

PAPER 4: TAXATION

SECTION A: INCOME TAX LAW

PART I: STATUTORY UPDATE

The Income-tax law, as amended by the Finance Act, 2019 and the Finance (No. 2) Act, 2019, including significant notifications/circulars and legislative amendments made upto 30th April, 2020, are applicable for November, 2020 examination. The relevant assessment year for November, 2020 examination is A.Y.2020-21. The August 2019 edition of the Study Material is based on the provisions of income-tax law as amended by the Finance Act, 2019 and Finance (No. 2) Act, 2019 and hence, the same is relevant for November 2020 examination.

The significant notifications/circulars and legislative amendments made upto 30.04.2020 which are relevant for November, 2020 examination but not covered in the August 2019 edition of the Study Material, are given hereunder:

Chapter 1: Basic Concepts

The August, 2019 edition of the Study Material contains the CBDT Press Release dated 24.8.2019, at Pg.4.362 of Module 2. According to this Press Release, the enhanced surcharge of 25% and 37% on Income-tax, as the case may be, applicable where the total income of Individuals/HUFs/AOPs/Bols/Artificial Juridical Persons exceeds ₹ 2 crore and ₹ 5 crore, respectively, has been withdrawn on income-tax payable at special rates on short-term capital gain under section 111A and long-term capital gains under section 112A arising from the transfer of equity share in a company or unit of an equity-oriented fund/ business trust, which has been subject to securities transaction tax.

Consequently, the manner of computation of surcharge on income-tax, in case of Individuals/HUFs/AOPs/Bols/Artificial Juridical Persons for A.Y.2020-21 would be as follows:

	Particulars	Rate of surcharge on income-tax	Example	
			Components of total income	Applicable rate of surcharge
(i)	Where the total income (including income under section 111A and 112A) > ₹ 50 lakhs but ≤ ₹ 1 crore	10%	<ul style="list-style-type: none">• STCG u/s 111A ₹ 30 lakhs;• LTCG u/s 112A ₹ 25 lakhs; and• Other income ₹ 40 lakhs	Surcharge would be levied @ 10% on income-tax computed on total income of ₹ 95 lakhs.

(ii)	Where total income (including income under section 111A and 112A) exceeds ₹ 1 crore but does not exceed ₹ 2 crore	15%	<ul style="list-style-type: none"> • STCG u/s 111A ₹ 60 lakhs; • LTCG u/s 112A ₹ 65 lakhs; and • Other income ₹ 50 lakhs 	Surcharge would be levied@15% on income-tax computed on total income of ₹ 1.75 crores.
(iii)	Where total income (excluding income under section 111A and 112A) exceeds ₹ 2 crore but does not exceed ₹ 5 crore The rate of surcharge on the income-tax payable on the portion of income chargeable to tax under section 111A and 112A	25% Not exceeding 15%	<ul style="list-style-type: none"> • STCG u/s 111A ₹ 54 lakh; • LTCG u/s 112A ₹ 55 lakh; and • Other income ₹ 3 crores 	Surcharge would be levied @15% on income-tax on: <ul style="list-style-type: none"> • STCG of ₹ 54 lakhs chargeable to tax u/s 111A; and • LTCG of ₹ 55 lakhs chargeable to tax u/s 112A. Surcharge@25% would be leviable on income-tax computed on other income of ₹ 3 crores included in total income
(iv)	Where total income (excluding income under section 111A and 112A) exceeds ₹ 5 crore Rate of surcharge on the income-tax payable on the portion of income chargeable to tax under section 111A and 112A	37% Not exceeding 15%	<ul style="list-style-type: none"> • STCG u/s 111A ₹ 50 lakhs; • LTCG u/s 112A ₹ 65 lakhs; and • Other income ₹ 6 crore 	Surcharge@15% would be levied on income-tax on: <ul style="list-style-type: none"> • STCG of ₹ 50 lakhs chargeable to tax u/s 111A; and • LTCG of ₹ 65 lakhs chargeable to tax u/s 112A. Surcharge@37% would be leviable on the income-tax computed on other income of ₹ 6 crores included in total income.

(v)	Where total income (including income under section 111A and 112A) exceeds ₹ 2 crore in cases not covered under (iii) and (iv) above	15%	<ul style="list-style-type: none"> • STCG u/s 111A ₹ 60 lakhs; • LTCG u/s 112A ₹ 55 lakhs; and • Other income ₹ 1.10 crore 	Surcharge would be levied@15% on income-tax computed on total income of ₹ 2.25 crore.
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Chapter 4 Unit 3: Profits and gains from Business and Profession

Increased rate of depreciation in respect of motor vehicles acquired and put to use during the period from 23.8.2019 to 31.3.2020 [Notification 69/2019 dated 20.9.2019]

	Particulars	Depreciation allowable as a % of WDV
(i)	Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired during the period from 23.8.2019 to 31.3.2020 and put to use on or before 31.3.2020 <i>Note – For motor buses, motor lorries and motor taxis used in a business of running them on hire, except those covered in (i) above, the rate of depreciation would continue to be 30%.</i>	45%
(ii)	Motor cars other than those used in a business of running them on hire, acquired during the period from 23.8.2019 to 31.3.2020 and put to use on or before 31.3.2020 <i>Note – For motor cars, other than those used in a business of running them on hire, acquired or put to use on or after 1.4.1990, except those covered in (ii) above, the rate of depreciation would continue to be 15%</i>	30%

Chapter 4 Unit 4 : Capital Gains

Notification of Cost Inflation Index for Financial Year 2019-20 [Notification No. 63/2019, dated 12.9.2019]

Clause (v) of Explanation to section 48 defines "Cost Inflation Index", in relation to a previous year, to mean such Index as the Central Government may, by notification in the Official Gazette,

specify in this behalf, having regard to 75% of average rise in the Consumer Price Index (Urban) for the immediately preceding previous year to such previous year.

Accordingly, the Central Government has, in exercise of the powers conferred by clause (v) of Explanation to section 48, specified the Cost Inflation Index for the financial year 2019-20 as 289.

S.No.	Financial Year	Cost Inflation Index	S.No.	Financial Year	Cost Inflation Index
1	2001-02	100	11	2011-12	184
2	2002-03	105	12	2012-13	200
3	2003-04	109	13	2013-14	220
4	2004-05	113	14	2014-15	240
5	2005-06	117	15	2015-16	254
6	2006-07	122	16	2016-17	264
7	2007-08	129	17	2017-18	272
8	2008-09	137	18	2018-19	280
9	2009-10	148	19.	2019-20	289
10	2010-11	167			

Chapter 4 Unit 5 : Income from Other Sources

Notification of class of persons, receipt of immovable property from whom would not attract the provisions of section 56(2)(x) [Notification No. 96/2019 dated 11.11.2019]

Section 56(2)(x) brings to tax under the head "Income from Other Sources", any sum of money received without consideration, if the aggregate value exceeds ₹ 50,000 or value of immovable property being land or building or both, received without consideration, if the stamp duty value exceeds ₹ 50,000. It also brings to tax, in a case where immovable property is received for inadequate consideration, the difference between the stamp duty value and actual sale consideration, if the stamp duty value exceeds such consideration and such excess amount is more than higher of ₹ 50,000 and 5% of sale consideration.

The proviso to section 56(2)(x), however, lists out the circumstances under which any sum of money or value of property would not be chargeable to tax under the head "Income from other sources". The Finance (No.2) Act, 2019 has inserted clause (XI) to the proviso to provide that any sum of money or value of property would not be chargeable to tax in the hands of the recipient if it is received from such class of persons and subject to such conditions, as may be prescribed.

Accordingly, the Central Government has, vide this notification, inserted Rule 11UAC to provide that the provisions of section 56(2)(x) shall **not** apply to any immovable property, being land or building or both, received by a resident of an unauthorised colony in the National Capital Territory of Delhi,

where the Central Government by notification in the Official Gazette, regularised the transactions of such immovable property based on the latest Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration for conferring or recognising right of ownership or transfer or mortgage in regard to such immovable property in favour of such resident.

Meaning of the terms “Resident” and “Unauthorised colony”:

Term	Meaning
Resident	A person having physical possession of property on the basis of a registered sale deed or latest set of Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration in respect of a property in unauthorised colonies and includes their legal heirs but does not include tenant, licensee or permissive user;
Unauthorised colony	A colony or development comprising of a contiguous area, where no permission has been obtained for approval of layout plan or building plans and has been identified for regularisation of such colony in pursuance to the notification number S.O. 683(E), dated the 24 th March, 2008, of the Delhi Development Authority.

Permissible “Other electronic modes” prescribed for the purpose of certain sections [Notification No. 8/2020, dated 29.01.2020]

The following sections have been amended by the Finance (No.2) Act, 2019 to permit payment/receipt referred to therein by other electronic modes to be prescribed, in addition to account payee cheque/bank draft and Electronic Clearing System (ECS) through bank account.

Section	Description of payment/receipt	Study Material Page no.
35AD(8)	Mode of payment of an amount exceeding ₹ 10,000 in a day for capital expenditure in respect of specified business	4.231
40A(3)/(3A)	Mode of payment or aggregate of payments exceeding ₹ 10,000 in a day towards any expenditure (exceeding ₹ 35,000 in a day, in case of payment to transport operator)	4.277
43(1)	Mode of payment or aggregate of payments exceeding ₹ 10,000 in a day to a person for acquisition of asset (for inclusion in actual cost for computing depreciation)	4.201

44AD(1)	Receipts, included in "turnover/gross receipts", qualifying for computation of presumptive income @ concessional rate of 6%	4.299
43CA	Mode of payment of part or whole of consideration for transfer of stock-in trade, being land or building or both, on or before the date of agreement for considering stamp duty value on the date of agreement for the purpose of determining full value of consideration for computing profits and gains from business or profession	4.290
50C	Mode of payment of part or whole of consideration for transfer of capital asset, being land or building or both, on or before the date of agreement for considering stamp duty value on the date of agreement for the purpose of determining full value of consideration for computing capital gains	4.420
56(2)(x)	Mode of receipt of part or whole of consideration for transfer of immovable property, being land or building or both, on or before the date of agreement for considering stamp duty value on the date of agreement for the purpose of computing income under the head "Income from other sources".	4.490
80JJAA	Mode of payment of emoluments to additional employees employed during the previous year to qualify for deduction	7.56

Accordingly, the CBDT has, vide this notification, inserted Rule 6ABBA to prescribe the following electronic modes through which payment can be made or money can be received, for the purposes of above sections cited in the above table -

- (a) Credit Card;
- (b) Debit Card;
- (c) Net Banking;
- (d) IMPS (Immediate Payment Service);
- (e) UPI (Unified Payment Interface);
- (f) RTGS (Real Time Gross Settlement);
- (g) NEFT (National Electronic Funds Transfer), and
- (h) BHIM (Bharat Interface for Money) Aadhar Pay.

Note – Consequent to insertion of Rule 6ABBA, Rule 6DD which specifies the cases and circumstances where disallowance under section 40A(3) would not be attracted, has been amended w.e.f. 29.1.2020 to omit clause (j) thereof providing for exclusion of payment required to be made on a day on which the banks were closed either on account of holiday or strike from the purview of section 40A(3). Accordingly, w.e.f. 29.1.2020, payment in excess of the prescribed limit made otherwise than by prescribed modes on a day on which the banks are closed on account of holiday or strike would attract disallowance under section 40A(3).

Chapter 9: Advance Tax, Tax Deduction at Source and Introduction to Tax Collection at Source

Tax deducted at source on cash withdrawals [Section 194N]

The Finance (No. 2) Act, 2019 has inserted section 194N, with effect from 1.9.2019 to require every person, being a banking company, a co-operative society engaged in carrying on the business of banking or a post office who is responsible for paying, in cash, any sum or aggregate of sums exceeding ₹ 1 crore during the previous year to any person from one or more accounts maintained by such recipient-person with it, to deduct tax at source @2% of sum exceeding ₹ 1 crore. The deduction is to be made at the time of payment of such sum.

- **Clarification as to the applicability of section 194N and manner of computing the threshold limit of ₹ 1 crore thereunder, where cash withdrawals have taken place prior to 1.9.2019 [Press Release dated 30.8.2019]**

The CBDT has, vide Press Release dated 30.8.2019, clarified that section 194N is to come into effect from 1st September, 2019. Hence, any cash withdrawal prior to 1st September, 2019 will not be subjected to the TDS under section 194N. However, since the threshold of ₹ 1 crore is with respect to the previous year 2019-20, calculation of amount of cash withdrawal for triggering deduction under section 194N shall be counted from 1st April, 2019. Hence, if a person has already withdrawn ₹ 1 crore or more in cash upto 31st August, 2019 from one or more accounts maintained with a banking company or a cooperative bank or a post office, TDS@2% shall apply on all subsequent cash withdrawals.

- **No tax is required to be deducted at source under section 194N on cash withdrawals by persons or class of persons as notified by the Central Government [Notification No. 68/2019 dated 18.9.2019, Notification No. 70/2019 dated 20.09.2019 & Notification No. 80/2019, dated 15.10.2019]**

The proviso to section 194N provides that no tax is, however, required to be deducted at source on payments made to *inter alia* such other person or class of persons as notified, in consultation with the RBI, by the Central Government.

Accordingly, the Central Government has, vide these notifications, after consultation with the Reserve Bank of India (RBI), specified –

- I. **Cash Replenishment Agencies (CRA's) and franchise agents of White Label Automated Teller Machine Operators (WLATMO's)** maintaining a separate bank account from which withdrawal is made only for the purposes of replenishing cash in the Automated Teller Machines (ATM's) operated by such WLATMO's and the WLATMO have furnished a certificate every month to the bank certifying that the bank account of the CRA's and the franchise agents of the WLATMO's have been examined and the amounts being withdrawn from their bank accounts has been reconciled with the amount of cash deposited in the ATM's of the WLATMO's.
- II. **Commission agent or trader, operating under Agriculture Produce Market Committee (APMC), and registered under any Law relating to Agriculture Produce Market** of the concerned State, who has intimated to the banking company or co-operative society or post office his account number through which he wishes to withdraw cash in excess of ₹ 1 crore in the previous year along with his Permanent Account Number (PAN) and the details of the previous year and has certified to the banking company or co-operative society or post office that the withdrawal of cash from the account in excess of ₹ 1 crore during the previous year is for the purpose of making payments to the farmers on account of purchase of agriculture produce and the banking company or co-operative society or post office has ensured that the PAN quoted is correct and the commission agent or trader is registered with the APMC, and for this purpose necessary evidences have been collected and placed on record.
- III. (a) the authorised dealer and its franchise agent and sub-agent; and
(b) **Full-Fledged Money Changer (FFMC)** licensed by the RBI and its franchise agent;

Such persons should maintain a separate bank account from which withdrawal is made only for the purposes of -

- (i) purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in cash as per the directions or guidelines issued by RBI; or
- (ii) disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS) of the RBI;

The exemption from the requirement to deduct tax u/s 194N would be available only if a certificate is furnished by the authorised dealers and their franchise agent and sub-agent, and the Full-Fledged Money Changers (FFMC) and their franchise agent to the bank that withdrawal is only for the purposes specified above and the directions or guidelines issued by the RBI have been adhered to.

“Authorised dealer” means any person who is authorised by the RBI as an authorised dealer to deal in foreign exchange [Section 10(1) of the Foreign Exchange Management Act, 1999].

- **Information to be furnished where tax is not deductible or deductible at lower rate under section 194N [Notification No. 98/2019, dated 18.11.2019]**

The proviso to section 194N provides that no tax is, however, required to be deducted at source on any payment made to -

- (i) the Government
- (ii) any banking company or co-operative society engaged in carrying on the business of banking or a post-office
- (iii) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the RBI guidelines.
- (iv) any white label ATM operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the RBI under the Payment and Settlement Systems Act, 2007.
- (v) such other person or class of persons notified by the Central Government in consultation with the RBI.

Accordingly, the CBDT has, vide this notification, inserted clause (ix) in Rule 31A(4) to provide that the deductor, at the time of preparing statement of tax deducted at source, shall furnish the particulars of amount paid or credited on which tax was not deducted in view of the exemption provided in point no. (iii) or (iv) above or in view of the Notification No. 80/2019, dated 15.10.2019 issued under point (v) above.

- **Person to whom credit to be given for tax deduction at source and payment thereof under section 194N [Notification No. 74/2019, dated 27.9.19]**

Rule 37BA provides the manner of giving credit for tax deducted and remitted to the Central Government i.e., it specifies the person to whom credit for tax deducted is to be given and also the assessment year for which the credit may be given.

Accordingly, the CBDT has, vide this notification, inserted sub-rule (3A) in Rule 37BA, to provide that, for the purposes of section 194N, credit for tax deducted at source shall be given to the person from whose account tax is deducted and paid to the Central Government account for the assessment year relevant to the previous year in which such tax deduction is made.

- **Time limit, form and manner of depositing tax deducted at source under section 194M prescribed [Notification No. 98/2019, dated 18.11.2019]**

Section 194M, inserted with effect from 1.9.2019, provides for deduction of tax at source @5% by an individual or a HUF responsible for paying any sum during the financial year to any resident –

- (i) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or

- (ii) by way of commission (not being insurance commission referred to in section 194D) or brokerage; or
- (iii) by way of fees for professional services.

Only individuals and HUFs (other than those who are required to deduct income-tax as per the provisions of section 194C or 194H or 194J) are required to deduct tax in respect of the above sums payable during the financial year to a resident, if the aggregate of such sums, credited or paid, exceed ₹ 50 lakhs.

Consequent to insertion of section 194M, the CBDT has, vide this notification, amended Rule 30, 31 and 31A in the following manner to specify the time limit for depositing the tax deducted at source, challan-cum- statement, certificate for deduction of tax at source:

Rule No.	Provision
Rule 30(2C)	<p><u>Time limit and prescribed form for remittance of TDS</u></p> <p>Any sum deducted under section 194M shall be paid to the credit of the Central Government <u>within a period of thirty days</u> from the end of the month in which the deduction is made and shall be accompanied by a challan-cum statement in Form No. 26QD.</p>
Rule 30(6C)	<p><u>Manner of remittance of TDS</u></p> <p>Where tax deducted is to be deposited accompanied by a challan-cum-statement in Form No.26QD, the amount of tax so deducted shall be deposited to the credit of the Central Government by <u>remitting it electronically within thirty days</u> from the end of the month in which the deduction is made into the Reserve Bank of India or the State Bank of India or any authorised bank.</p>
Rule 31(3C)	<p><u>Certificate for deduction of tax at source and time limit for furnishing such certificate to the payee</u></p> <p>Every person responsible for deduction of tax under section 194M shall furnish the certificate of deduction of tax at source <u>in Form No.16D</u> to the payee <u>within fifteen days</u> from the due date for furnishing the challan-cum-statement in Form No.26QD under rule 31A after generating and downloading the same from the web portal specified by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or the person authorised by him.</p>
Rule 31A(4C)	<p><u>Time limit and manner of submission of Challan-cum Statement</u></p> <p>Every person responsible for deduction of tax at source under section 194M shall furnish to the Principal Director General of Income-tax (Systems) or Director General of Income-tax (System) or the person authorised by the Principal Director General of Income-tax (Systems) or the Director General of</p>

	Income-tax (Systems) a challan-cum statement in Form No.26QD electronically in accordance with the procedures, formats and standards specified under Rule 31A(5) within thirty days from the end of the month in which the deduction is made.
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Chapter 10: Provisions for filing return of income and self-assessment

Manner for allotment of PAN to a person who has not been allotted a PAN but possesses Aadhaar number [Notification No. 59/2019, dated 30.8.2019]

The Finance (No.2) Act, 2019, has inserted sub-section (5E) to section 139A, w.e.f. 1.9.2019, to provide *inter alia* that every person who is required to furnish or intimate or quote his PAN and who has not been allotted a PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar Number in lieu of the PAN and such person would be allotted a PAN in such manner as may be prescribed.

Rule 114(4) requires submission of application for allotment of PAN by the applicant in the prescribed form accompanied by the prescribed documents as proof of identity, address and date of birth of such applicant.

The CBDT has, vide this notification, inserted sub-rule (1A) to Rule 114 w.e.f. 1.9.2019 to provide that any person, who has not been allotted a PAN but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN in accordance with section 139A(5E), shall be deemed to have applied for allotment of PAN and he shall not be required to apply or submit any documents under Rule 114.

Further, sub-rule (1B) has also been inserted in Rule 114 to provide that any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for allotment of the PAN under section 139A(1)/(1A)/(3) by intimating his Aadhaar number and he shall not be required to apply or submit any documents under Rule 114.

Date for intimation of Aadhaar number to the prescribed authority extended [Notification No. 107/2019, dated 30.12.2019]

As per section 139AA(2), every person who has been allotted Permanent Account Number (PAN) as on 1st July, 2017, and who is eligible to obtain Aadhaar Number, shall intimate his Aadhaar Number to prescribed authority on or before a date as may be notified by the Central Government.

Accordingly, the Central Government has, vide Notification No. 31/2019, dated 31.03.2019, notified that every person who has been allotted PAN as on 1st July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to the Principal DGIT (Systems) or Principal Director of Income-tax (Systems) on or before 30th September, 2019.

The Central Government has, vide Notification No. 75/2019, dated 28.9.2019 further extended the date from 30th September 2019 to 31st December 2019.

This date has further been extended by the Central Government, vide this notification, from 31st December 2019 to 31st March 2020.

Note – *Subsequently, this date has been further extended to 31st March, 2021.*

Notwithstanding the last date of intimating/linking of Aadhaar Number with PAN being 31.03.2021, it is clarified that w.e.f. 01.04.2019, it is mandatory to quote and link Aadhaar number while filing the return of income, either manually or electronically, unless specifically exempted.