CVOCA INDRADHANUSH

FOR STUDENTS
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From President's Desk...

Dear Students and Readers,

It brings me great joy to connect with our vibrant and dynamic student community, the future torchbearers of one of the world's fastest-growing economies. At CVOCA, we are dedicated to fostering your success, and we believe it is built upon six key pillars:

1. Hard Work: Forget shortcuts and embrace the power of dedicated effort. Remember, success is a journey, not a destination.

2. Patience: Great things take time. Remain focused and persistent, and witness slow, steady progress turn into remarkable achievements.

3. Sacrifice: True dedication often requires sacrifices. Remember, what you prioritize defines you, and true growth often comes through calculated choices.

4. Consistency: Consistency is the cornerstone of excellence. It transforms average efforts into extraordinary results by making progress a daily habit.

5. Discipline: While motivation ignites your journey, discipline fuels your long-term growth. Remain committed to your goals even when the going gets tough.

6. Self-Confidence: Believe in yourself and your abilities. Don't be swayed by external judgment. Forge ahead with confidence, knowing your worth and your potential.

We recently held the Student RRC at Keshav Shrusti Bhayander on February 21st and 22nd, 2024. We are thrilled to report that 74 students actively participated and gained valuable knowledge and skills through the 10-12 hours of intensive learning and upskilling sessions covering both technical and non-technical topics.

Looking Ahead:

Industrial Visit: We are planning an industrial visit to provide you with firsthand experience and valuable insights into your future career path. Stay tuned for further details!

Buddy-Mitram Mentoring Panel: Don't hesitate to reach out to our dedicated mentors for guidance with exams, articleship training, further studies, or any other support you may need.

We wish you a rewarding journey of continuous learning, upskilling, and building strong professional networks.

Looking forward to seeing you thrive!

Thank you all..... Always in Gratitude

Jeenall

CA Jeenal Savla

March 8, 2024

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FROM THE DESK OF CHAIRMAN

Dear students and readers,

In this ever-evolving world of industrialization, corporate law and taxation, it is crucial for each one of us to stay updated with the latest changes. From direct taxes like income tax to indirect taxes such as GST, from customs laws to corporate laws.

The recent updates in Indian tax legislation that are shaping the financial landscape of the country. So grab a cup of coffee and let's dive right in! Some of the Recent Developments in Indian Direct Tax laws are:

1. Introduction of New Tax Slab Rates
2. Faceless Assessment: This technology-driven approach enhances transparency, reduces corruption, and promotes efficiency in the taxation system.
3. Digital Initiatives
4. Increased Focus on Tax Compliance
5. International Taxation Reforms

Tax law is known for its complexity. Hence, our approach to helping high-net individuals and corporate entities in optimizing tax efficiency and managing compliance issues effectively is crucial.

Firstly, this notion of tax law being more complex than other laws is flawed. If one is honest and diligent in their subject, the complexity is of no consequence. If your basics/fundamentals are strong, nothing can stop you. This is evidenced by the fact that the greatest tax lawyers of the country do not necessarily have a tax background. Whilst I do agree that the dynamic nature of tax makes it challenging, that is precisely what also makes it interesting and exciting.

The Indian Tax Department is known to be one of the most aggressive departments world-wide, therefore, tax compliance ought to be a key consideration for any businesses. Till what is being done is within the four corners of the law, even if the position being taken is aggressive, should not deter the clients. That being said, one must be mindful of not being unrealistic under the garb of being aggressive. Hence, being primarily from a litigation background, the endeavor is to advice clients whilst keeping in mind the litigation exposures.

Let's have a look at couple of insights into your strategies for building a successful track record in representing clients in high-stakes tax litigation/consultation matters.

The strategy is very basic and simple. Read – Re-read the files and Repeat!!

Be thorough on facts and the relevant legal provisions. Something which you will learnt from your mentor/ principal. It is always first advisable, to go and read the relevant sections even if you have read them a thousand times. Trust me something as basic as reading the relevant provisions can sometimes lead to interpretations which you could not fathom earlier.

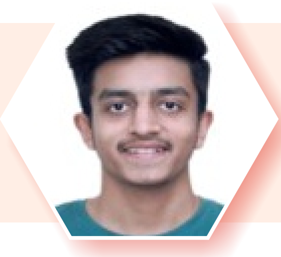
Secondly, ensure that all the relevant facts/documents are on record. Last but not least, court craft is extremely important in any consultation/litigation. Understanding which battle to pick and when to relent is extremely important. Harping on a point which apparently is not working, learn to let go and move on to the next one.

Believe me this strategy if you develop during your article ship time, then it will not only help in professional career but will also help you for final CA examination.

To sum up, if you are honest to yourself and your work, the world is your oyster.

Sd/-

CA Nilesh Dedhia
Chairman.



SIGNIFICANT ECONOMIC PRESENCE IN INDIA: EXPANDING THE NEXUS BETWEEN TAXATION RIGHTS AND BRICK AND MORTAR BUSINESSES.

Parth Gada

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"*The oranges upon the trees in California are not acquired wealth until they are picked, not even at that stage until they are packed, and not even at that stage until they are transported to the place where demand exists and until they are put where the consumer can use them. These stages, upto the point where wealth reached fruition, may be shared in by different territorial authorities.*"

This is quote included by the Government in the memorandum to the finance bill, 2018 while introducing the concept of Significant economic presence("SEP").

Need for a digital nexus:

Advent of modern technology and development in information systems has resulted digital businesses across the world to gain boom and led to mass scale globalisation. Businesses now a days do not require any physical presence in a particular country to earn revenue or establish their customer base. This has led to a massive shift from brick-and-mortar business to digitally enabled businesses. Such businesses operate globally and earn revenues from across the borders including India without falling under the tax net. This is possible due to their digital presence and country's prima facie focus on the physical presence to link revenue with taxation rights. India has entered into bilateral treaties with various countries according to which the business profits of a non-resident would be taxable only on existence of a permanent establishment ("PE") in India. This caused the global companies to set up their physical establishments in a low tax jurisdiction area while earning huge incomes digitally from higher tax jurisdiction areas without any real presence and escaping the tax provisions.

This gave birth to the practice of profit erosion and consequently led to tax leakages which was a point of concern for the Organization for Economic Cooperation and Development ("OECD"). Hence OECD introduced the concept of SEP to provide a mechanism to the countries for earning their fair share of tax from the profit pies earned by the global companies.

What is SEP?

To counter the hurdles identified above, the OECD had begun is work on the Base Erosion Profit Shifting ("BEPS") and had laid down 15 Action plans. Out of these 15 Action plans genesis of the SEP concept can be traced to the BEPS Action Plan 1. Thereby, taking leaf from OECD's action plan, India introduced SEP in its domestic tax law. Since there are a lot of hassles in taxing the digital income, the action plan had laid down three interim measures to plug the leakages:

- Consideration of digital nexus for determining the taxing rights: The presence of a business in any jurisdiction should be based on its digital/technological footprints rather than its physical presence.
- Withholding tax on digital transactions
- Equalization levy

India even though being an observer to the OECD decided to adopt the BEPS action plan 1 and hence introduced explanation 2A to section 9(1)(i) vide Finance Act 2018. Accordingly, the definition of business connection was amended to include SEP under section 9(1)(i) of the Income Tax Act,1961 ("Act"). Thus, bringing the Indian tranche of global businesses within the ambit of the domestic taxation system

Now, it is important to understand what conditions should be fulfilled for establishment of a business connection through existence of SEP in India. The legislature has laid down the following conditions:

i. Transaction in respect of any goods, services or property carried out by a non-resident with any person in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed; or

ii. Systematic and continuous soliciting of business activities or engaging in interaction with such number of users in India, as may be prescribed.

Further as per proviso to explanation 2A, the abovementioned transactions/activities would constitute a SEP in India irrespective of the facts such as:

- The agreement for such transactions or activities is entered in India; or
- the non-resident has a residence or place of business in India; or
- the non-resident renders services in India.

Therefore, the parliament has enlarged the definition of business connection. For instance, if a non-resident who neither lives in India nor has a place of business in India provides any goods/services outside India to a person in India would also be covered by the explanation and deem to have a SEP in India leading to business connection within the meaning of section 9.

The BEPS Action plan 1 laid down the view that a taxable presence in a jurisdiction would be established on existence of SEP and having a Permanent establishment may not be paramount.

Prior to the introduction of concept of SEP, one of the situations where a business connection would be established is where any business activity was habitually undertaken through an agent in India. By the virtue of this amendment, a company's SEP in India itself would establish a business connection and accordingly the provisions of section 9(1)(i) would be attracted. Hence, the income generated from the Indian operations of such company would deem to accrue or arise in India and be liable to tax at 40% on net basis.

If simply put, **SEP is nothing but a digital PE**. If PE doesn't get you, SEP sure would.

It is further provided that only the income attributable to the transactions/activities carried out in India would deem to accrue or arise in India and be taxed on net basis.

The legislature has also clarified that attributable income from Indian operations would include any:

- Advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;
- Sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and
- Sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India.

Though in 2018 the scope of business connection was expanded, the operability of SEP was not effective as its thresholds were not notified.

CBDT vide notification no. 41/2021 issued on 3rd May 2021 notified the following threshold limits for effective application of the SEP concept:

- For Transactions based condition the revenue threshold of Rs. 2 Crore is prescribed.
- For User based condition threshold of 3 lakh users is prescribed.

Though the provisions of SEP were introduced for more than 3 years prior to 2021, the thresholds are effective from 1 April 2022, i.e. assessment year 2022-23 onwards which is also the effective date of the SEP provisions.

In a nutshell, if any non-resident enters into a defined transaction for a consideration exceeding Rs 2 crore or engages in an interaction with users in India exceeding 3 lakhs would have a SEP in India which in turn establishes a business connection rendering the Indian operations taxable under the domestic laws.

Tax Treaty Implications:

It would be of paramount importance for us to understand the interplay between SEP and the international tax treaties entered by India with other countries. To curb the issue of double taxation of income, India has entered into Double Taxation Avoidance Agreement (DTAA) with all the major countries.

The DTAA provides that one of the pre-requisites for taxing rights is existence of a Permanent Establishment (PE) in the source country i.e. India. PE is nothing but a nexus of the non-resident in the source country which triggers the domestic tax laws. PE may include a branch, an office, a Factory or even a Workshop. Hence it can be said that business profits of non-residents are taxable in India only on existence of a PE.

It is important to note that India majorly acts as the source country when the companies tap the growing and emerging market. In absence of specific provisions in the treaties, the taxation rights in regard to such transaction is severely affected. As on date, no treaty includes the concept of SEP. Therefore, SEP is restricted to domestic taxation system and has no implications in cases where treaty benefit is availed. Further as per the understanding drawn from section 90 of the Act the domestic tax laws cannot override the tax treaty. Therefore, the extended scope of business connection/PE will not be applicable to non-residents claiming treaty benefits.

Therefore, the non-residents entitled to the treaty benefits would continue to be governed by the traditional PE definition as opposed to the dynamic SEP concept. This massively narrows down the application of SEP as India has already entered into DTAA with all the major players in the global economy.

Thus, SEP would be applicable in cases where the non-residents are from the jurisdictions with whom India does not have a DTAA yet or where the non-residents are not eligible for claiming the treaty benefit.

Such ineligibility could be either due to non-submission of Form 10F, failure of providing tax residency certificate, applicability of anti-avoidance provisions such as General Avoidance Rule (GAAR) or failure to fulfil the Principal Purpose Test (PPT).

Moreover, many legal luminaries as well as tax laureates have stated that merely bringing the SEP concept is not enough and the treaties should be amended in this context as well. Even the Government while introducing the concept had clarified in its memorandum to the Finance Bill, 2018 that existing treaty rules will apply until corresponding modification are made to the PE rules in the DTAAs.

Hinderances and ambiguities:

Since SEP is an evolving concept, there are various challenges and roadblocks in its effective implementation. Various clarifications are required from CBDT for our better understanding. Below mentioned are few of the concerns:

- Definitions/Meanings of various terms used in the section have not been assigned such as “systematic and continuous”, “soliciting of business” or “interaction with users”. Further the meaning of “download of data or software” is quite broad and open which will lead to many interpretations.

- Similarly, the clarity as to whether these transactions/activities would constitute SEP irrespective of it being undertaken through digital means or not is missing.

- Further, the revenue threshold of Rs 2 crore seems to be extremely low. For instance, any foreign company desiring to do business in Indian market could be discouraged due to the tedious compliances on getting covered under the scope of SEP. Hence, this shall be a matter of concern for Indian law makers to fixate a reasonable monetary threshold so that SEP provisions do not get easily attracted to every foreign company.

- Whether the term “users in India” shall mean people residing in India or merely operating from an IP address located in India. If the latter is the case, then even occasional tourists travelling to India and accessing any website/shopping online for their home consumption in another country would be included for computing the user threshold of 3 lakhs.

- Another major area of dispute is the manner of profit attribution to the Indian operations of a global business. Due to absence of any guidance, can It be assumed that businesses are required to follow rule 10 of the Act for attributing the profits taxable in India due to SEP? Although in the draft rules issued by the CBDT on 13th July 2018, it is provided that only so much of income as is attributable to the transactions or activities referred above shall be deemed to accrue or arise in India. This matter is still open for interpretation until any further rules have been notified/finalised.

- If the scope of SEP is to be broadened, India would be required to renegotiate and reframe its existing DTAAs to include SEP in the PE definition and thereby establish a digital nexus for gaining taxation rights. Hence unless the DTAA's are amended the application of SEP would be restricted to the non-residents to whom treaty benefits are unavailable.

Conclusion:

These issues are likely to open doors to litigations during the assessment stages. To conclude, SEP is an evolving concept which requires further measures for a global consensus and seamless application. Nevertheless, it is a progressive step in breaking the shackles for e-commerce taxation and avoiding tax erosion.

Being a developing concept, all eyes are on the Government in regard to its implementation.

TAXATION ON VIRTUAL DIGITAL ASSET

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Background:

Virtual Digital Assets ("VDA") refer to any digital representation of value that can be digitally traded, transferred or used for payment. They have many potential benefits and dangers. They have gained tremendous popularity in recent times and the volumes of trading in such digital assets has increased substantially. They have the scope to make payments easier, faster and cheaper, and provide alternative methods for those without access to regular financial products.

The magnitude and frequency of these transactions have made it imperative to provide for a specific tax regime. There were no provisions and regulations governing the taxability of VDAs earlier. With this background a new taxation framework for VDAs was introduced and a new Section 115BBH was inserted in Income Tax Act 1961("the Act") for taxation of VDAs. The provisions relating to VDAs have come into force from April 1, 2022 except provisions for tax withholding which came into force from July 1, 2022.

What does Virtual Digital Asset Means?

Before going into taxation of VDAs let us first understand what does VDA mean or what is included in VDA. As per Section 2(47) of the Act, Virtual Digital Asset means -

1. *Any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;*

2. *Non-fungible Token (NFT) or any other token of similar nature, by whatever name called;*

3. *Any other digital asset, as the Central Government may, by notification in the Official Gazette specify.*

The government has so far not issued any detailed clarifications or classification regarding what would form part of VDAs. VDAs include crypto currency, NFTs or another virtual digital asset as notified by the Central Govt. It will not cover subscription to any OTT platforms, mobile applications, e-commerce platforms etc. Virtual means "not real" i.e. an asset which cannot be touched or felt and digital means any information or code or number or token generated electronically. VDA refer to any digital representation of value that can be digitally traded, transferred or used for payment.

Central Boar of Direct Taxes (CBDT) has issued two notifications for providing further clarity on VDAs. CBDT vide Notification 74 of 2022 provided exclusions from the definition of VDA:

Gift card or vouchers that may be used to obtain goods or services or a discount on goods or services

Mileage Points, Reward Points or loyalty card that may be used or redeemed only to obtain goods or services or a discount on goods or services.

Subscription to websites or platforms or application

CBDT Notification No. 75 of 2022 provides for exclusion of NFTs from definition of VDA. As per the said notification, *a non-fungible token whose transfer results in the transfer of ownership of the underlying tangible asset, and the transfer of ownership of such underlying asset is legally enforceable*, is carved out from definition of VDA.

Taxability of VDAs prior to 31.03.2022:

Different approaches were adopted by taxpayers for taxation of VDAs depending on character in respective hands of assessee. Income was considered taxable under the head "Income from business and profession" where VDA was held as business commodity or under head "Capital Gains" if held as a capital asset or investment. In case of stray transactions in VDA, the same was taxable as residuary income under the head "Income from other sources".

Taxability of VDAs from 01.04.2022:

Section 115BBH has been inserted with effect from 01.04.2023 i.e. financial year beginning 01.04.2022. As per this section income from transfer of VDAs will be taxed at 30% flat rate.

No deduction of any expenditure (other than cost of acquisition) or allowance or set off of any loss shall be allowed in computing the income under this section. No loss shall be allowed to be set off from transfer of VDAs neither such loss will be eligible for carried forward to succeeding assessment years.

The section has laid down separate system for taxation whereby income from transfer of VDAs shall be taxable at 30%. The tax shall be charged irrespective of fact that income of assessee is below threshold limit or assessee has sustained loss. Further loss from transfer of VDAs is not eligible for set off against any income including income from transfer of VDAs.

Head of Income:

Even though income from taxation of VDAs is governed by Section 115BBH of the Act, government has not clarified regarding the head of income under which income from transfer of VDA will be taxable. Let's understand how the income will be taxable in different heads of income.

Income from Business or Profession

- If the transaction in VDAs are frequent and voluminous and where VDAs are held as stock in trade, it may be held that assessee is engaged in is trading of such assets and income from sale of VDAs will be considered as business income.
- The net income will be taxable @ 30% plus surcharge plus cess.
- Under business head surcharge can be levied up to 37%.

Capital Gains

- VDAs may be classified as income under the head capital gains if purchased by assessee for investment purpose. Once income is classified under capital gains then further classification relating to long term and short term would depend on period of holding.
- If held more than 36 months it will be treated as long term gains and if less than 36 months it will be short term gains.
- The tax will be leavied @ 30% plus surcharge plus cess.
- If it is long term surcharge will be restricted to 15% in case of short term it will be 37%.

IFOS

- In case of stray transaction in VDA, income would be reported under income from other source.
- If a person receives a VDA without consideration (gift) or for inadequate consideration and the value of such benefit exceeds Rs. 50,000, it shall be taxable in the hands of the recipient under Section 56(2)(x) as income from other sources.

Sec 194S: Payment on transfer of VDA (Applicable from 01/07/2022)

Nature of Payment	Payer	Payee	Limit	Rate
Consideration for Transfer of VDA	Any Person	Resident Person	Consideration> Rs 10,000	1% of Consideration
Consideration for Transfer of VDA	Specified Person*	Resident Person	Consideration > Rs 50,000	1% of Consideration

* *Specified Person* means a person being an individual or a HUF, not having any income under Head "Profits & Gains from Business & Profession or having any income under Head "Profits & Gains from Business & Profession" whose previous year Turnover or Gross Receipts does not exceed Rs 1 crore in case of Business and Rs 50 lakhs in case of Profession.

The tax shall be deducted at time of payment by any mode or at the time of credit of such sum to the account of the resident, whichever is earlier. In case of specified persons obtaining of TAN is not mandatory. For other persons, TAN is mandatory.

Below examples will clarify TDS provisions:

Date of Sale or Exchange	Nature of transaction	Consideration	PAN of payee available	Payer is a specified person	TDS	Remarks
01-03-2022	Cash	15,00,000	Yes	No	–	Not applicable on transaction done before 01-04-2022
01-04-2022	Cash	9,000	Yes	–	–	Consideration is less than Rs. 10,000 in a financial year
01-04-2022	Cash	45,000	Yes	Yes	–	Consideration is less than Rs. 50,000 in a financial year
01-04-2022	Cash	10,00,000	Yes	No	10,000	TDS at the rate of 1% of consideration
01-04-2022	Cash	10,00,000	No	No	2,00,000	TDS at the rate of 20% of consideration under Section 206AA
02-04-2022	Car	10,00,000	Yes	Yes	10,000	Before releasing the consideration, the deductor shall ensure that tax has been deducted and paid in respect of such consideration.

TDS ON PAYMENT TO NON-RESIDENTS

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Wait a second, what!? TDS is applicable on payment to non-residents as well!? But if the income is received outside India, why would tax implications arise on such transactions in India? Aur yeh TDS kahaan se aaya picture mein?

Draft karnewaalon ne puri Ramayanlikh di, and you are asking ki Ram kauntha? Chalo phir, let's get some clarity. It all starts with King Dashrath, i.e., Section 9 of the Income-tax Act, 1961 ('the Act').

Chargeability of income under the Act:

Firstly, Indian Taxation is based on the concept of Accrual, i.e., all incomes accruing/received in India are taxed in India, unless specified otherwise. Further, clause (i) of sub-section(1) of Section 9, prescribes that income shall be deemed to be accrued in India if it arises, directly or indirectly, through or from any business connection, any property, any asset or any source of income, or through any transfer of a capital asset in India. These terms are defined in detail in Section 9.

So yes, if any income accrues to a non-resident, by one or more of the above ways, such income would be taxable in India, unless stated otherwise, even if it is received out of the country.

Here arises an issue. Most non-residents, if not all, who are deriving some sort of income from India do not have a PAN or file returns in India. So, how can we tax such incomes? What tools may be used for the same? Herein lies the answer to the question that yeh TDS picture meinkaiseaaya.

With a significant growth of international markets due to the heavy impact of globalization, promotion of multi-national businesses and a never-before-seen interconnect between the countries, the number of cross-border transactions is on a steep rise. This makes it even more important to incorporate a stable and sustainable system of tax recovery by the government, to reduce the risk of misuse of powers and resources, especially in times where operations are highly liberalized. TDS surely proves to be one such system.

It would be tedious, if not impossible, to track down each and every income being received outside India. Here, a well-designed mechanism for recovery of tax before such money is transmitted outside India, TDS provides a way out. Provisions for deduction of tax in cases where payments are to be made to a non-residentare laid down in Section 195 of the Act.

TDS Provisions under Section 195 of the Act:

Section 195(1) of the Act says that 'any person' responsible for paying to a non-resident, any sum chargeable to tax under the provisions of the Act, shall at the time of credit or payment, whichever is earlier, deduct income-tax thereon at the *rates in force*[1]. Hence, in case of payment made by any person to any non-resident, which is taxable in India, tax should be deducted under Section 195 of the Act. However, certain sections such as 194LB, 194LC and 194LD, lay down provisions for taxing certain specific incomes payable to a non-resident. If any transaction falls under such sections, the provisions of such sections shall prevail over the provisions of Section 195.

It is important to note that TDS is not applicable in all cases where payments have to be made to non-residents, but in only those cases where such sum is chargeable to tax in India, i.e., is accrued or deemed to accrue or arise in India as per the provisions of Section 9 of the Act.

[1] *As per Part II of Schedule I of the relevant Finance Act.*

Example: TDS rates in case of income by way of capital gains earned by non-resident individuals:

Income by way of short-term capital gains referred to in section 111A	15 per cent
Income by way of long-term capital gains referred to in section 112(1)(c)(iii)	10 per cent
Income by way of long-term capital gains referred to in section 112A exceeding INR 1,00,000/ -	10 per cent
Other income by way of long-term capital gains	20 per cent

What is interesting to see here is that TDS might be deductible when a non-resident makes payment to another non-resident (sum is neither paid nor received by an Indian resident), provided such incomes are deemed to accrue or arise in India as per Section 9 of the Act.

Now that you're aware that TDS may have to be withheld in case of payment to non-residents, apniRamayan ko aagebadhatehain.

So, tax is to be deducted under Section 195 of the Act on payments made to non-residents at the rates applicable as per the Finance Act, right? Seems easy. But that's not all. After all, what's life without a little complication;)

Introduction to Double Tax Avoidance Agreement:

The Indian tax structure levies tax on incomes received by non-residents, however, the respective nations of the goods/service provider ('Contracting State') would also want to tax the same, on the contention that such income is received in such Contracting State. This can trigger double-taxation and fallout between the dealing countries. In case of such difficulties, Section 90 and 90A come to the rescue.

Sections 90 and 90A enable the Indian Government to enter into contracts with other nations or adopt such agreements entered into by specified associations of both countries respectively. Such agreements basically provide logical conclusions about taxability of an item in one of the two countries dealing in a particular transaction. Such agreement/contract is also known as the 'Double Taxation Avoidance Agreement' or 'DTAA' or a 'tax treaty'.

A DTAA is to be referred under such circumstances where certain income is taxable in both the countries that are part of a transaction. It is a pact signed by two nations that encourages capital investment, trade in goods and services, and other economic activities between the two nations by preventing International Double Taxation. This suggests that there are agreed-upon tax rates and jurisdictions for certain types of income that originate in one country and are received by tax residents of another country.

Comparison between the Act and the relevant DTAA:

Adding on, section 90 or 90A of the Act, as the case maybe, provides that tax on such incomes should be calculated at the rates as per relevant Finance Act, or rates specified in respective DTAAs, whichever is ***more beneficial*** to the ***taxpayer***. Accordingly, TDS shall be withheld under section 195 of the Act at such rates, wherever applicable. With this, the circle of withholding tax implications in case of payments to non-residents, comes to an end.

Example:

Let's cover it all together with an example.

Que: Say, Illogical Publications Limited, a company incorporated India, publishes a book written by Mr.Ban Drown, an author from the United States of America. As per the terms of contract entered by the parties, the publication house has to pay a royalty of 2% of the MRP of the book on every copy of Mr. Drown's book sold in India, as a consideration to acquire the right to publish the book.As the advisor of Illogical Publications Limited, you are required to shed light on the withholding tax implications on payment of such royalty.

Ans:

Understanding the Transaction:

Illogical Publications Limited ('IPL') has published a book written by Mr. Ban Drown. As per the agreement between both the parties, IPL is required to pay Mr. Drown, a royalty of 2% of the price of the book on every copy sold.

Analysis:

The provisions of section 195 of the Income-tax Act, 1961 ('the Act') requires every person responsible for making a payment to a non-resident of any sum chargeable to tax under the Act, to withhold tax at the time of credit in the books of account or at the time of payment, whichever is earlier.

Taxability under the Act:

- Royalty has been defined under Explanation 2 to section 9(1)(vi) of the Act to inter alia include the consideration for transfer of all or any rights (including the granting of a license) in respect of any literary work. Looking at this definition, our transaction squarely falls under the ambit of 'Royalty'.

- On referring Part II of Schedule I of the Finance Act 2023, we come to know that income of a non-resident by way of royalty shall be taxed at the rate of 20% (plus applicable surcharge and cess).

For comparison, we now evaluate the provisions of the India – USA DTAA ('the DTAA').

Taxability under the DTAA:

- Clause 1 and 2 of Article 12 of the DTAA prescribes a TDS rate of 20% of the gross amount payable in case of royalties.

- Clause 3 of Article 12 of the DTAA defines royalty, *inter alia,* payments of any kind received as a consideration for the use of, or for right to use, any copyright of a literary work.

- Thus, one may conclude that the tax rate applicable as per the India – US DTAA in case of the instant transaction would be 20%.

- One interesting point to note here is that no surcharge or cess needs to be calculated in addition to the 20% under the DTAA since in Article 3 of the DTAA implies that the tax rate mentioned in the DTAA covers all taxes including income tax and surcharge thereon.

Conclusion:

Although a rate of 20% is applicable in both the cases, i.e., under the Act and under the provisions of the DTAA, additional surcharge and cess would be required to be calculated under the Act, however, the same is not required in case of the DTAA. Since a flat rate of 20% would be more beneficial to the taxpayer, treaty benefit should be availed.

Additional Masala:

At last, here are some other related points to be considered at the time of dealing with transactions with a non-resident:

1. To avail the treaty benefit, certain documentation is necessary to be obtained from payee -Form 10F, Tax Residency Certificate issued by the appropriate authorities, No PE ('Permanent Establishment') Declaration and in cases where the payee does not have a PAN in India, a declaration as per Rule 37BC.

Further, where PAN is not furnished by the payee, and no declaration is provided, penalty provisions of section 206AA of the Act shall be applicable. Accordingly, TDS would have to be deducted at higher rates as prescribed in section 206AA.

2. Information in Form 15CA (filed by the payer) and 15CB (filed by a CA) would have to be furnished to the Income Tax Department in accordance with Rule 37BB of the Income-tax Rules, 1961.

3. Foreign tax credit in respect of taxes paid in India could be availed by the non-resident pertaining subject to the provisions of the tax treaty with the respective countries and the laws of respective States.

4. If the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at lower rates than the rates prescribed / no deduction of income-tax, a certificate may be obtained from him to that extent[2]. Accordingly, tax on such incomes is to be deducted as per the rates specified in such certificate.

One would have to carefully read the relevant provisions of the Act along with the DTAA for understanding the implications of the above points.

The magic of these provisions lies in the fact that implications of each and every transaction are different. One must analyze every transaction separately and take a call on the withholding obligations, which I find to be extremely engaging and intriguing. There's no such thing as monotony and even the slightest of differences can lead to changes in taxability of a transaction. The subtlety and depth of these well-crafted laws is definitely a thing of beauty!

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[2] *Section 197*

OLD TAX REGIME VS NEW TAX REGIME

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- The very first question which comes to our mind when we deal with tax is that who introduced the concept of Income tax in India? And the answer to that question is "James Wilson", the first Finance Minister of the British Indian Government.

- Income tax is a type of levy that the Central Government charges on the income earned during a financial year by the individuals and businesses. Each taxpayer is taxed differently under the Indian income tax laws. While firms and Indian companies have a fixed rate of tax computed on their profits; the individual, HUF, AOP and BOI taxpayers are taxed based on the income slab they fall under. People's incomes are grouped into blocks called tax brackets or tax slabs. And each tax slab has a different tax rate.

- With a view to make the new personal tax regime u/s 115BAC more attractive and to encourage more and more individuals to switch to the new regime, in order to reduce the perceived complexities in return filing and assessments arising out of the plethora of deduction claims of the taxpayers, applicable in the old regime, the Union Budget 2023 has increased the available limit of rebate u/s 87A, from existing Rs. 5 lakhs to Rs. 7 lakhs in the new personal tax regime, w.e.f. financial year 2023-24 and onwards. These changes indicate the government's intention to have taxpayers transition to the new regime and eventually phase out the old one. Though the new regime is now the default tax regime, the old tax regime will continue to exist.

- Finance Act 2023 has provided that the New Tax Regime under section 115BAC would also be applicable to Association of Persons (other than co- operative society), Body of Individuals and artificial jurisdiction person in addition to Individuals and HUFs.

- **Introduction of New Tax Regime ('NTR'):**

Beginning April 1, 2020 (FY 2020-21), the Government of India introduced a new tax rate regime for individuals and Hindu undivided families (HUF) by way of insertion of section 115BAC in the Income Tax Act. The new scheme was introduced with lower tax rates for those foregoing certain exemptions.

As per the erstwhile provisions, the NTR was optional and the taxpayers had an option for being covered by the new scheme in the prescribed manner:

(i). Where such individual or HUF does not have has no business income, the option was to be exercised for every year on or before the due date of along with the filing of the return of income under section 139(1) for the year

(ii). Where such individual or HUF has business income, the option was to be exercised on or before the due date of filing the return of income and such option once exercised shall apply for that previous year and to all subsequent years.

Finance Act 2023 has amended the provisions to provide that NTR under section 115BAC would apply by default unless the taxpayer exercises an option to opt for the old regime.

➢ **Tax Rates, Rebates & Surcharge under both tax regimes:**

Old Tax Regime for AY 2024-25

a) **Every Individual, HUF, AOP, BOI, AJP and Non-Residents:**

Income Slabs	Tax Rates		
	Individuals	Senior Citizens	Super Senior Citizens
Upto Rs. 2,50,000	-	-	-
Rs. 2,50,001 – Rs.3,00,000	5%	-	-
Rs. 3,50,001 – Rs.5,00,000	5%	5%	-
Rs. 5,00,001 – Rs.	20%	20%	20%
Above Rs.10,00,000	30%	30%	30%

b) **Rebate and Surcharge Rates:**

- In case of Old Tax Regime, rebate u/s 87A continues at Rs 12,500 if total income does not exceed Rs 5 lakhs.
- Surcharge on income taxable u/s 111A (STCG), 112A (LTCG) from all assets and dividend income would be restricted to 15%

Income Slabs	Surcharge Rates
Upto Rs. 50,00,000	-
Rs. 50,00,001 – Rs. 1,00,00,000	10%
Rs. 1,00,00,001 – Rs. 2,00,00,000	15%
Rs. 2,00,00,001 – Rs. 5,00,00,000	25%
Above Rs. 5,00,00,000	37%

New Tax Regime for AY 2024-25 (Sec 115BAC):

a) Every Individual, HUF, AOP, BOI, AJP and Non-Residents:

Income Slabs	Tax Rates
Upto Rs. 3,00,000	-
Rs. 3,00,001 – Rs. 6,00,000	5%
Rs. 6,00,001 – Rs. 9,00,000	10%
Rs. 9,00,001 – Rs. 12,00,000	15%
Rs. 12,00,001 – Rs. 15,00,000	20%
Above Rs. 15,00,000	30%

b) Rebate and Surcharge Rates:

Income Slabs	Surcharge Rates
Upto Rs. 50,00,000	-
Rs. 50,00,001 – Rs. 1,00,00,000	10%
Rs. 1,00,00,001 – Rs. 2,00,00,000	15%
Rs. 2,00,00,001 – Rs. 5,00,00,000	25%
Above Rs. 5,00,00,000	25%

- Please note that the tax rates under the NTR are the same for all categories of Individuals, i.e. Individuals, Senior citizens and Super senior citizens.
- Rebate - In case of an individual assessee resident in India whose total income taxable under section 115BAC does not exceed Rs 7,00,000 (after standard deduction if applicable), a rebate of an amount equal to 100% of income tax or Rs 25,000, whichever is lower, shall be available from such income tax on his total income. Effectively in such cases tax liability will be NIL.

List of Tax Deductions and Exemptions Allowed Under the New Tax Regime:

Exemptions/Deductions Not Allowed under New Regime	Exemptions/Deductions Allowed under New Regime
• The standard deduction under Section 80TTA/80TTB • Professional tax and entertainment allowance on salaries • Leave Travel Allowance (LTA) • House Rent Allowance (HRA) • Minor child income allowance • Helper allowance • Children education allowance • Other special allowances [Section 10(14)] • Interest on housing loan on the self-occupied property or vacant property (Section 24) • Chapter VI-A deduction (Section 80C, 80D, 80E and so on, except Section 80CCD(2) and Section 80JJAA) • Exemption or deduction for any other perquisites or allowances including food allowance of Rs 50/meal subject to 2 meals a day • Employee's (own) contribution to NPS • Donation to Political party/trust, etc	• Transport allowances in case of a specially-abled person. • Conveyance allowance received to meet the conveyance expenditure incurred as part of the employment. • Any compensation received to meet the cost of travel on tour or transfer. • Daily allowance received to meet the ordinary regular charges or expenditure you incur on account of absence from his regular place of duty. • Perquisites for official purposes • Exemption on voluntary retirement 10(10C), gratuity u/s 10(10) and Leave encashment u/s 10(10AA) • Interest on Home Loan on let-out property (Section 24) • Gifts up to Rs 50,000 • Deduction for employer's contribution to NPS account [Section 80CCD(2)] • Deduction for additional employee cost (Section 80JJA) • Standard deduction of Rs 50,000 under Salary head • Deduction under Section 57(iia) of family pension income • Deduction of Additional employee cost u/s 80JJAA • Deduction u/s 80CCD(2) - Employer's contribution to NPS • Deduction u/s 80CCH(2) - Contribution to Agniveer Corpus Fund

➢ When can I opt for Old or New Tax regime?

Earlier, the assessee had to exercise an option for availing the Tax Regime under section 115BAC. However, now tax regime under section 115BAC would apply by default unless the assessee exercises an option to opt for the old regime.

In case you have Business or profession income, the choice between different tax regimes can only be made once in a lifetime.

You need to choose the appropriate tax regime at the beginning of the financial year since the same cannot be modified during the year. However, the option can be modified while filing the Income Tax Return. Once the taxpayer chooses the tax regime at the beginning of the year, the investments and TDS or advance tax payable calculations are made accordingly. Also, the taxpayer has to furnish **Form 10IE** to the income tax department before filing the return if the taxpayer intends to opt in or opt out from the new tax regime.

➢ Old Tax regime Vs New Tax regime - Which is better?

Both the old and new tax regimes possess advantages and disadvantages. The old tax regime encourages taxpayers to cultivate a habit of saving, while the new tax structure favours employees with lower earnings and investments, resulting in fewer deductions and exemptions. The new tax system is considered safer and simpler that reduces the potential for tax evasion and fraud. However, due to the unique nature of individual deductions and exemptions, a thorough comparison of the two regimes is necessary to determine the best fit for each person.

The new income tax regime is beneficial for people who make less investments. As the new regime offers seven lower-income tax slabs, anyone paying taxes without claiming tax deductions can benefit from paying a lower rate of tax under the new tax regime. Therefore, if you invest less in tax-saving schemes, go for the new regime.

That being said if you already have in place a financial plan for wealth creation by making investments in tax-saving instruments; mediclaim and life insurance, the old regime helps you with higher tax deductions and lower tax outgo.

In light of the above and considering the new income tax regime, if taxpayers want to opt for the concessional tax rates, they may evaluate both regimes. Hence, it is advisable to do a comparative evaluation and analysis under both regimes and then choose the most beneficial one as it may vary from person to person.

➢ Break Even Analysis for Individuals (other than Senior and Super Senior citizens), HUF, AOP, BOI, and AJP:

	Deductions								
Gross Income (In Rs.)	Zero	₹ 1,00,000.00	₹ 1,38,500.00	₹ 2,12,500.00	₹ 2,50,000.00	₹ 2,62,500.00	₹ 3,12,500.00	₹ 3,25,000.00	₹ 3,75,000.00
₹ 5,50,000.00	SAME	SAME	SAME	SAME	SAME	SAME	SAME	SAME	SAME
₹ 7,00,000.00	New	SAME	Old	Old	Old	Old	Old	Old	Old
₹ 8,00,000.00	New	New	SAME	Old	Old	Old	Old	Old	Old
₹ 9,00,000.00	New	New	New	SAME	Old	Old	Old	Old	Old
₹ 10,00,000.00	New	New	New	New	SAME	Old	Old	Old	Old
₹ 10,50,000.00	New	New	New	New	New	SAME	Old	Old	Old
₹ 12,50,000.00	New	New	New	New	New	New	SAME	Old	Old
₹ 14,00,000.00	New	New	New	New	New	New	New	SAME	Old
₹ 15,50,000.00	New	New	New	New	New	New	New	New	SAME
₹ 16,00,000.00	New	New	New	New	New	New	New	New	SAME

➢ Points to be Noted:

1. As per Sec 115JC(5), AMT provisions will not apply under NTR. Also, any carried forward AMT credit will lapse under NTR as per Sec 115JD(7).
2. Deduction u/s 80 LA is extended under the NTR as well to a person having a unit in IFSC.
3. Sec 115BAC does not expressly exclude a non-resident person from its purview. Thus, the NTR will apply to non-residents.

➢ Case Studies:

1) Which tax regime is better for FY 2023-24 in the following case?

Income (Rs.)	Amount (Rs.)	Old Regime (Rs.)	New Regime (Rs.)
Salary	12,50,000	12,50,000	12,50,000
Less: Standard deduction	50,000	50,000	50,000
Less: Professional tax	2,400	2,400	-
Gross total income	11,97,600	11,97,600	12,00,000
Less: Deduction u/s 80C	150,000	150,000	-
Total income	**10,47,600**	**10,47,600**	**12,00,000**
Income tax		**1,26,780**	**90,000**
Add: Education cess @ 4%		5,071	3,600
Total tax		**1,31,851**	**93,600**

In the above example, for an income of Rs 12,50,000, the new tax regime is significantly beneficial since the tax outgo is lesser by Rs. 38,251. However, if you claim further deductions for interest on housing loan for SOP, health insurance, investment in NPS, education loans and so on, the old regime will be helpful in respect of tax savings.

2) Which tax regime is better for FY 2023-24 in the following case?

Income (Rs.)	Amount (Rs.)	Old Regime (Rs.)	New Regime (Rs.)
Salary	10,00,000	10,00,000	10,00,000
Less: HRA Exemption	70,000	70,000	-
Less: Standard deduction	50,000	50,000	50,000
Less: Professional tax	2,400	2,400	-
Gross total income	**9,47,600**	**8,77,600**	**9,50,000**
Less: Deduction u/s 80C	1,50,000	1,50,000	-
Less: Deduction u/s 80D	50,000	50,000	-
Total income	**10,47,600**	**6,77,600**	**9,50,000**
Income tax		**48,020**	**52,500**
Add: Education cess @ 4%		1,921	2,100
Total tax		49,941	54,600

In above example, for an income of Rs 10 lakh having HRA exemption and 80D deduction, the old tax regime is beneficial since the tax outgo is lesser by Rs 4,659.

- **Conclusion:**

Post Budget 2023 announcements, the salaried class, the businessmen and the professionals are confronted with a tough choice between the old regime with available deductions and the new regime with tax slab rates reduction. The most practical, logical and authentic way to make this choice easier for them, is to work out the exact amount of specified deductions which are required to be claimed by them in the old regime, at different levels of income, to break-even with the reduced tax liability in the new personal tax regime. Evaluating your specific circumstances and consulting with a tax professional to make a wise decision is recommended.

I hope that this article might have proven informative to you all and helps you better in deciding which tax regime to opt for! Thank You….

TAXATION OF ULIPS

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Introduction

Unit Linked Insurance Plans (ULIPs) have gained popularity as an investment-cum- insurance product in recent years. One of the key attractions of ULIPs is their tax benefits, which make them a preferred choice for many investors.

ULIPs are hybrid financial products that combine life insurance with investment opportunities. A part of the premium paid goes towards providing life insurance coverage, while the remaining amount is invested in various funds such as equity, debt, or hybrid funds, depending on risk appetite. ULIPs offer a unique opportunity for wealth creation and protection, making them an attractive choice for those looking to achieve both financial goals under one roof.

Taxation of ULIPs:

1. **Exemption u/s 10(10D) of the Income Tax Act, 1961 for Maturity Proceeds & Partial Withdrawals:**

   Tax Exemption:

   The proceeds received upon the maturity of a ULIP or partial withdrawals from a ULIP are exempt from income tax under Section 10(10D) of the Income Tax Act. This means that the maturity amount, including any bonuses or gains, is **tax-free**, provided:

a. The annual premium does not exceed 10% of the capital sum assured for policies issued after April 1, 2012, and 20% for policies issued before that date **AND**

b. The aggregate amount of premium does not exceed Rs.2,50,000/- in any of the previous years during the term of policies issued after February 1, 2021.**Example 1:**

   Mr. Rahul has invested in 5 ULIP Policies namely A, B, C, D and E on 01-04-2021. The details of such policies are provided as below:

ULIP	A	B	C	D	E
Annual premium	Rs. 1,00,000	Rs. 1,50,000	Rs. 1,50,000	Rs. 2,00,000	Rs. 3,00,000
Tenure of policy	10 years	10 years	10 years	10 years	10 years
Sum assured	Rs.10,00,000	Rs. 16,00,000	Rs.14,00,000	Rs. 25,00,000	Rs. 35,00,000
Consideration received on 01-04-2031 on maturity	Rs.15,00,000	Rs. 23,00,000	Rs.23,00,000	Rs. 30,00,000	Rs. 40,00,000
Whether premium exceeds 10% of capital	No	No	Yes	No	No
Whether premium of individual policy exceeds	No	No	No	No	Yes
Whether aggregate premium of policies	**NO**	N.A.	No	N.A.	
Whether eligible for exemption under Sec.	**Yes**	**Yes**	**No**	**Yes**	**No**

In the above example,

I. Policies A, B and D are individually eligible for availing exemption u/s 10(10D) as they fulfill the required criteria

II. Policy C does not meet the criteria for availing exemption as the annual premium i.e. Rs. 1,50,000/- exceeds 10% of the Sum assured i.e. Rs. 14,00,000/-

III. Policy E is also does not meet the criteria for availing exemption as the annual premium of the policy i.e. Rs. 3,00,000/- exceeds the prescribed limit of Rs. 2,50,000/-

*** Though Policy A, Policy B and Policy D are eligible for exemption under Section 10(10D) but as the aggregate premium of all 3 policies exceed Rs.2,50,000/-, exemption cannot be claimed in all policies together.**

There will be two options for Mr. Rahul to claim exemption:

Option 1: Policy A and Policy B can be opted together since the aggregate premium of such policies does not exceed Rs.2,50,000/-**Option 2:** Policy D can be opted alone as combining it with any other policy will result in aggregate premium exceeding Rs. 2,50,000/-

2. **Capital Gains on ULIPs for Maturity Proceeds and Partial Withdrawals:**

   ULIPs not eligible for availing exemption u/s 10(10D) shall be considered as a capital asset eventually attracting capital gains upon the maturity or partial withdrawals of such ULIPs

   Generally, ULIPs have a Lock-in-period of 5 years. It is important to note that, any withdrawal leading to termination or cessation of ULIP during the lock-in-period will be chargeable to tax as capital gains

   Further, the ULIP can be classified under the category of equity-oriented or debt-oriented.

a. Equity ULIPs:

i. When insurance Company invests minimum 90% in case of investments in units of other fund **AND** Such other fund also invests a minimum of 90% of its total proceeds in the equity shares of domestic companies listed on a recognized stock exchange, it will be treated as equity oriented funds**.**

OR

ii. In any other case, 65% of the total proceeds is invested in equity shares of a domestic company, it will be treated as equity oriented funds.

b. Debt ULIPs: For ULIPs that primarily invest in debt funds, will be classified as debt- oriented ULIPs.

Regardless of the ULIP's classification as short-term or long-term, equity-oriented or debt-oriented, it will be deemed to be taxable u/s 112A of Income Tax Act, 1961 at the rate of 10% in excess of Rs. 1 lakh as per Rule 8AD.

Further, **Notification No. 08/2022-Income Tax dated 18th January 2022** has been issued by CBDT for computation of capital gain:

I. If the amount is received for the first time, the following formula should be used:

"A – B", where

A = the amount received for the first time including bonus

B = the aggregate of the premium paid during the term of policy till date of receipt of the amount

II. If the amount is received any time after the initial receipt, the following formula should be used:

"C – D", where

C = the amount received any time after the initial receipt

D = the aggregate of the premium paid during the term of policy till date of receipt of the amount **less** the amount already considered in **point B** above.

Example 2:

Particulars	Policy A
Date of Policy	01-04-2022
Tenure of the Policy	10 years
Annual Premium	Rs. 3,00,000
Sum assured	Rs. 21,00,000
Consideration received on 31-03-2027 on partial maturity	Rs. 15,00,000
Bonus received on 31-03-2027 on partial maturity	Rs. 3,00,000
Consideration received on 31-03-2032 on full maturity	Rs. 35,00,000
Bonus received on 31-03-2032 on full maturity	Rs. 5,00,000

Computation of Capital Gains for A.Y. 2027-28:

Particulars	Policy A
Sum received for the first time on 31-03-2027	Rs. 15,00,000
Add: Bonus received on 31-03-2027	Rs. 3,00,000
Less: Aggregate of premium paid till date of receipt of partial maturity (3,00,000 per year x 5 years)	Rs. (15,00,000)
Long Term Capital Gain for A.Y. 2027-28	**Rs. 3,00,000**

Computation of Capital Gains for A.Y. 2032-33:

Particulars	Policy A
Sum received on full maturity of ULIP on 31-03-2032	Rs. 35,00,000
Add: Bonus received on 31-03-2032	Rs. 5,00,000
Less: Aggregate of premium paid till date of receipt of full maturity (-) amount of premium considered while computing capital gain for previous years [(3,00,000 per year x 10 years) – 15,00,000]	Rs. (15,00,000)
Long Term Capital Gain for A.Y. 2032-33	**Rs. 25,00,000**

3. **Benefits under section 80C:**

   Tax Deduction:

   Premiums paid for ULIP are eligible for a tax deduction u/s 80C of the Income Tax Act, 1961 under old regime, subject to a maximum limit of Rs. 1,50,000/- per financial year.

   The deduction u/s 80C is restricted to 10% of the sum assured, and any premium paid beyond this limit is not eligible for deduction.Also, the deduction is allowed only if the individual contributes to ULIP for the first 5 years of the plan. If such contributions are discontinued before 5 years, the aggregate deductions claimed in earlier years shall be deemed as income and will be charged to tax in the year of termination or cessation.

4. **Maturity proceeds not taxable in case of Death:**

   Tax-Free:

   In the unfortunate event of the policyholder's demise during the policy term, the death benefit paid to the nominee is tax-free under Section 10(10D).

Conclusion

Unit Linked Insurance Plans (ULIPs) emerge as compelling financial instruments, blending insurance and investment benefits. The tax implications associated with ULIPs are vital considerations for investors. Under Section 10(10D), ULIP maturity proceeds and partial withdrawals can enjoy tax exemptions, provided specific conditions regarding premium limits are met. Capital gains on non-exempt ULIPs are subject to the nature of the plan— equity or debt. Additionally, Section 80C offers tax deductions for ULIP premiums, with a restriction and continuity in contributions for the initial five years. Notably, in the event of the policyholder's demise, the tax-free status of death benefits under Section 10(10D) adds to the appeal of ULIPs as comprehensive financial tools. Navigating these tax nuances is crucial for investors seeking optimal wealth management through ULIPs.

REASSESSMENT U/S 147

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Navigating the Minefield :

Assessment and reassessment proceedings u/s. 147 of the Income-Tax Act, 1961

Introduction

Section 147 of the Income-Tax Act, 1961 ("the Act") provides for the reopening of assessment proceedings when the Assessing Officer ("AO") possesses information which suggests that any income which is chargeable to tax has escaped assessment, giving power to the AO to assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section.

Section 147 - Income Escaping Assessment

The old provisions empowered the AO to reopen assessment proceedings if they had *reason to believe* income had escaped assessment. However, it faced criticism for potentially being subjective and allowing for arbitrary use of power.

Under the new provisions the words "reason to believe" have been removed from section 147. Therefore, the *Apex Court's* decision in the case of *ACIT v. Rajesh Jhaveri Stock Brokers (P.) Ltd. [2007] 291 ITR 500 (SC)* on reason to believe to mean mere supposition / to reopen an assessment for whatever reason is no longer good in law. These new provisions aim to address concerns faced earlier while still empowering the tax authorities to assess income that has escaped assessment involving a more structured and time-bound framework for reassessment, with specific grounds and time limits for the AO to take action.

For making assessment u/s. 147, AO is bound to serve a notice u/s. 148. Such notice can be served only after following the procedure given u/s. 148A (exception in some cases). Prior approval of specified authority is also required to be obtained before issuance of such notice by the AO. During the assessment u/s. 147, if AO finds some other income escaped assessment for the same assessment year ("AY") then AO can assess or reassess such income also without issuing a fresh notice u/s. 148 and without passing order u/s. 148A.

Addition of any other income escaped assessment

The *Bombay High Court* in case of *CIT vs. Jet Airways Ltd. 331 ITR 236* held that if the AO accepts the objection of the assessee and does not assess the income which was the basis of the notice, it is not open to him to assess income under some other issue independently. The above was held based on the words *"and also"* which indicate that reassessment must be with respect to the income for which AO as formed opinion *and also* in respect of any other income which comes to his notice subsequently. However, these words have been removed from the amended provisions of section 147, potentially broadening the scope of reassessment as the department could now argue that it can reassess income in respect of any other issue.

Does omission of these words overrule *Jet Airways (supra)* and *Ranbaxy Laboratories Ltd. v. CIT [2011] 336 ITR 136 (Del. HC)* and reaffirm *Sri N Govindaraju vs. ITO 377 ITR 243*?

Section 148A - Conducting inquiry, providing opportunity before issue of notice u/s. 148

Section 148A was newly introduced by the Finance Act ("FA"), 2021. Pre-amendment, section 147 provided that if AO finds an income chargeable to tax for any assessment year that has escaped assessment, then he can assume jurisdiction u/s. 147, but such assessment or reassessment was subject to sections 148 to 153. The concept of recording reasons before issuing a notice u/s. 148 is replaced by section 148A. The amended procedure for issuing notice u/s. 148 is as below :

1. Conduct any enquiry, if required, related to information in possession with the prior approval of higher authority.
2. Issue Show Cause Notice ("SCN") - provide assessee opportunity of being heard why such notice should not be issued, within time limit as specified (not less than 7 days but not exceeding 30 days). The AO can extend this period on application made by assessee.
3. Assessee to reply to SCN within the time period.
4. AO shall decide on the basis of material available + reply of assessee whether case is fit to issue notice u/s. 148 or not and issue notice within 1 month from end of month of the reply furnished.
5. In response to notice issued u/s. 148 Assessee shall furnish Return of Income ("ROI") within 3 months from end of the month in which notice was issued.

Illustration: AO is having information related to income escape assessment of Mr. X for AY 2020-21. AO issued SCN to Mr. X on November 11, 2022 with time limit to reply by December 05, 2022.

- If Mr. X replied on November 28, 2022 then AO shall pass order u/s. 148A up to December 31, 2022.
- If Mr. X did not reply. AO shall pass order u/s. 148A up to January 31, 2023.

In case of *Sky Light Hospitality LLP v. ACIT [2018] 405 ITR 296* it was observed that notice for reassessment u/s. 148 was issued in the name of the erstwhile company and even the PAN number mentioned was incorrect. It was held that this was only a human error and should not nullify proceedings which are otherwise valid, hence the notice cannot be invalidated.

In case of *Catchy Pro-Build (P.) Ltd. v. ACIT [2022] 448 ITR 671* where notice u/s. 148A(b) was issued regarding tax on capital gains, however, order u/s. 148A(d) was passed alleging that source of certain investment was not disclosed, the *High Court* held that if the foundational allegation is missing in the notice issued u/s. 148A(b), the same cannot be incorporated by issuing a supplementary notice and the order was quashed.

Section 148A not applicable in following cases (issue notice u/s. 148 without following section 148A) :

- A search is initiated u/s. 132 or books of account, other documents or any assets are requisitioned u/s. 132A.
- The AO is satisfied with the prior approval of the PCIT/CIT, that any assets like money, bullion, jewellery or other valuable article or thing, or Books of Accounts ("BOA"), documents, seized or requisitioned u/s. 132 or 132A in case of any other person on or after 1st April, 2021, belongs to or pertains to or information belongs to or relates to the assessee.
- The AO has received any information under the scheme notified u/s. 135A (i.e. Faceless Collection of Information) pertaining to income chargeable to tax escaping assessment.

Section 148 - Issue of notice where income has escaped assessment

In response to notice u/s. 148, the assessee is required to file his ROI for the previous year ("PY") relevant to such AY. The ROI shall be deemed as the assessee were required to file u/s. 139. The ROI is required to be filed even if return has already been filed earlier as per normal provisions. Return filed u/s. 148 cannot be revised, as return can be revised only if return is made u/s. 139(1) or 139(4).

Preconditions to issue notice u/s. 148 :

1. AO *possess information* which suggests that any income which is chargeable to tax has escaped assessment.

2. AO has *obtained prior approval* of higher authority u/s. 151.

3. AO has *complied* with the procedure given u/s. *148A*.

Information suggesting income escaping assessment

In the case of *Dr. Mathew Cherian v. ACIT [2023] 450 ITR 568* it was observed that not all information in possession of the officer can be construed as 'information' that qualifies for initiation of proceedings for reassessment, and it is only such 'information' that suggests escapement and which, based upon the material in his possession, that the officer decides as 'fit' to trigger reassessment, that would qualify.

In the case of *Excel Commodity & Derivative (P) Ltd. v. UOI [2022] 328 CTR 710* it was observed that the term "information" in explanation 1 u/s. 148 cannot be lightly resorted to so as to reopen assessment and this information cannot be a ground to give unbridled power to the Revenue.

Information as per explanation 1 –

- Information flagged in accordance with the Risk management strategy formulated by the Central Board of Direct Taxes ("CBDT"). Refer CBDT instructions dated December 10, 2021.

- Any audit objection raised to the effect that the assessment has not been made in accordance with the provisions of this Act. The *Supreme Court*, in its judgment in case of *Larsen & Toubro Limited [2017] 103 VST 1*, has meticulously laid down the scope of "information" as a basis for audit objections.

- Any information received under an DTAA agreement from any foreign source.

- Any information made available to the AO under the scheme notified u/s. 135A i.e. Faceless collection of information.

- Any information received from the order of court or tribunal which requires an action.

In case of *GDR Finance and Leasing [W.P.(C) 11952/2022 (Del. HC)]* where information in possession of the department was incorrect as no transaction had taken place with an entity, despite claims to the contrary. Therefore, notice issued u/s. 148 was bad in law and would collapse.

Similarly in case of *DCIT v. Bhawna Computers (P.) Ltd. [2023] 154 taxmann.com 326* where no proof of service of reasons record

In case of *Azim Premji Trustee Co. (P.) Ltd. V. DCIT [2023] 331 CTR 173 (Kar. HC)* it was held that assessment cannot be reopened based on the very same information which was readily available with the AO when the original assessment order was passed by him.

Cases where it shall be deemed that AO having information for the 3 AY's preceding the AY relevant to the PY in which the search is initiated or BOA, documents or any assets are requisitioned or survey is conducted in the case of the assessee or any assets or BOA or documents are seized or requisitioned in case of any other person:

- A search is initiated u/s. 132 or BOA, other documents or any assets are requisitioned u/s. 132A.
- A survey conducted u/s. 133A (other than TDS/TCS survey and Function, ceremony, event survey).
- The AO is satisfied, with the prior approval of the PCIT/CIT, that any assets or BOA documents, seized or requisitioned u/s. 132 belongs to the assessee.

Section 148B - Prior Approval for Assessment / Reassessment / Re-computation

In case of Search initiated u/s. 132 or survey is conducted u/s. 133A in the case of assessee, then any assessment or re-assessment u/s. 147 can only be conducted by the JCIT / JDIT / ACIT / ADIT. However, it can also be carried out by lower-level authority if prior approval is given for the same.

Section 149 - Time limit for Notice u/s. 148

Provisions dealing with reopening of tax assessment, interfering in the finality of closed assessment, need to be strictly interpreted to serve concept of finality to assessment. *Hon'ble Supreme Court* in the case of *Parashuram Pottery Works Co. Ltd. v. ITO [1977] 106 ITR 1* observed that *"we have to bear in mind that the policy of law is that there must be a point of finality in all legal proceedings, that stale issues should not be reactivated beyond a particular stage and that lapse of time must induce repose in and set at rest judicial and quasi-judicial controversies as it must in other spheres of human activity."*ed for reopening was supplied to assessee, reassessment order passed by AO was to be quashed as bad in law.

Notice u/s. 148 can be issued :	**Prior approval u/s. 151**	
Unless case falls below.	Up to 3 years from the end of Relevant AY.	PCIT / PDIT / CIT / DIT
AO has in his possession BOA or other documents or evidence which reveal that the income chargeable to tax, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more.	Up to 10 years from the end of Relevant AY.	PCCIT / PDGIT / CCIT / DGIT

The prior approval simply cannot be given without application of mind or as a mechanical process. The commissioner has to apply his mind and verify the facts. Refer *Sea Glimpse Investments Pvt. Ltd. v. DCIT [2022] 324 CTR 535 (Bom. HC.)* and *Sagar Bullion Pvt. Ltd. v. UOI [2022] 444 ITR 686 (Bom. HC.)*

Note : Notice u/s. 148 cannot be issued for AY 2021-22 or earlier AY's if such notice could not have been issued as per old provision of section 149.

In 2020 the CG issued a notification extending the timelines prescribed u/s. 149 for issuing reassessment notice till June 30, 2021. Meanwhile the Parliament through FA 2021 introduced reformative changes which were applicable form 01.04.2021. Yet the department issued 90,000 (approx.) reassessment notices under the erstwhile provisions. These notices were challenged before various high courts. The decision of the *Hon'ble Supreme Court* in *UOI vs Ashish Agarwal [2022] 444 ITR 1* briefly stated that notice issued u/s. 148 under the old law during the period between April 1, 2021 to June 30, 2021 shall be deemed to be notice issued u/s. 148A(b) and prescribed procedure for inquiry and providing information for passing order u/s. 148A(d) shall be as per the new scheme.

Section 150 - Provision for cases where assessment is in pursuance of an order on appeal, etc.

No time limit to issue notice u/s. 148 for reassessment if it's necessary to implement any finding or directions in order passed by CIT(A), ITAT, HC, SC or revision or any court under any other law. However, this exception doesn't apply if the time limit for reassessment had already expired at the time the order was passed. This section does not limit or affect the application of 148A.

General

- As per section 152 tax shall be chargeable at the rate at which it would have been charged had the income not escaped assessment.
- The AO may, in their considered judgment, determine that the continuation of proceedings u/s. 147 is not warranted and accordingly drop such proceedings if the assessee has not initiated any appellate or revisionary proceedings and is able to demonstrate to the satisfaction of the AO that there will not be any impact on the tax liability on inclusion of the income that had initially escaped assessment.
- Order u/s. 147 to be made before the expiry of nine months from the end of the financial year in which the notice u/s. 148 was served [Twelve months where notice u/s. 148 is served before the April 1, 2019].
- Appeal to CIT(A)/ ITAT is not possible against order u/s 148A. Assessee can file WRIT to High Court if principle of natural justice is not complied by the AO.

Conclusion

Section 147 of the Act plays a significant role in ensuring proper assessment of taxpayers whose income has not been appropriately evaluated. It is seen that AO has power to bring the escaped income to the tax net within a specified time limit if he possesses information. Reassessment proceedings u/s. 147 are for the benefit of the revenue and not for the assessee as held by the *Hon'ble Supreme Court* in the case of *CIT v. Sun Engg. Works (P.) Ltd. [1992] 198 ITR 297*. It is vital to take any notice received under this section seriously and respond promptly by providing accurate and complete information about the income and expenses. Failing to respond within the specified time frame may lead to an assessment based on the AO's discretion, which may pose penalties u/s. 271(1)(b) for concealing income or u/s. 271(1)(c) for furnishing inaccurate particulars of income.

DISPUTE RESOLUTION COMMITTEE (DRC)

Vidhi Maru
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Earlier, The Income Tax Settlement Commission was constituted by Central Government to settle disputes at an early stage, which ceased on 1.2.2021, and in order to dispose of pending cases, the CG constituted Interim Boards. However, it is necessary to prevent tax disputes and settle the issues of small and medium taxpayers. The Dispute Resolution Committee is formulated with effect from 1st April, 2021.

The CBDT has issued a significant order dated 14th Aug 2023 which pertains to the constitution and operational modus of the Dispute Resolution Committee (DRC). The issuance of this order is a direct response to the notification of the e-Dispute Resolution Scheme, 2022, enacted under section 245MA of the Income Tax Act.

Constitution and Composition of DRC

The Central Government has power to constitute one or more Dispute Resolution Committees to resolve dispute arising from any variation in the **specified order** in case of specified persons or class of persons **who fulfill the specified conditions** [S.245MA].

Rule 44DAA of the Income Tax Rules, introduced through Notification No. 26/2022 dated 05/04/2022, outlines the structure of the DRC.

CG shall constitute DRC in every region. Each DRC shall consist of 3 members:

a. 2 members shall be retired officers from IRS (Income Tax) who have held the post of Commissioner of Income tax or higher post for 5 years or more;

b. 1 member serving officer not below the rank of PCIT (Principal Commissioner of Income tax) or CIT (Commissioner of Income Tax)

Members shall be appointed for 3 years, and decisions of DRC shall be by majority. CG may remove any member after giving them an opportunity of being heard [Rule 44DAA].

Rule 44DAB: DRC allow applications for specified order who fulfill the specified condition with an application **fee of Rs. 1000**.

Application to be filed in the Form No. 34BC.

A. Specified order:

Specified order means:

- Any Draft order u/s 144C;
- An intimation u/s 143(1) or 200A (1) or 206CB (1) of the act where the assessee or the deductor or the collector objects to the adjustments made in the said order;
- An order of assessment or reassessment, except an order passed in directions of Dispute Resolution Panel;
- A rectification order passed u/s 154;

- An order made u/s 201 or 206C(6A) of the act i.e. a person as an assessee-in-default for failure to deduct/collect tax at source or remit the same, and in respect of which the following conditions are satisfied:

1. The Aggregate sum of variation made or proposed in such order does not exceed Rs.10 Lakhs;
2. Such order is not based on:
   - A search u/s 132 or a Requisition u/s 132A in case of assessee or any other person; or
   - A survey u/s 133A; or
   - Information received under an Agreement referred to in S.90/90A.
3. If ROI has been filed then the total income as per ROI does not exceed Rs. 50 Lakhs.

B. Specified Conditions:

Specified conditions in relation to a person means a person who fulfills the following condition:

He is not a person:

- against whom detention order has been made under conservation of foreign exchange and prevention of smuggling activities act
- against whom prosecution has been instituted and convicted for any offence under:
  a. Indian Penal Code
  b. Unlawful Activities (Prevention) Act
  c. Narcotic Drugs and Psycho tropic Substances Act
  d. Prevention of Benami Transaction Act
  e. Prevention of Corruption Act
  f. Prevention of Money laundering Act
- against whom prosecution has been initiated by Income Tax Authority under Income tax Act
- who is notified u/s 3 of special Court Act

Proceeding under black money (undisclosed foreign income and assets) and imposition of tax act, 2015 have not been initiated for AY for which resolution for sought

C. Time Limit for Application:

In case appeal has been filled and pending before CIT(A)	As specified by Board
In any other case	Within 1 month from date of receipt of specified order

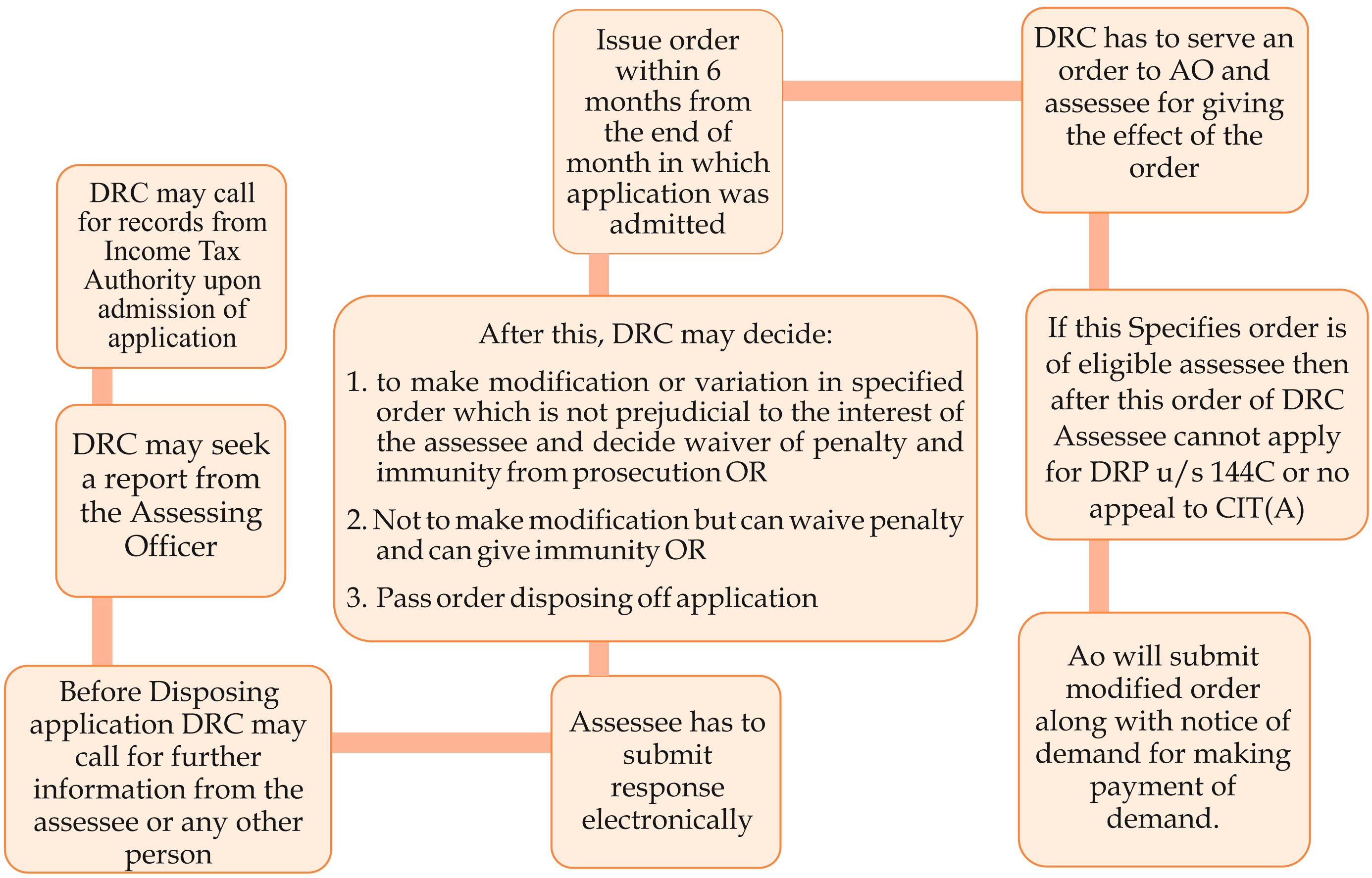
D. Screening of Application:

- DRC has to examine the application, and upon examination, DRC can accept or reject the application.
- If DRC is of the opinion that application for Dispute Resolution should be rejected, it has to serve a show cause notice to the assessee as to why his application should not be rejected, specifying the date and time to file a response along with an opportunity of being heard has been provided to assessee through telephony or VC.
- On response furnished by assessee, DRC can reject or proceed the application. If response is not furnished, then DRC has the right to reject the application.
- If application is rejected, then assessee has the right to file an appeal to the CIT(A) against that specified order and time taken in process of DRC shall be excluded.
- The decision of DRC whether accepted or rejected the application for dispute resolution shall be communicated to assessee, and within 30 days of such communication of admitted application, assessee has to submit proof of withdrawal of appeal.

E. Remuneration and allowances:

Retired DRC members receive a sitting fee of Rs. 5000 per day, alongside a case wise fee of Rs. 5000 for each case. However, the monthly Remuneration is not more than Rs. 1.10 Lakhs. Remuneration is subject to revision after approval from the CBDT.

F. Process to be followed by DRC:



- No Appeal against such modified order
- On receipt of payment of demand DRC shall give waiver of penalty or immunity.

G. Termination of proceedings:

DRC can terminate the proceeding by reason to be recorded in writing and after giving an opportunity of being heard in following cases:

- If assessee fails to corporate in the proceedings;
- If assessee fails to respond;
- If assessee fails to submit information in regards of notice issued.
- If DRC is of the opinion that assessee has not disclosed any material fact,
- If assessee fails to pay demand as per modified order.

H. Power of DRC [S.245MA (2)]:

In case of person whose dispute is resolved by DRC, DRC can:

i. Reduce or waive off any penalty imposable under the Income Tax Act;

ii. Grant immunity from prosecution from any offence under Income Tax Act.

Rule 44DAC:

1. DRC should grant waiver of penalty or immunity from prosecution upon confirmation of payment of demand from assessee and id assessee has made an application if it is satisfied that such person has paid the tax due on the returned income and co-operated with DRC.
2. No immunity would be granted in such cases where prosecution has been initiated before proceedings.
3. If there are violations of any conditions then such immunity granted shall stand withdrawn and on such withdrawal all provisions of IT Act would apply.

Time limit for passing an order:

Assessing Officer shall, in conformity with the directions contained in order of DRC, pass an order within 1 month from the end of month in which such order was received.

Techni "Kal" ki Tayari...

MASTERING THE UNUSUAL: A DEEP DIVE INTO A LITTLE-KNOWN EXCEL FORMULA'S APPLICATIONS

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Introduction

In the realm of professional skills, individuals with proficiency in Microsoft Excel are universally valued. As businesses increasingly rely on data-driven decision-making, the ability to navigate and contrive spreadsheets has become an essential asset. It's not just about knowing the basics; it's about exploring the nuances of Excel's capabilities, especially those concealed in the tabs seldom visited. Among these, our focus today is on an uncommon Excel formula that can change the approach towards application of formulas – 'AGGREGATE'. Let's explore its application through a practical example, demonstrating how mastering such formulas can streamline tasks and contribute to overall efficiency.

Illustration

Imagine you are tasked with organizing an auction for a cricket tournament. Your goal w.r.t. use of excel is to create a workbook wherein details of auction such as number of teams, wallet balance, players list with base price, etc are recorded prior to auction and a dynamic spreadsheet wherein list of players bought by each team and wallet balance keeps updating automatically during auction.

Solution

Details of wallet limit, players list, base prices, etc. may be entered manually in simple tables format. Then the main task – creating a dynamic spreadsheet, for this let's consider creating two spreadsheets as follows;

1. Auction Entry – for recording auction transactions.

Round	Player No.	Player Name	Base Price	Team	Buy Price
1			-		
2			-		
3			-		
4			-		
5			-		

2. Teams – dynamic tables dependent upon 'Auction Entry' sheet.

Teams

Team A			Team B		
Sr. No.	Player Name	Buy Price	Sr. No.	Player Name	Buy Price
1		-	1		-
2		-	2		-
3		-	3		-
4		-	4		-
5		-	5		-
6		-	6		-
7		-	7		-
8		-	8		-
9		-	9		-
10		-	10		-
Total		-	Total		-

In the 'Auction Entry' sheet – Player No. shall be entered manually during auction and corresponding player name and base price can be obtained by use of simple VLOOKUP. Once the player is sold, Team that bought it and buying price of player needs to be recorded manually. Drop down list (using data validation) can be used for ease in recording Team name.

Now, we need 'Teams' Sheet to get updated automatically based on the above-mentioned auction entry sheet. Here we will need 2 columns/details:

1. Buy Price – It is the price at which player is bought by the team owner. It can be obtained by simply using VLOOKUP wherein Lookup value is the Player Name.

2. Player Name – It can be obtained by using the FILTER (array, include, [if_empty]) formula. In this, 'array' refers to the column (even more than 1 is possible) from where output is required (player name column). 'Include' refers to the condition (team name = "Team A"). The complete formula will look like -

   =FILTER('Auction Entry'!D:D,'Auction Entry'!F:F=$C$5,"").

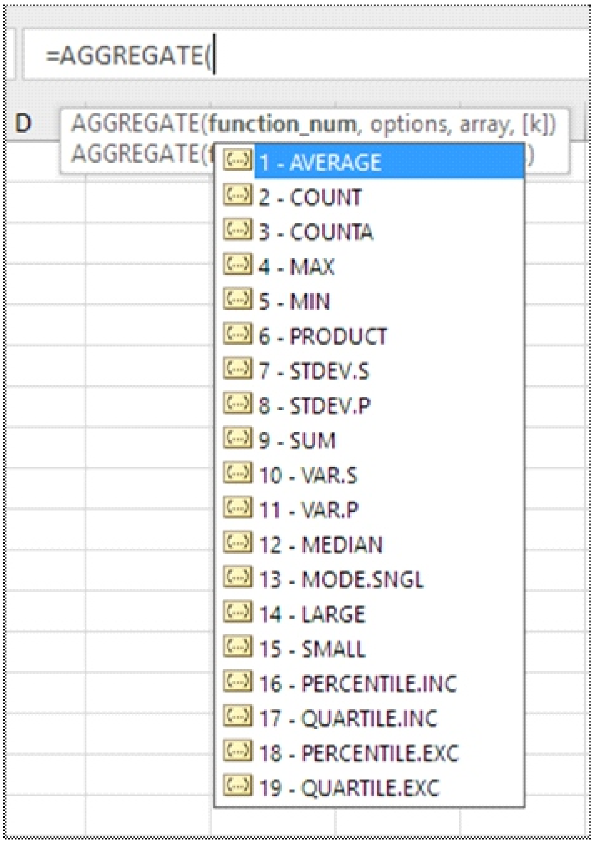
However, this 'FILTER' formula is available only on paid Microsoft 365. This limits the access to this amazing formula.

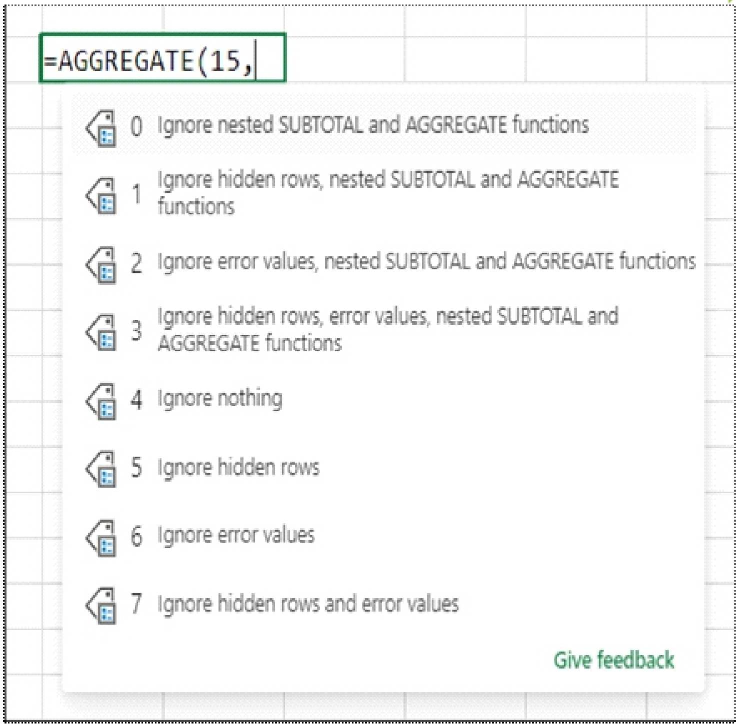
In order to overcome this, we can use 'INDEX' formula nested with 'AGGREGATE' and 'ROW' formulas as follows;

1. <u>INDEX (array, row_num, [column_num]) – Returns a value or reference of the cell at the intersection of a particular row and column, in a given range.</u>

   In this formula, we can give reference of column 'D:D' as 'array' to get the player's name. As there is only 1 column in array, no need to enter any column_num in syntax. But we need to provide the 'row_num' from which it is supposed to pick-up player's name.

2. <u>AGGREGATE (function_num, options, array, [k])</u> – This hidden gem has the capability of performing various functions along with customization options. Combinations of these functions and options can not only substitute but also overcome the limitations of formulas such as SUM, SUMPRODUCT, SMALL, LARGE, SUBTOTAL, FILTER, COUNT, COUNTA, MIN, MAX, AVERAGE, etc.





In current case, we would use function number 15 i.e. Small (returns the smallest value from a dataset) along with option number 7 i.e. Ignore hidden rows and error values from the dataset.

Now, Let's give our formula it's array using Row formula – Row formula returns the row number of the cell given as reference for example =ROW(C38) will the give the output as '38'. Similarly, when an entire array is given as reference it provides the row number for each cell for example =ROW(B32:B39) will give an array of output as '32, 33, 34, 35, 36, 37, 38, 39'.

We all know that, in MS excel, TRUE outputs are valued as '1' and FALSE outputs are valued as '0'.

Based on the above, we can create an array of row numbers of only those rows which satisfy our given condition and for rows that do not satisfy the condition - error values.

For example, =ROW('Auction Entry'!$F:$F)/('Auction Entry'!$F:$F=Teams!$C$5)

This will give the output as (1,2,3,4,…)/(1,0,0,1,…) i.e., all Row numbers divided by '1' if corresponding Team name in column F is Team A and 0 otherwise.

The final outcome for this formula will be an array as follows;

'1, #DIV/0! , #DIV/0! , 4, #DIV/0! , 6, 7, #DIV/0! , #DIV/0! , #DIV/0! , 11,…'

Now, as we had used option 7 in AGGREGATE formula – error values will get ignored giving an array as '1, 4, 6, 7, 11,…' and then function 15 i.e., Small will select the smallest value i.e., 1 in this case. Consequently. INDEX formula will pick-up value present in 1st row of our given array i.e. Player's name. In this way, we will get our desired output.

However, in the above-mentioned formula only the smallest value will be picked up. To overcome this, we need to enter 'K' value (function_num, options, array, [k]) i.e., degree/constant. For example, if K is 3 – AGGREGATE formula will provide the 3rd smallest row number. In order to make 'K' dynamic we can give reference to Sr. No.

Upon nesting the entire formula with IFERROR the complete formula will be as follow;

```
fx  =IFERROR(INDEX('Auction Entry'!$D:$D,AGGREGATE(15,7,ROW('Auction Entry'!$F:$F)/('Auction Entry'!$F:$F=Teams!$C$5),$C7)),"")
```

Now, this single formula can be used for any number of teams just by changing reference of Team Name i.e., cell C5 in our case and we will get our dynamic spreadsheet.

Based on the above, we can get auto updating wallet balance and available surplus using SUMIFS and COUNTIFS formulas.

You can scan the QR code alongside to get a view of the auction format as per above-mentioned solution.

Alternative formats can be created by application of different formulas and creativity.

<u>Please note: This array functions may not be directly recognized by MS Excel versions 2016 or lower. In order to use such array formulas, after typing the formula in the cell press 'Control + Shift + Enter' instead of 'Enter'. This adds {} at the start and end of formulas so that excel recognizes the array. For example {=ROW(C5:C12)}.</u>

Conclusion

As we conclude, it's essential to underscore the broader importance of continually honing our spreadsheet skills. In the fast-paced professional landscape, adaptability and efficiency are paramount. Advanced Excel proficiency not only simplifies daily tasks but also positions individuals as valuable assets in their respective roles. The discovery and application of unusual formulas are emblematic of a proactive approach to skill development. By staying curious and embracing the less-explored functionalities of Excel, we not only enhance our individual capabilities but contribute to a more data-savvy and productive professional environment. So, let's keep refining our Excel skills, exploring new formulas, and unleashing the full potential of this indispensable tool in our professional toolkit.

EVENTS IN RETROSPECT

Day & Date	Committee	Program Name	Speaker / Mentor	Attendance / Views
Monday, 5th February, 2024	Student Committee	Interaction with ICAI on New Scheme of CA Education & Training	CA Priti Savla (Central Council Member) CA Daya Niwas Sharma (Vice Chairman - Board of Studies CA)	110+ participants

EVENTS IN RETROSPECT

Day & Date	Committee	Program Name	Moderator / Speaker	Attendance / Views
21st & 22nd February 2024, Wednesday and Thursday	Students Committee	Students RRC at RM Prabodhini (Keshav Shrishti)	CA Karan Shah, CA Viral Satra, CA Nihar Dharod, CA Atul Bheda, CA Neha Gada, CA Vedant Gada, CA Chintan Rambhia, CA Harsh Dedhia, CA Gautam Mota, CA Deep Chheda, CA Shreya Nagda	74 participants