

CBDT CIRCULARS TO REDUCE LITIGATION

S.NO.	SECTION OF INCOME TAX ACT	CIRCULAR NO. & DATE	SUMMARY OF CIRCULAR
1	2(22)(e)	Circular No.19/2017 [F.No.279/Misc./140/2015/ITJ], Dated 12-6-2017	Trade advances, which are in the nature of commercial transactions, would not fall within the ambit of the word 'advance' in section 2(22)(e) of the Act
2	12AA	Circular No - 21/2016, Dated: May 27, 2016	It shall not be mandatory to cancel the registration already granted u/s 12AA to a charitable institution merely on the ground that the cut-off specified in the proviso to section 2(15) of the Act is exceeded in a particular year without there being any change in the nature of activities of the institution.
3	43B	Circular No.22/2015 Dated 17-12-2015	Accordingly, w.e.f. 1.4.1988, the settled position is that if the assessee deposits any sum payable by it by way of tax, duty, cess or fee by whatever name called under any law for the time being in force, or any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, on or before the 'due date' applicable in his case for furnishing the return of income under section 139(1) of the Act, no disallowance can be made under section 43B of the Act.
4	80IA(5)	Circular No.1/2016	It is abundantly clear from sub-section (2) that an assessee who is eligible to claim deduction u/s 80-IA has the option to choose the initial/ first year from which it may desire the claim of deduction for ten consecutive years, out of a slab of fifteen (or twenty) years, as prescribed under 5that sub-section. It is hereby c6larified that once such ini7tial assessment year has bee8n opted for by the asse9ssee, he shall be entitled to claim deduction u/s 80-IA for ten consecutive years beginning from the year in respect of which he has exercised such option subject to the fulfilment of conditions prescribed in the section. Hence, the term 'initial assessment year' would mean the first year opted for by the assessee for claiming deduction u/s 80-IA. However, the total number of years for claiming deduction should not transgress the prescribed slab of fifteen or twenty years, as the case may be and the period of claim should be availed in continuity.
5	153C	Circular No.24/2015	2. The Hon'ble Supreme Court in the case of M/s Calcutta Knitwears in its detailed judgment in Civil Appeal No. 3958 of 2014 dated 12-3-2014 [2014] 43 taxmann.com 446 (SC) (available in NJRS at 2014-LL-0312-51) has laid down that for the purpose of section 158BD of the Act, recording of a satisfaction note is a prerequisite and the satisfaction note

			<p>must be prepared by the AO before he transmits the record to the other AO who has jurisdiction over such other person u/s 158BD. The Hon'ble Court held that "the satisfaction note could be prepared at any of the following stages:</p> <p>(a) at the time of or along with the initiation of proceedings against the searched person under section 158BC of the Act; or</p> <p>(b) in the course of the assessment proceedings under section 158BC of the Act; or</p> <p>(c) immediately after the assessment proceedings are completed under section 158BC of the Act of the searched person. "</p> <p>3. Several High Courts have held that the provisions of section 153C of the Act are substantially similar/<i>pari-materia</i> to the provisions of section 158BD of the Act and therefore, the above guidelines of the Hon'ble SC, apply to proceedings u/s 153C of the IT Act, for the purposes of assessment of income of other than the searched person. This view has been accepted by CBDT.</p>
6	244A	Circular No.11/2016	If a resident deductor is entitled for the refund of tax deposited under section 195 of the Act, then it has to be refunded with interest under section 244A of the Act, from the date of payment of such tax
7	271D & 271E	Circular No.09/DV/2016	The Hon'ble Kerala High Court judgment in the case of <i>Grihalaxmi Vision v. Addl. Commissioner of Income Tax, Range 1, Kozhikode</i> , vide its order dated 7-8-2015 in ITA Nos. 83 & 86 of 2014 reflects the "Departmental View". Accordingly, the Assessing Officers (below the rank of Joint Commissioner of Income Tax.) may be advised to make a reference to the Range Head, regarding any violation of the provisions of section 269SS and section 269T of the Act, as the case may be, in the course of the assessment proceedings (or any other proceedings under the Act). The Assessing Officer, (below the rank of Joint Commissioner of Income Tax) shall not issue the notice in this regard. The Range Head will issue the penalty notice and shall dispose/complete the proceedings within the limitation prescribed under section 275(1)(c) of the Act.
8	32(1)(iia)	Circular No.15/2016	It is a settled position that the business of printing or printing and publishing amounts to manufacture or production of an article or thing and is accordingly eligible for additional depreciation u/s 32(1)(iia) of the Act.

9	2(1A), Read with Section 2(14)(iii)	Circular No.17/2015	The Nagpur Bench of the Hon'ble Bombay High Court vide order dated 30-3-2015 in ITA 151 of 2013 in the case of Smt. Maltibai R Kadu has held that the amendment prescribing distance to be measured aerially, applies prospectively <i>i.e.</i> in relation to assessment year 2014-15 and subsequent assessment years. For the period prior to assessment year 2014-15, the High Court held that the distance between the municipal limit and the agricultural land is to be measured having regard to the shortest road distance. The said decision of the High Court has been accepted and the aforesaid disputed issue has not been further contested.
10	SECTION 45, Read with Section 28(i)	Circular No.6/2016	<p>As regards shares and other securities, CBDT instructs that the Assessing Officers in holding whether the surplus generated from sale of listed shares or other securities would be treated as Capital Gain or Business Income, shall take into account the following—</p> <ul style="list-style-type: none"> (a) Where the assessee itself, irrespective of the period of holding the listed shares and securities, opts to treat them as stock-in-trade, the income arising from transfer of such shares/securities would be treated as its business income, (b) In respect of listed shares and securities held for a period of more than 12 months immediately preceding the date of its transfer, if the assessee desires to treat the income arising from the transfer thereof as Capital Gain, the same shall not be put to dispute by the Assessing Officer. However, this stand, once taken by the assessee in a particular Assessment Year, shall remain applicable in subsequent Assessment Years also and the taxpayers shall not be allowed to adopt a different/contrary stand in this regard in subsequent years; (c) In all other cases, the nature of transaction (<i>i.e.</i> whether the same is in the nature of capital gain or business income) shall continue to be decided keeping in view the aforesaid Circulars issued by the CBDT.
11	10AA & 10B	Circular No.7/DV/2013	5.2 The income computed under various heads of income in accordance with the provisions of Chapter IV of the IT Act shall be aggregated in accordance with the provisions of Chapter VI of the IT Act, 1961. This means that first the income/loss from various sources <i>i.e.</i> eligible and ineligible units, under the same head are aggregated in accordance with the provisions of section 70 of the Act. Thereafter, the income from one head is aggregated with the income or loss of the other head in accordance with the provisions of section 71 of the Act. If after giving effect to the provisions of sections 70 and 71 of the Act there is any

			<p>income (where there is no brought forward loss to be set off in accordance with the provisions of section 72 of the Act) and the same is eligible for deduction in accordance with the provisions of Chapter VI-A or sections 10A, 10B etc. of the Act, the same shall be allowed in computing the total income of the assessee.</p> <p>5.3 If after aggregation of income in accordance with the provisions of sections 70 and 71 of the Act, the resultant amount is a loss (pertaining to assessment year 2001-02 and any subsequent year) from eligible unit it shall be eligible for carry forward and set off in accordance with the provisions of section 72 of the Act. Similarly, if there is a loss from an ineligible unit, it shall be carried forward and may be set off against the profits of eligible unit or ineligible unit as the case may be, in accordance with the provisions of section 72 of the Act.</p> <p>6. The provisions of Chapter IV and Chapter VI shall also apply in computing the income for the purpose of deduction under sections 10AA and 10BA of the Act subject to the conditions specified in the said sections.</p>
12	269SS Read with 271D & 271E	Circular No.10/2016	<p>It is a settled position that the period of limitation of penalty proceedings under sections 271D and 271E of the Act is governed by the provisions of section 275(1)(c) of the Act. Therefore, the limitation period for the imposition of penalty under these provisions would be the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later. The limitation period is not dependent on the pendency of appeal against the assessment or other order referred to in section 275(1)(a) of the Act.</p>
13	36(1)(vii) Read with Section 36(2) – Bad Debt	Circular No.12/2016	<p>Claim for any debt or part thereof in any previous year, shall be admissible under section 36(l)(vii) of the Act, if it is written off as irrecoverable in the books of account of the assessee for that previous year and it fulfills the conditions stipulated in sub-section (2) of sub-section 36(2) of the Act.</p>
14	40(a)(ia)	Circular No.10/DV/2013	<p>Board is of the considered view that the provision of section 40(a)(ia) of the Act would cover not only the amounts which are payable as on 31st March of a previous year but also amounts which are payable at any time during the year. The statutory provisions are amply clear and in the context of section 40(a)(ia) of the Act the term "payable" would include "amounts which are paid during the previous year".</p>
15	37(1) - Abandoned	Circular No.16/2015	<p>The order of the Hon'ble Bombay High Court dated 28-1-2015 in ITA 310 of 2013 in the case of Venus Records and Tapes Pvt. Ltd. on this issue</p>

	Feature Films		has been accepted and the aforesaid disputed issue has not been further contested. Consequently, it is clarified that Rule 9A does not apply to abandoned feature films and that the expenditure incurred on such abandoned feature films is not to be treated as a capital expenditure. The cost of production of an abandoned feature film, is to be treated as revenue expenditure and allowed, as per the provisions of section 37 of the Income-tax Act.
16	Indirect Transfer Provisions	Circular No.41/2016	Income deemed to accrue or arise in india - clarifications on indirect transfer provisions under said Act There are 19 Questions & Answers in the Circular
17	Interest from Non-SLR Securities of Banks – 80P	Circular No.18/2015	In the case of <i>CIT v. Nawanshahar Central Cooperative Bank Ltd.(SC)</i> , the Apex Court held that the investments made by a banking concern are part of the business of banking. Therefore, the income arising from such investments is attributable to the business of banking falling under the head "Profits and Gains of Business and Profession". 3.2 Even though the abovementioned decision was in the context of co-operative societies/Banks claiming deduction under section 80P(2)(a)(i) of the Act, the principle is equally applicable to all banks/commercial banks, to which Banking Regulation Act, 1949 applies.
18	37(1) - Keyman Insurance Policy in case of a Partner	Circular No.38/2016	It is a settled position that in case of a firm, premium paid by the firm on the Keyman Insurance Policy of a partner, to safeguard the firm against a disruption of the business, is an admissible expenditure under section 37 of the Act.
19	Section 115JB, Read with Sections 115JA and 271(1)(c)	Circular No.25/2015	in view of the Delhi High Court judgment in the case of <i>Nalwa Sons Investment Ltd.</i> and substitution of Explanation 4 of section 271 of the Act with prospective effect, it is now a settled position that prior to 1-4-2016, where the income tax payable on the total income as computed under the normal provisions of the Act is less than the tax payable on the book profits u/s 115JB of the Act, then penalty under section 271(1)(c) of the Act, is not attracted with reference to additions /disallowances made under normal provisions. It is further clarified that in cases prior to 1-4-2016, if any adjustment is made in the income computed for the purpose of MAT, then the levy of penalty u/s 271(1)(c) of the Act, will depend on the nature of adjustment.

			6. The above settled position is to be followed in respect of section 115JC of the Act also.
20	Section 4, Read with Section 10(37) - RFCTLARR ACT	Circular No.36/2016	It is hereby clarified that compensation received in respect of award or agreement which has been exempted from levy of income-tax vide section 96 of the RFCTLARR Act shall also not be taxable under the provisions of Income-tax Act, 1961 even if there is no specific provision of exemption for such compensation in the Income-tax Act, 1961.
21	80IB & 80IC	Circular No.39/2016	It is a settled position that revenue subsidies received from the Government towards reimbursement of cost of production/manufacture or for sale of the manufactured goods are part of profits and gains of business derived from the Industrial Undertaking /eligible business, and are thus, admissible for applicable deduction under Chapter VI-A of the Act.
22	194A	Circular No.23/2015	It is clarified that interest on FDRs made in the name of Registrar General of the Court or the depositor of the fund on the directions of the Court, will not be subject to TDS till the matter is decided by the Court. However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions of section 194A will apply to the recipient of the income.
23	80-IA - Chapter VIA Deductions on Enhanced Profits	Circular No.37/2016	Board has accepted the settled position that the disallowances made under sections 32, 40(a)(ia), 40A(3), 43B, etc. of the Act and other specific disallowances, related to the business activity against which the Chapter VI-A deduction has been claimed, result in enhancement of the profits of the eligible business, and that deduction under Chapter VI-A is admissible on the profits so enhanced by the disallowance.