

CHANGES IN 3CD
TAX AUDIT REPORT FOR THE A.Y. 2013-2014

**AMENDMENTS IN FINANCE ACT, 2012
HAVING IMPACT ON TAX AUDIT REPORT**

Rule 12

From A.Y. 2013-14 *inter-alia* e-filing of Audit Reports u/s. 44AB (Tax Audit Report) has been made mandatory ***alongwith***:

- 3CEB (Section 92E Transfer Pricing Report – international & domestic),
 - 29B (Section 115JB for MAT),
 - 10B (Charitable Trusts),
 - 10BB (educational/medical institutions), and
 - 10CCB (80-IA/80IB/80IC/80ID/80JJAA/80LA)
-
- Registration mandatory for the CA who will be signing the Tax Audit Report → CA required to have a valid PAN and DSC.
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- ***Notification No. 34/2013 F.No.142/5/2013-TPL dated 01 May 2013***

Section - 9

- Definition of the term “royalty” widened to include within its ambit:
- Computer software (including granting of a license) irrespective of the medium through which such right is transferred;
Notification No. 21/2012 dated 13.06.2012
- Examples of medium are- Transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal) cable, optic fiber or by any other similar technology whether or not such process is secret.

Impact - Clause No 17(f) and 27

Section - 32

- Additional depreciation available on any new machinery or plant (other than ships and aircraft) acquired and installed by an assessee engaged in the business of **generation or generation and distribution of power.**

Impact - Clause No 14

Section - 35 (2AB)

- Weighted deduction at the rate of 200% of expenditure (not being in the nature of cost of any land or building) incurred on approved in-house research and development facilities - extended to **31st March 2017**

Impact - Clause No 15

Section 40(a)(ia)

No disallowance u/s. 40 (a) (ia) if the recipient has:

- Furnished his return;
- Taken into account such sum for computing income in return of income; and
- Paid the tax due on the income declared by him in such return of income, and furnishes a certificate to this effect from an accountant in such form as may be prescribed (i.e. **Form No. 26A refer Rule 31ACB**)

Impact - Clause No - 17(f)

Section - 40A(2)(b)

Scope expanded:

- **Previously:** A company having substantial interest in the business of the assessee or any director of such company or relative of such director was covered – refer section **40A(2)(b)(iv)**
- **Now :** In addition to above any other company carrying on business in which the first mentioned company has substantial interest will also be covered – refer - **section 40A(2)(b)(v)**

Impact - Clause No 18

Relative

1. Relative is defined in section 2(41) as in relation to an individual including husband, wife, brother, sister or any lineal ascendant or descendent of that individual.

2. "Person having a substantial interest" is explained in section 40-A as under:
 - i. In the case of company - the person concerned is, at any time, during the previous year the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) carrying not less than 20% of the voting power.
 - ii. In other cases - such person is at any time during the previous year, beneficially entitled to not less than 20% of the profits of such business or profession.

Chart of persons specified in Section 40A(2)(b)

PART-I

Individual	Firm	Association of Persons	HUF	Company
His relatives	Its Partners	Its Members	Its Members	Its Directors
	Their relatives	Their relatives	Their relatives	Their relatives

Chart of persons specified in Section - 40A(2)(b)

PART-II

Where person having substantial interest in the business or profession of the assessee is -

<i>Individual</i>	<i>Association of Persons</i>	<i>HUF</i>	<i>Company</i>
His relatives	Its Members	Its Members	Its Directors
	Their relatives	Their relatives	Their relatives
			any other company carrying on business or profession in which the first mentioned company has substantial interest

Note: Where one or more of the persons falling in any of the above categories (i.e. individual and his relatives, firm, its partners and their relatives, etc.) have substantial interest in the business or profession carried on by any person – that person is also covered under section 40A(2)(b).

illustration

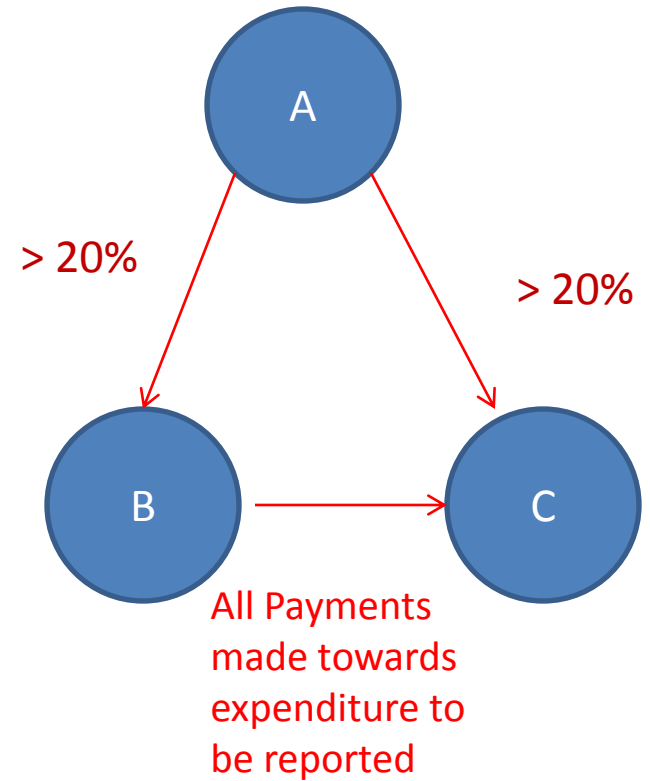
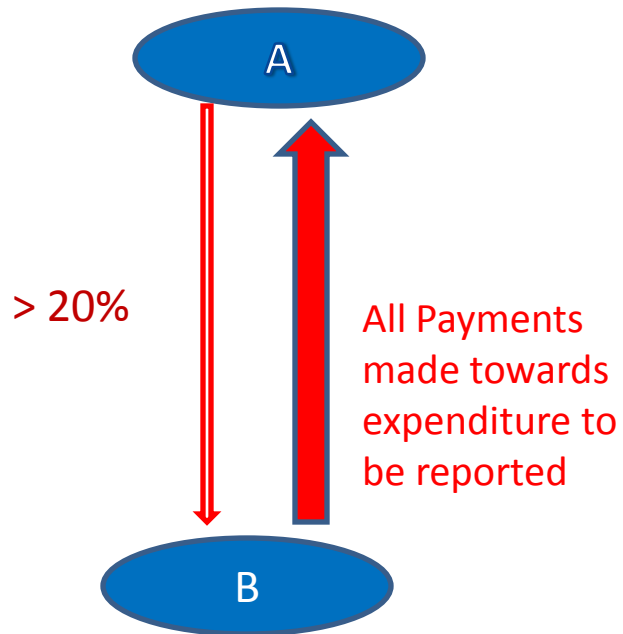


Chart of persons specified in Section - 40A(2)(b)

PART-III

Director	Partner	Member of AOP	Member of HUF
Companies in which he is a Director	Firms in which he is a Partner	AOP of which he is a member	
All other Directors of such Companies	All other Partners of such Firms	All other members of such AOP	All other members of such HUF
Their relatives	Their Relatives	Their relatives	Their relatives

Section - 44AB

Increase in the threshold limit for compulsory tax audit of accounts and obtaining a Tax Audit Report:

- Threshold limit for gross turnover/ sales/ gross receipts for person carrying on **business** increased upto **Rs. 1 crore** ~ *up from Rs. 60 lakhs.*
- Threshold limit for gross receipts carrying on **profession** increased upto **Rs. 25 lakhs** ~ *up from Rs. 15 lakhs.*

Section - 44AD presumptive taxation

- Threshold limit increased to **Rs. 1 crore** from the current limit of **Rs. 60 lakhs**.
- Section 44AD is not applicable to any person carrying on any profession referred to in section 44AA and to a person earning commission or brokerage or to a person's carrying on agency business.

Impact - Clause No 10

Section - 90 (4) and 90 (5)

Obtaining of a Tax Residency Certificate from tax authorities of the overseas jurisdiction made mandatory for non-residents to claim benefits under the DTAA's.

Impact - Clause No 27

Section – 80 IA

Tax holiday u/s. 80-IA(4) for power sector –
extended for new units set-up upto **31st
March 2014.**

Impact Clause No 26

Section - 193 (v) w.e.f. 01 July 2012

- No deduction of tax on payment of interest on any debenture, (whether listed or not), if the aggregate amount of interest on such debenture paid by an account payee cheque during the financial year does not exceed Rs. 5,000.
- *Applicable only to debentures issued by a company in which the public are substantially interested*

Impact - Clause No 27

Section - 194E w.e.f. 01 July 2012

Payments made to non-resident sportsmen or an entertainer who is not an Indian citizen or non-resident sports association/institution are now subject to TDS **at the rate of 20% instead of 10%.**

Impact - Clause No 27

Section - 194J w.e.f. 01 July 2012

Any remuneration/fees/ commission by whatever name called other than those mentioned under section 192, paid to directors - covered under the purview of fees for professional or technical services.

Impact - Clause No 27

Section – 115 O(1A)

- Dividend received from specified foreign companies on which tax is paid u/s 115BBD shall also be considered for payment of Dividend Distribution Tax.

Impact - Clause No 29

Thank You