreciation carried forward shall lapse.
  - > If the option to pay tax under section 115BAC is exercised in respect of assessment year 2021-2022, then the written down value of the *block of asset shall be increased by the amount of depreciation* carried forward which is not available for set-off due to the restrictions contained in the proposed newly inserted section 115BAC.
  - > To claim benefit by paying the tax at the applicable rates under this section, assessee *having business income* has to opt on or before the due date U/s 139(1) for furnishing return of income for any previous year relevant to assessment year on or after 01.04.2021 and such option once exercised shall apply to subsequent assessment years.
  - > To claim benefit by paying the tax at the applicable rates under this section, assessee *not having business income* has to opt *along with the return of income* to be furnished U/s 139(1) for a previous year relevant to assessment year.
  - > However if an assessee having business income exercises this option in a previous year and subsequently he can withdraw only once for a previous year other than the year in which it was exercised and thereafter, the person shall never be eligible to exercise option under this section except where such person ceases to have any business income in which case, he can opt the benefit available to person not having business income.

**13. Section 115BAD:*****Tax on income of certain resident co-operative societies.***

- > If a person being a co-operative society resident in India, exercises not to claim the exemptions and deductions provided otherwise under the act, then such person can pay tax at the rate of 22%.
- > To claim benefit by paying the tax at the applicable rates under this section, assessee has to opt on or before the due date specified U/s 139(1) for furnishing return of income for any previous year relevant to assessment year on or after 01.04.2021 and such option once exercised shall apply to subsequent assessment years.
- > Option once exercised for any previous year, it cannot be subsequently withdrawn for the same of any other previous years.
- > The income of the person shall be computed without giving effect of any of the following deductions/ exemptions – Sec 10AA, clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA of sub-clause (ii) of sub-clause (iia) of sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of Section 80JJAA.
- > Shall not be allowed to set off any loss or depreciation carried forward from an earlier assessment year if such loss or depreciation is attributable to any other deductions referred hereinabove.
- > Carried forward loss or depreciation shall be deemed to have given full effect to and no further adjustment in respect of such carried forward loss or depreciation shall be available meaning thereby that such loss or depreciation carried forward shall lapse.
- > If the option to pay tax under section 115BAD is exercised in respect of assessment year 2021-2022, then the written down value of the *block of asset shall be increased by the amount of depreciation* carried forward which is not available for set-off due to the restrictions contained in the proposed newly inserted section 115BAD.

**14. Section 115BBDA:*****Tax on certain dividends received from domestic companies.***

As per this section, the dividend received by the specified assessee exceeding Rs.10,00,000/-, such dividend received in excess Rs.10,00,000/- will be taxed at the rate of 10%. This provision will be applicable till AY 2020-21. From AY 2021-22, this section will be inactive.



**15. Section 115JC:*****Special provisions for payment of tax by certain persons other than a company. [Alternate Minimum Tax]***

- If an assessee opts to tax under Sec.115BAC or Sec.115BAD, then Alternate Minimum Tax is not applicable to such assessee.

**16. Section 115JD:*****Tax credit for alternate minimum tax.***

- If any assessee opts to pay tax under Sec.115BAC or Sec.115BAD and if any brought forward Alternate Minimum Tax [AMT] credit exists, such credit will lapse as it is not allowed to carry forward further.

**17. Section 115-O:*****Dividend Distribution Tax***

DDT is removed from AY 2021-22. It means, the companies are not required to pay tax on the dividend distributed by them. It will be taxed in the hands of recipient i.e., Shareholders.

**18. Section 115-R:*****Tax on income distributed to unit holders***

Tax on distributed income to unit holders is removed from AY 2021-22. It means, the specified company/mutual fund is not required to pay tax on the income distributed by them. It will be taxed in the hands of recipient i.e., Unit holders.

**19. Section 139:*****Due date for filing of ITR is amended as under-***

- a. Date of filing Audit Report delinked from date of filing return.
- b. For audit cases due date is changed as *31<sup>st</sup> Oct of relevant Assessment Year*.
- c. Earlier, the due date for filing ITR of *only the Working partner* was that of same for audit cases. But now, it is amended and made as due date for filing of ITR of *partners* (i.e., *both the sleeping and working partner*) will be that of audit cases (i.e. 31<sup>st</sup> Oct of relevant Assessment year).

**20. Section 194:*****TDS on Dividends***

- > The Company distributing dividend has to deduct TDS as under-
  - On dividend distributed in any Mode i.e., either in cash or cheque, etc.
  - If such dividend paid is more than Rs.5000/- (earlier it was 2500/-)
  - The rate of TDS is 10%

**21. Section 194A*****TDS on interest other than interest on securities:***

- > Keeping other things same as mentioned already in the section, Applicability for Individual and HUF (payer) is changed as under –  
If an Individual or HUF is having business turnover more than Rs. 1,00,00,000/- in the financial year immediately preceding the financial year in which such amount liable for tds is paid or credited &  
If an Individual or HUF is having professional receipts more than Rs. 50,00,000/- in the financial year immediately preceding the financial year in which such amount liable for tds is paid or credited, ***is required to deduct TDS.***
- > The scope of section 194A to deduct tax at source in respect of payment of interest is being widened in respect of the Cooperative Societies.
  - If the total sales, gross receipt or turnover of the Cooperative Society exceeds Rs. 50 crore during the financial year immediately preceding the financial year and the amount of interest to be credited or paid during the financial year is more than Rs. 40,000 in the case of such cooperative society, the cooperative society shall be required to deduct tax at the rate of 10% in case the amount of interest credited or paid or likely to be credited or paid during the financial year.
  - However, in the case of the senior citizen, the tax shall be required to be deducted at source in case this amount is more than Rs. 50,000/-

**22. TDS U/s 194C, 194H, 194I, 194J**

- > Keeping other things same as mentioned already in the section, Applicability for Individual and HUF (payers) is changed as under –
  - If an Individual or HUF is having business turnover more than Rs. 1,00,00,000/- in the financial year immediately preceding the financial year in which such amount liable for tds is paid or credited &
  - If an Individual or HUF is having professional receipts more than Rs. 50,00,000/- in the financial year immediately preceding the financial year in which such amount liable for tds is paid or credited,  
***is required to deduct TDS.***

**23. Section 194K: [newly inserted]*****TDS in respect of units***

- Any person responsible for paying to a resident any income in respect of Units,
- Shall deduct TDS at the rate of 10%
- If any sum paid is more than Rs. 5000/-

**24. 194-O:[newly inserted]*****Payment of certain sums by e-commerce operator to the e-commerce participant.***

- an E-commerce operator shall be required to deduct TDS at the rate of 1% at the time of credit of *amount of sale or service or both* to the account of the E-commerce participant or at the time of payment thereof to such participant by any mode, whichever is earlier.
- The rate of TDS is 1%
- The amount shall include the payment directly made by the purchaser of the goods or services to the E-commerce participant.
- However, this provision shall not be applicable for E-commerce participant if the E-commerce participant happens to be *an individual or HUF* and the gross amount of sales or services or both of such individual or HUF through such E-commerce operator during the year *does not exceed Rs.5 lakhs* and such E-commerce participant furnishes a PAN or aadhar Number.
- In case the E-commerce participant does not furnish PAN or Aadhar Number to the e-commerce operator, TDS shall be deducted at the rate of 5% under section 206AA of the Act

**25. Section 197:*****Certificate for deduction at lower rate***

For TDS under 194-O, lower deduction certificate can be obtained by the assessee.

**26. Section 271AAD:[newly inserted]*****Penalty for false or omitted entries found in books of accounts***

- If it is found during any proceeding under the Act that in the books of accounts maintained by any person, there is a (i) false entry or (ii) any entry relevant for computation of total income of such person has been omitted to evade tax liability, then such person shall be liable to pay by way of penalty, a sum which is equal to the aggregate amounts of such false entries or omitted entry.

- Further, penalty will be levied of the aggregate amounts of such false entries or omitted entry on any other person who causes the assessee in making the false entry or omits or causes to omit an entry.
- The term 'false entry' has been defined in an inclusive manner to include use or intention to use:
  - (a) Forged or falsified documents such as a false invoice, or a false piece of documentary evidence, or
  - (b) invoice for supply or receipt of goods or services or both issued by or received by the assessee in respect of which no actual goods or services have been provided or received; or
  - (c) Invoice issued for supply of goods or services or both issued by or received from a non-existent person.