

SMART NOTES INCOME TAX

[Part -7]
FOR AY 21/22



CA SACHIN GUPTA

CHAPTER – 18

INCOMES WHICH ARE EXEMPT

The following Amount are exempt u/s 10

SECTION	NATURE OF INCOME
10(2)	Sum received by member of HUF out of family Income
10(10BC)	Any amount from Govt or local authority by Individual or his legal heir for compensation on account of any Disaster
Sec10(11A)	Any payment from account, opened as per Sukanya Samriddhi Account Rules, 2014
10(16)	Scholarship to meet cost of education
10(17A)	Payment in Cash or Kind - For Award in public interest by Govt, or by body approved by Govt. - For Reward by Govt, for purpose approved by Central Govt.
10(19A)	Annual value of one palace in occupation of an ex ruler provided such annual value was exempt before 28.12.1971
10(20)	The following incomes of Local authority -House property -Capital gains -Other sources -Trade/Business income from supply of water /electricity <i>etc</i>
10(22B)	Income of Specified news agency set up in India solely for collection & distribution of news, <i>provided</i> does not distribute its income to its members
10(23A)	Income of Professional associations/institutions provided certain conditions are fulfilled. <i>However</i> , the following incomes are not exempt -Income from house property -Investment Incomes -Income from specific services to its member
10(23C)	Income of certain institutions like - Notified funds - Educational institutions not for profit - Hospital treating specified ailments not for profit - Fund /institutions for charitable purposes , having importance throughout India/States
10(24)	Following income arising to a registered trade union -House property -Income from other sources
10(39)	Any specified Income arising from any International sporting event held in India if such event is -approved by international body regulating such sport -has participation by more than two countries -is notified by central govt for this clause
10(43)	Amount received by an Individual as a loan, either in lumpsum or in instalment, in a transaction of reverse mortgage referred in sec 47

10(45)	Any allowance or perquisite, as may be notified Central Government, paid to Chairman/member Union Public Service Commission.
10(47)	Any income of an infrastructure debt fund, set up in accordance with prescribed guidelines
10(48)	Any income received in India in Indian currency by a foreign company on account of <u>sale of crude oil, any other goods or rendering of services, as may be notified by Central Government, to any person</u>
10(48A)	Any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India:
10(48B)	Any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or the arrangement
10(48C)	Any income arising to Indian Strategic Petroleum Reserves Limited, being wholly owned subsidiary of the Oil Industry Development Board as a result of arrangement for replenishment of crude oil stored in its storage facility in pursuance of directions of Central Government Provided that nothing contained in this clause shall apply to arrangement, if crude oil is not replenished in storage facility within 3 years from end of F/Y in which crude oil was removed from storage facility for the first time.
10(50)	Any income arising from any specified service provided on or after date on which the provisions of Chapter VIII of Finance Act, 2016 comes into force <i>or arising from any e-commerce supply or services made or provided or facilitated on or after 1/4/21</i> and chargeable to equalisation levy under that Chapter.

INCOME OF CHARITABLE & RELIGIOUS TRUST

Sec 12A : To claim exemption of its Income u/s 11 & 12, a Charitable/Religious trust should fulfil below condition

- Trust should be created for a lawful purpose
- Trust should be for **Charitable or Religious purpose**
- Property should be held under trust
- Person in receipt of income has made an application for registration of the trust/ institution in prescribed form & manner to Principal CIT/CIT & such trust is registered u/s 12AA or 12AB

• **Sec 12(1)(ac) :** Person in receipt of income has made application in prescribed form & manner to Principal CIT or CIT, for registration of trust, —

(i) if trust is registered u/s 12AA, within 3 months from 1/4/21;

(ii) if trust is registered u/s 12AB and period of the said registration is due to expire, at least 6 months prior to expiry of said period;

(iii) if trust has been provisionally registered u/s 12AB, at least 6 months prior to expiry of period of provisional registration or within 6 months of commencement of its activities, whichever is earlier;

(iv) if registration of trust has become inoperative due to first proviso of section 11(7), at least 6 months prior to commencement of A/Y from which the said registration is sought to be made operative;

(v) if trust has undertaken modifications of objects which do not conform to conditions of registration, within 30 days from date of said adoption or modification;

(vi) in any other case, at least 1 month prior to commencement of the p/y from which the said registration is sought;

- Accounts should be audited if TI before exemption u/s 11 & 12 Exceeds exemption amount, before the specified date referred u/s 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed;
- Trust should not be created for the benefit of particular community or caste
- Person in receipt of the income has furnished return of income for p/y u/s 139(4A), within the time allowed under that section.

Sec 12AB : Procedure for Fresh registration

(1) The Principal CIT or CIT, on receipt of application made u/s 12A(1)(ac), shall,—

(a) where application is made under sub-clause (i), pass an order in writing registering trust for a period of 5 years;

(b) where application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of the said clause,—

(i) call for such document/ information from trust or make such inquiries as he thinks necessary in order to satisfy himself about—

(A) Genuineness of activities of trust ; and

(B) Compliance of such requirements of any other law

(ii) after satisfying himself about objects of the trust and genuineness of its activities under item (A) and compliance of the requirements under item (B), of sub-clause (i),—

(A) pass an order in writing registering the trust for a period of 5 years; or

(B) if he is not so satisfied, pass order in writing rejecting such application and also cancelling its registration after affording a reasonable opportunity of being heard;

(c) where application is made under sub-clause (vi) of the said clause, pass an order in writing provisionally registering trust for 3 years from A/y from which registration is sought,

and send a copy of such order to the trust .

(2) All applications, pending before Principal CIT or CIT on which no order has been passed under clause (b) of sub-section (1) of section 12AA before the date on which this section has come into force, shall be deemed to be applications made under sub-clause (vi) of clause (ac) of sub-section (1) of section 12A on that date.

(3) The order under clause (a), sub-clause (ii) of clause (b) and clause (c), of sub-section (1) shall be passed before expiry of 3 months, 6 months and 1 month, respectively, calculated from end of month in which application was received.

(4) Where registration of trust has been granted under clause (a) or clause (b) of sub-section (1) and subsequently, Principal CIT or CIT is satisfied that activities of such trust are not genuine or are not being carried out in accordance with objects of trust, he shall pass an order in writing cancelling the registration of such trust after affording a reasonable opportunity of being heard.

Sec 2 (15) : Charitable & Religious purpose includes

- relief to poor,
- education,
- medical relief,
- preservation of environment (including watersheds, forests and wildlife)
- preservation of monuments or places or objects of artistic/historic interest and
- advancement of any other object of General Public Utility (GPU)

GPU shall not be a charitable purpose, if it involves carrying on Trade, Commerce for consideration unless

Aggregate receipts from such activity during P/Y, upto 20% of total receipts, of trust undertaking such activities, of that p/y.

Income from Property held under Trust

APPLIED for Charitable or Religious purpose :

Income applied is atleast 85% : 100% income is exempt

Income applied less than 85% : **Amount applied + 15% is exempt**

Voluntary contributions (Donation) forming part of corpus : Fully Exempt

However Any Corpus donation made by trust to Registered trust under 12AA/12AB or u/s 10(23C) will not be treated as application of Income

Business Income

- ❖ Business income arising from business carried on by trust is also Exempt u/s. 11 , Provided business is incidental to attainment of objectives of trust **and**
- ⊗ Separate books of accounts of such business are maintained.

115BBC : Tax treatment of Anonymous Donation

- (1) Income-tax @ 30% on aggregate of anonymous donations received in excess of **higher of following** : 5% of total donations or 1,00,000
- (2) Sec 115BBC shall not apply to any anonymous donation received by Trust created wholly for religious purposes

Section 13: Cases when Exemption u/s. 11 or 12 Not Available

Income used for private religious purpose, not for public benefit	Trust created for benefit of particular religious community	According to terms of trust, Income is to applied for benefit of specified persons u/s. 13(3)	During P/Y income used for benefit of specified person u/s. 13(3)
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Sec. 13(3): Specified Persons

- ❖ Author of Trust.
- ❖ Person contributed greater than 50,000/- during P/Y
- ❖ Where person above (in point 1 or 2) is a HUF, any member of such HUF
- ❖ Trustee/Manager of trust
- ❖ Relatives of above persons

CHAPTER - 19
TCS**1. Sec 206C : Tax Collected at Source (TCS)**

Every person, being a seller shall, at time of debiting of amount payable by buyer to account of buyer or at time of receipt of such amount from the said buyer in cash or by issue of cheque or draft or by any other mode, whichever is earlier, collect from buyer of goods, a sum equal to specified percentage of such amount as income-tax

Following are the items on which collection of TCS applicable:

Category A

1. Alcoholic liquor for human consumption : 1%
2. Tendu leaves : 5%
3. Timber obtained under a forest lease : 2.5%
4. Timber obtained by any mode other than under a forest lease : 2.5%
5. Any other forest produce not being timber or tendu leaves : 2.5%
6. Scrap : 1%
7. Minerals being coal or lignite or iron ore : 1%

Category B (Grant of lease\license o following)

Parking lot, toll plaza, mining and quarrying : 2%

Category C

Motor vehicle exceeding 10 lakhs : 1%

Category D [wef 1/10/2020] : 5%*

Authorised dealer, receives amount exceeding 7 lakhs, for remittance out of India from buyer, being person remitting such amount out of India under Liberalised Remittance Scheme of RBI

Seller of overseas tour program package, who receives any amount from buyer, being person who purchases such package,

**1.5% if Authorised dealer receives amount which is remitted out ,is loan obtained from any financial institution u/s 80E, for pursuing any education:*

Category E : 0.1%

Seller, receives consideration for sale of any goods aggregate of such value > 50 lakhs in any p/y, other than the goods being exported out of India shall,

If buyer has not provided PAN or Aadhaar number to seller, then u/s 206CC TCS shall be deducted @ 1%

TCS is not applicable if buyer is liable to deduct TDS under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount.

Buyer means a person who purchases any goods, but does not include,—

(A) Central Government, State Government, local authority embassy, High Commission, legation, commission, consulate and the trade representation of foreign State; or

(B) Person importing goods into India or any other person as Central Government may, by notification in the Official Gazette, specify;

Selle means person whose total sales from business exceed 10 crore rupees during f/y immediately preceding the f/y in which the sale of goods is carried out, not being a person as the Central Government may, by notification in the Official Gazette, specify

2. Sec 206CC : Collectee shall furnish his PAN to person responsible for collecting TCS, otherwise TCS will be collected at higher of the following rates :

- (i) Twice the rate or
- (ii) 5%

Reduction in TCS rates for the following specified receipts by 25% from 14th May, 2020 to 31st March, 2021

S. No	Section	Nature of Receipts	Existing Rate of TCS	Reduced rate from 14/05/20 to 31/03/21
1	206C(1)	Sale of		
		(a) Tendu Leaves	5%	3.75%
		(b) Timber obtained under a forest lease	2.5%	1.875%
		(c) timber obtained by any other mode	2.5%	1.875%
		(d) Any other forest produce not being timber/tendu leaves	2.5%	1.875%
		(e) scrap	1%	0.75%
		(f) Minerals, being coal or lignite or iron ore	1%	0.75%
2	206C(1C)	Grant of license, lease, etc. of (a) Parking lot	2%	1.5%
		(b) Toll Plaza	2%	1.5%
		(c) Mining and quarrying	2%	1.5%
3	206C(1F)	Sale of motor vehicle above 10 lakhs	1%	0.75%
4	206C(1H)	Sale of any other goods	0.1%	0.75% (w.e.f 01.10.2020)

CHAPTER - 20
MISSL SECTIONS**1.Sec 206A : Furnishing of statement in respect of payment of any income to residents without TDS**

Any banking company or co-operative society or public company referred to in the proviso to section 194A(3) responsible for paying to a resident any income not exceeding 40,000, where the payer is a banking company or a co-operative society, and 5,000 in any other case by way of interest (other than interest on securities), shall prepare such statement in such form, containing such particulars, for such period, verified in such manner and within such time, as may be prescribed, and deliver or cause to be delivered

2.Sec 269SU : Acceptance of payment through prescribed electronic modes.

Every person, carrying on business, shall provide facility for accepting payment through prescribed electronic modes, in addition to the facility for other electronic modes, of payment, if any, being provided by such person, if his total sales, turnover or gross receipts, as the case may be, in business exceeds 50 crores during the immediately preceding p/y.

Rule 119AA : Every person, carrying on business, if his total sales, turnover or gross receipts, as the case may be, in business exceeds 50 crores during the immediately preceding p/y shall provide facility for accepting payment through following electronic modes, in addition to the facility for other electronic modes

of payment, if any, being provided by such person, namely:—

- (i) Debit Card powered by RuPay;
 - (ii) Unified Payments Interface (UPI) (BHIM-UPI); and
 - (iii) Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code).
- w.e.f. 1-1-2020.

3.Sec 271DB : Penalty for failure to comply with provisions of section 269SU.

(1) If a person who is required to provide facility for accepting payment through the prescribed electronic modes of payment referred to in section 269SU, fails to provide such facility, he shall be liable to pay, by way of penalty, a sum of 5,000, for every day during which such failure continues:

Provided that no such penalty shall be imposable if such person proves that there were good and sufficient reasons for such failure.

(2) Any penalty imposable under sub-section (1) shall be imposed by JCIT.

4. Equalisation levy [Chapter VIII of FA 2016]

Sec 165 : Equalisation levy shall be charged @ 6% if consideration > 1 lakh for any specified service received or receivable by a person, being a non-resident from—

- (i) a person resident in India & carrying on business or profession; or
- (ii) a non-resident having a permanent establishment in India.

(2) The equalisation levy under sub-section (1) shall not be charged, where—

-Non-resident providing specified service has a PE in India & specified service is effectively connected with such PE

-where the payment for specified service by person resident in India, or PE in India is not for purposes of carrying out business or profession

Sec 165A. (1) *wef 1/4/2020, equalisation levy shall be charged @ 2% of amount of consideration received or receivable by e-commerce operator from e-commerce supply or services made or provided or facilitated by it—*

- (i) *to person resident in India; or*
- (ii) *to non-resident in the specified circumstances as referred to in sub-section (3); or*
- (iii) *to person who buys such goods or services or both using IP address located in India.*

(2) *The equalisation levy under sub-section (1) shall not be charged—*

- (i) *where e-commerce operator making or providing or e-commerce supply or services has a PE in India and such e-commerce supply or services is effectively connected with such PE;*
- (ii) *where equalisation levy is leviable under section 165; or*
- (iii) *sales, turnover or gross receipts, as the case may be, of the e-commerce operator from the e-commerce supply or services made or provided or facilitated as referred to in sub-section (1) is less than 2 crore rupees during the p/y.*

For the purposes of this section,—

- (a) *"specified circumstances" mean—*
 - (i) *sale of advertisement, which targets a customer, who is resident or a customer who accesses advertisement through IP address located in India; and*
 - (ii) *sale of data, collected from person who is resident or from person who uses IP address located in India]*

(b) *consideration received or receivable from e-commerce supply or services shall include—*

- (i) *consideration for sale of goods irrespective of whether the e-commerce operator owns the goods, so, however, that it shall not include consideration for sale of such goods which are owned by a person resident in India or by a permanent establishment in India of a person non-resident in India, if sale of such goods is effectively connected with such permanent establishment.*
- (ii) *consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator, so, however, that it shall not include consideration for provision of services which are provided by a person resident in India or by permanent establishment in India of a person non-resident in India, if provision of such services is effectively connected with such permanent establishment.*